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THE ANTI-CORRUPTION COMMISSION OF SEYCHELLES

Honourable Justice Duncan Gaswaga*

1 INTRODUCTION

On behalf of the Anti-Corruption Commission of Seychelles, allow me to welcome you all to this function as we formally open our doors to members of the public who have complaints about corruption. Our mandate is:

to receive complaints from any person or entity, investigate, detect and prevent practices linked to corruption in both the public and private sector.

This is the first public event organised by the Commission, and I must say that I am truly happy and humbled that you have honoured our invitation. Your presence here clearly signifies the importance of the need to eradicate corruption from our society.

Today we denounce corruption in all its forms. By standing here with us in the open as we take the first steps in fighting corruption, you make history in this country. A person of integrity never fears to face the world at any time. As the leadership of this beautiful nation, we should be exemplary and not only condemn but also practically avoid and fight corruption. Each one of us should shun and desist from corruption if the citizens are to enjoy better services. The Commission shall not condone impunity. Not even the so-called small fish will be left swimming freely, because it is the widespread occurrence of such small acts of corruption that amount cumulatively to a big dent in the economy of a country.

The Seychellois people should find comfort and confidence in the fact that we are a self-governing, neutral and independent Commission under nobody's control, authority or direction. We are not subject to the command of the executive, the legislature, the judiciary or any other entity or person. Matters shall

* Hon Justice Gaswaga is the Chairman of the Anti-Corruption Commission of Seychelles. This contribution combines the contents of two of his speeches, the first delivered on the occasion of the establishment of the Commission on 29 September 2016 and the second on the occasion of the launch of the Commission on 27 April 2017.

be handled diligently, with utmost care, transparency and fairness, and in line with the rules of natural justice. Each individual matter will be treated as a special case by the Commission. I want you also to know that this is your Commission. The Commissioners are mere servants of the people of Seychelles. The Commission is a tool or vehicle you will use to fight injustice and attain justice. Its success is your success. Let us support this noble cause.

2 THE MEANING AND IMPACT OF CORRUPTION

There is no single accepted definition for the term 'corruption'. According to Section 2 of the Anti-Corruption Act, 2016, the term 'corruption' means the act of:

soliciting, accepting, obtaining, giving, promising or offering of a gratification by way of a bribe or inducement, or the misuse or abuse of a public office for advantage or benefit for oneself or for another person.

Whatever the definition, corruption affects us all and we know it when we see or experience it. The debilitating economic, political and social effects of both petty and grand corruption, where it exists, can be felt in every corner of the concerned society. It threatens sustainable economic development, ethical values and justice. It destabilises our society and endangers the rule of law. It undermines the institutions and values of our democracy. But because public policies and public resources are largely beneficial to the less fortunate, it is they who suffer the harmful effects of corruption most grievously. For example, because they are dependent on the government for housing, health care, education, security and welfare, they are most vulnerable to corruption since it stalls service delivery. Delays in infrastructural development, poor building quality and layers of additional costs are all consequences of corruption. Many acts of corruption deprive citizens of their constitutional and human rights.

Corruption is a crime and, admittedly, fighting corruption is not an easy task. In most cases corruption is indirect, hidden or disguised offering no trail of evidence, while the perpetrators, who are usually wealthy, will leave nothing to chance, including fighting the system, witnesses and law enforcement. So, in this line of business, one should expect some discomfort, criticism, scathing attacks and bruises, hatred and enmity at times, and all sorts of spurious allegations. But the men and women who stand as Commissioners before you now kindly have accepted this risky and unenviable task of fighting and stopping the scourge of corruption in this country. We are aware that the terrain will be rough but promise to do a good, professional job without fear or favour, victimisation or witch-hunts, revenge, intimidation and/or discrimination.

3 THE BIRTH OF THE ANTI-CORRUPTION COMMISSION

Getting to this point of launching the Commission has not been a short journey. A lot of resources and hard work behind the scenes have been put into establishing and building the Commission from scratch.

