

Heath

EXECUTIVE CONSULTANTS

CREATORS OF A RISK-FREE ENVIRONMENT

Defining corruption in terms of our legislation
and its impact on service delivery – what are
practical measures that could be undertaken

On invitation by:

South African Communist Party

I. INTRODUCTION

1. I am greatly honoured by the invitation to address you today on the impact of corruption on service delivery and practical measures that could be taken. As the SACP, ANC and Cosatu, your role as political and labour patrons of this country is essential in ensuring service delivery at grass roots level. To stem the tide of corruption in this country requires a revolutionary approach – so please accept my warm and revolutionary greetings!
2. Government has the awesome task to do all things necessary to ensure services delivery. However, achieving government's mandate is greatly challenged by the prevalence of corruption, thereby placing severe constraints on the governance of this country.
3. It is for this reason that I commend all of you for taking the initiative to help people understand what corruption is and what the effects of corruption is on our society. The SACP's Red October Campaign should be fully supported by all South Africans, and the support for the campaign should not be tempered by egos based on affiliation.

III. DEFINING CORRUPTION: THE IMPACT ON SERVICE DELIVERY

1. Corruption undermines our Constitutional rights to human dignity, equality and freedom. It endangers the stability and security of our societies and undermines the institutions and values of democracy. Corruption seriously jeopardises sustainable development, the rule of law and the credibility of our governments and provides a breeding ground for organized and syndicated crime.
2. Corruption can therefore:
 - distort the allocation of resources, sharply increasing the cost of goods and services;
 - divert scarce resources to lesser or non-priorities, in this way largely neglecting fundamental needs, particularly basic needs such as food, health and education;
 - act as a disincentive, possibly deterring prospective economic activities and investment;
and
 - increase the likelihood of committing other crimes.

3. Corruption therefore becomes both the cause and consequence of underdevelopment and poverty in general.
4. South Africa has several well-drafted pieces of legislation enacted to combat corruption and other irregularities. Probably the most pertinent anti-corruption legislation is the Prevention and Combating of Corrupt Activities Act, which aims to provide for:
 - the strengthening of measures to prevent and combat corruption;
 - provide for the offence of corruption;
 - provide for investigative measures; *and*
 - to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts.
5. If this Act is properly implemented with the necessary force of will, it should be an effective tool in combating corruption.
6. However, it is **NOT** being properly implemented. The private sector is the main instigator of corruption – this is a fact! The corrupt elements of the private sector remain wealthy and continue to do business – I say this loosely because to conduct business on the back of corruption illustrates a total lack of entrepreneurial ability. And there are many such companies, who conduct their business in dark corners, but enjoy the spotlight of public affluence.
7. Corrupt business people easily manage to find loopholes in our anti-corruption legislation. A pertinent example of this is that even if the register of corrupt companies is being effectively kept and maintained, which it is not, these business people simply establish new entities in the name of family members and carry on reaping the rewards of government business.
8. To properly deal with the scourge of corruption, it is essential to establish of good governance practices and structures – providing a structures whereby political leaders are accountable, and behave with transparency, openness, predictability, and uphold the rule of law.
10. Good governance depends on the extent to which the populace perceives a government to be legitimate, committed to service delivery and maintaining law and order.

11. Good governance is unfortunately often muddied by the fact that many government officials have private business interests. Many elected and non-elected officials have private business interests in the form of shares, directorships and partnerships. In 2006, the Auditor-General found that **SIX OUT OF EVERY TEN CIVIL SERVANTS HAVE PRIVATE BUSINESS INTERESTS**.
12. The fact that so many government employees have private business interests creates a huge potential for conflicts of interest situations to arise. Consider the potential for public officials to award state tenders and procurement deals to private companies that they themselves or their fellow employees hold financial and other interests in. Less publicized but most concerning are growing indications that positions of power at the local government level, like a seat on a council, are being used for personal gain. In some cases, councilors stand accused of awarding contracts to local companies so as to benefit friends, family or employees at their municipality.
13. But aside from the fact that private interests of government employees create massive opportunities for corruption, it also often takes these government officials away from their official duties by having to spend time on their business interest. I know of a senior treasury official in one of the provinces who has a large number of business interests. This treasury official is so often away from the office, that it must be assumed that his absence is being caused by the fact that he must attend to his business interests.
14. Apart from the erosion of public trust, an equally disturbing consequence of abusing public office for personal gain relates to service delivery. South Africa remains one a poor countries country, with one of the most unequal societies in the world. It is therefore crucial that the state prioritises the efficient delivery of basic social services. However, when public officials are distracted from their jobs and the greater public interest, or corrupted by their private interests, resources are diverted away from service delivery, with the poorest and most marginalized citizens in our society bearing the consequences.
15. Most South Africans live in absolute poverty – instead of having a home with solid brick walls, a proper roof and running water, millions of South Africans live between metal sheets with their children playing in raw sewerage! How can any person feel human living in such conditions? But everyday companies are being paid by government for houses which have not been built. The corruption in government housing is of epic proportions. I am very sure

that if it were not for corruption, the un-housed would by this time have been the minority, not the majority.

16. This is just one example, but if you take this form of corruption in isolation, you will be able to see the effects of corruption in government housing. If you do not feel like a human being because you have to live like a “sub-human”, then how can you be expected to share the same values as those South Africans who live in comfort and dignity? With this divide in values, created by the differences in socio-economic situations as a direct result of corruption, then surely we should not be shocked when we hear on the news that a man or woman has been killed for R 10! Corruption breaks down the very fibre of our society in all aspects.
17. Towards the end of 2009, Human Settlements Minister Tokyo Sexwale announced that a total of 923 government officials had been allegedly found to have been involved in corruption and other irregularities. 800 of those arrested were in national and provincial government, and 123 in local government.
18. This followed an investigation by the Special Investigation Unit into housing subsidies and housing contract procurement.
19. The SIU had then stated that it was also investigating 6074 municipal employees identified in a report by the Auditor-General. At the time of this announcement, 159 officials had appeared in court.

III. PRACTICAL ANTI-CORRUPTION MEASURES

1. To fight corruption, you have to be practical. There is nothing theoretical about the crime of corruption, so merely drafting policies and legislation is not effective to counter corruption. Policies and legislation is an essential component, but it must be remembered that corruption has become a profession and those who perpetrate it, experts. Government and the private sector will have to at least match the efforts and resources of corruptors to be real adversaries.

2. Government and the private sector therefore have to:
 - 2.1. create effective and ever evolving anti-corruption measures for both the public and the private sectors;
 - 2.2. change the structure of government and business and its methods of assuring accountability;
 - 2.3. change moral attitudes by focussing on service delivery; *and*
 - 2.4. Ensure the involvement and support of government, the private sector and civil society – such as the Red October Campaign.
3. The work of Chapter 9 institutions need to have greater support from government and the private sector. A full analysis should be done on each of the Chapter 9 institutions to establish where their successes are and what there failures are. This will empower government to effectively build on the successes of each institution, but more importantly establish the reasons for failures and inefficiencies so that these can be properly remedied. If needs be, the structure and composition of each Chapter 9 institution should be reviewed and amended.
4. A very effective control against corruption may come from the vigilance exercised in an independent press. By sensitising the public to blatant abuses of power, the media can expose corruption and immoral behaviour and demand that such acts be corrected and punished. The media, its members and its independence may never be threatened. They should do their work without any interference. Government and the private sector must learn that it is to their advantage to interact effectively with the Press. This should only be qualified by the fact that Editors must ensure that they and their staff report accurately, fairly and without real or perceived prejudice.
5. The criminal justice system needs to be thoroughly revamped. Many presiding officers in especially the lower courts are not equipped to understand the intricacies of corruption. Concurrently, the SAPS and prosecutors must all undergo thorough training in understanding, investigating and prosecuting corruption – many employees within the criminal justice system will be unable to provide a proper definition of corruption. Not only is there a severe

lack of understanding of corruption in the criminal justice system, but particularly disturbing is the theft and/or sale of police docket, with indications that prosecutors, court interpreters and police officials are involved. Within the Department of Justice, the most common acts of corruption involve the theft of warrant vouchers, the destruction of case dockets, and the withdrawal of charges in return for money.