According to the 2015 Corruption Perceptions Index published by Transparency International, Seychelles ranked number 40 out of 168 countries with a score of 55/100, an improvement of 3 points from its 2012 score of 52/100. Nevertheless, corruption was a serious problem. In his State of the Nation Address on 16 February 2016, President James Michel announced the setting up of the Anti-Corruption Commission. The President noted:

We have taken harsh measures where corruption existed. The Commission which we are setting up will help us strengthen our actions against corruption.¹

In his maiden speech to the National Assembly of Seychelles, the Speaker, Honourable Patrick Pillay, spoke at length about what he termed the ‘cancer’ of corruption in this country.² On the same occasion, the Leader of the Opposition, Honourable Wavel Ramkalawan, echoed this message.

It was proposed that the Anti-Corruption Commission would receive and investigate complaints about corruption and take action to prevent practices linked to corruption. It would be responsible for crafting strategies for creating public awareness of and providing education and sensitisation on the negative effects of corruption—in schools, on TV, on radio, in seminars, via the internet, and the like. It was expected that the Commission would have its own structure, budget and taskforce to enable it conduct investigations. The Attorney General, Ronny Govinden, also noted that:

the proposed Anti-Corruption Commission would be independent of all government departments and institutions while at the same time working with institutions involved in the fight against corruption.³

It was against this background that the National Assembly, in March of last year, enacted the Anti-Corruption Law No 6 of 2016, which provided for the establishment of the Anti-Corruption Commission.

1 *Seychelles News Agency* (3 March 2016).

2 *Seychelles News Agency* (27 September 2016); *Today in Seychelles* (28 September 2016); *Seychelles Nation* (28 September 2016).

3 *Seychelles News Agency* (3 March 2016).

4 THE ROLE OF THE COMMISSION

For the past few months the Commission has been carrying out a survey to establish where this country stands with regard to corruption, the root causes of this vice, the types and forms of corruption, and so forth. Our aim is to reduce corruption and have a corruption-free nation as far as is possible. Since we now know where we want to go, the Commission has formulated the *Strategic Plan 2016—2023* that will be used in curbing corruption in order to get us there.

The *Strategic Plan* was developed as a national anti-corruption strategy, as a realistic and integrated plan for tackling corruption in Seychelles. It defines a set of priority objectives to prevent and combat corruption and includes action plans with implementation and monitoring mechanisms. It is expected that the *Strategic Plan* will provide a comprehensive policy framework for actions to be taken by the State in combating and preventing corruption and could be a useful tool for mobilising and co-ordinating the efforts and resources of Government and other stakeholders. For a national anti-corruption strategy helps generate and maintain the leadership, citizen demand and broad support necessary to act effectively against corruption.

The Commission will have no tolerance at all for corruption. The time is up for those involved in corruption practices. The Commission is going to make it extremely difficult, if not, impossible for any person to live on or enjoy the proceeds of corruption or ill-gotten wealth. We shall be applying to the courts for orders of confiscation and forfeiture to the government of monies and properties acquired illegally. Of course, in doing so, it will be ensured that due process rights are respected to enable the suspects or accused persons to secure a fair trial, have their day in court and defend themselves.

Corruption seems no longer to be just a temporary social disease that literacy, development and good public ethics will cure. Patterns of corruption vary from society to society (or country to country) and over a period of time. In order to understand the immense diversity of its origins, forms and effects, we should start by examining the roles of both the internal 'stakeholders', such as politicians (PEPs), business cliques and civil servants, as well as external actors, including multinational companies and international financial institutions.

Our intention is to have a clear comprehension of what corruption is and what its causes are, as a way of establishing what threat it represents. Then we want to understand what types, patterns and levels of corruption exist in our society and what threats they pose to politics, administration, public perceptions, democratisation and the rule of law. These need to be identified in order to tackle

the scourge of corruption. Needless to say, there is no 'one-size-fits-all' anti-corruption approach, given that different countries have legal, cultural and political traditions that are unique to them. For Seychelles, we shall have to craft anti-corruption methods that meet our specific challenges, opportunities and constraints, and which are tailored to the social environment in which corruption occurs. At the same time, it is true that some countries share common challenges and difficulties, and they can learn from past successes and failures in the fight against corruption in their various situations. The Commission therefore will be benchmarking some of the established Anti-Corruption Commissions in the world, such as those in Singapore, Hong Kong, South Africa, Kenya and Australia, with a view to borrowing a leaf from their books of the good practices.