Low salaries, a lack of accountability and insufficient action against corrupt members are among the reasons cited for such activities, which defeat the ends of justice as well as tarnish the image of the judicial system. Members of every tier of the criminal justice system need to be rigorously trained in combating corruption in the courts, but also among themselves.

6. Each and every government department and parastatal must undergo a thorough review to establish:
 - the main types of corruption in each department;
 - the main areas where corruption takes place;
 - identifying contributing factors to the problem; and
 - assessing the impact of departmental anti-corruption strategies adopted in the past.

This exercise will in any event greatly assist the Ministries in the Presidency responsible for planning and monitoring and evaluation the current state of government, and also provide a foundation for future planning.

7. Cabinet has recently announced the establishment of the Inter-Ministerial Committee. This is a highly proactive step, unique in our history. This is a real indication of political will in government to combat corruption. In order for this committee to effectively address corruption, multidisciplinary and comprehensive policy strategies drawing on a range of resources will be essential. South Africa is plagued by many of the common problems of developing countries in transition.

This Committee will have to devise, design and implement *inter alia*:

- Effective and well-documented control measures and policies;
- Sound recruitment and disciplinary procedures;
- Strong internal audit systems;

- Well-managed and effective internal investigations procedures within government institutions;
 - Policies for all government institution to have good liaison arrangements with the police, other investigating agencies and the National Prosecuting Authorities;
 - Effective and workable structures for Whistleblowing;
 - Corruption Prevention Plan to be introduced in all government departments
 - Corruption response plan for each government institution;
 - Guidelines for government institutions to internally compile evidence to assist the authorities and for the purposes of disciplinary action and civil action
8. The private sector must become involved in anti-corruption strategies and programmes. Private sector businesses should be forced to seek membership of a register of companies who subscribe to anti-corruption practices. Such membership should be a strong and favourable indicator for companies when tendering for government contracts. Also, private sector institutions, as tenderers should insist on an investigation or conduct own investigation if they suspect corruption in a tender process in which they were competing.
9. Due cognizance should be given to the ways in which anti-corruption efforts can be derailed, which include:
- the limits of power at the top (an incoming administration may wish to tackle corruption effectively but inherits a corrupt and inefficient bureaucracy that impedes efforts for change);
 - the absence of commitment from senior officials;
 - overly ambitious promises leading to unrealisable and unachievable expectations and a loss of confidence;
 - corruption reforms that are piecemeal and uncoordinated so that no one "owns" them and no-one is committed to see that the reforms are implemented and kept evolving;
 - reforms that rely too heavily on the law or too much on enforcement;
 - reforms that overlook those at the top and only focus on the lower levels of government;
 - the failure to establish institutional mechanisms that will outlive the leaders of the reforms; *and*
 - the failure of government to draw civil society and the private sector into the reform process.

IV. CONCLUSION

1. In conclusion, I wish to summarise the important features of corruption prevention:
 - 1.1. It is essential for government to assess its risk to corruption;
 - 1.2. It must always be anticipated that every government official and employee may be susceptible to corruption;
 - 1.3. Each employee and official of government must be trained in corruption recognition and prevention;
 - 1.4. Corruption prevention is and must be an ongoing process which must be re-evaluated regularly; *and*
 - 1.5. The most important way of preventing corruption is to be able to recognise corruption – this can only be achieved by continuous education and consultation.
2. It has been an honour to address you today. I commend each and every one of you on your dedication to preventing corruption. Your interest in this topic will ensure that through your work, the grassroots levels of the people of this great country should and will enjoy effective and timely service delivery.
3. I am confident that the Red October Campaign will effectively attain its goals, and I thank you for being proactive.

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Chief Executive

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