5 CITIZEN PARTICIPATION AND SUPPORT

Article 5 of the United Nations Convention against Corruption, requires that a State Party:

in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, co-ordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public property, integrity, transparency and accountability.

We are taking on this task with an open mind. The success of the Commission will depend significantly on the support by and co-operation of you, as members of the public. For the Commission will only lead the way and co-ordinate the exercise.

The fight against corruption should not be left to the Commission and the government and its agencies, but it should be the duty of every citizen to contribute, and you must take interest and pride in serving your country by avoiding, preventing or fighting corruption. For instance, starting from the grassroots in families, we can instil good morals and religious values in our children. We all know that charity begins at home. Since children trust parents and follow much of their advice and guidance without questioning, we should take advantage of this fact and sow the right seeds in their minds as we prepare them for the future. Similarly, the educational and religious institutions should play their role in cultivating good morals, discipline and ethics whenever these children, our future generation, are in their hands.

The Commission is independent in law, but in practice it cannot work in total isolation of the government and its agencies or of the people whom it serves. The Commission appreciates the government's continued support. The Commission is new yet highly specialised and I appeal to our international development

partners and foreign missions to support and strengthen us with technical assistance from their respective countries. I also call upon the support of civil society, *Citizen's Engagement Platform of Seychelles (CEPS)*, especially with the dissemination of information on ways to prevent, stop and fight corruption.

As we are mandated to detect and investigate any corrupt activities, we expect that as good, responsible and concerned citizens of this country, you will report any corrupt practices to the Commission or the police.

Manm piblik, nou pou depan bokou lo zot vi ki se zot ki nou lizye ek nou zorey. Ser Seselwa, imsy e madanm, nou pe senserman demann zot pou pa zis koz lo koripsyon ki zot in kapab temwanye, me pou osi vinn devan e raport avek nou. Laport in aprezan ouver e noun pare pou resevwar zot bann konplent.

Members of the public, we shall be relying on you so much since you are our ears and eyes on the ground. Dear Seychellois men and women, we kindly ask you not just to talk about any corrupt practices you may witness but to come forward and report to us. The doors are now open and we are ready to receive your complaints.

I wish to assure you that the identity of any person making such reports will not be disclosed. In the near future the Commission will be requesting the National Assembly to amend Section 69 of the Anti-Corruption Act, 2016 or to enact a specific law to protect whistle blowers and witnesses generally. I am stressing this point because of two reasons. Firstly, without witnesses and the evidence which they provide, you have no case. Secondly, the prevalence of corruption in public institutions is particularly worrisome, for it comes with grave effects for a country's socio-economic and political development; it threatens ethical values and justice, destabilises our society, endangers the rule of law, and undermines the institutions and values of our democracy.

Reports elsewhere have indicated that the public sector is more prone to corruption than the private sector. The reason for this seems to lie in the fact that many more people interact with public institutions to access services than is the case with private sector entities. As a public servant is busy soliciting and picking bribes, inflating costs and peddling influence, there always are people either within or outside the institutional framework with ample knowledge of such unscrupulous deals. However, fearing victimisation or reprisal, such people do not come forward to report corruption. The people should know that whether they are inside or outside the public service, it is their duty to combat corruption and misuse or wastage of public property and money. So, in the public interest individuals need to

disclose information that relates to irregular, illegal or corrupt practices at the high, middle and lower levels.

Those public institutions which have whistle blower policies and practices in place should be recognised and such policies and practices should be replicated in those institutions which do not have them. Since our officers cannot be in all places at the same time, the Commission will be stepping up awareness amongst stakeholders and encouraging the public to benchmark the good practices of whistleblowing in order to appreciate its merits.

Remember, there is no corruption that happens without the actions and/or knowledge of certain people. It is said that it takes two to tango. For instance, one will offer and give a bribe to a recipient who will then be induced to do or omit to do what he or she is supposed or mandated to do. So, someone, somewhere amongst us, somehow knows about a corrupt practice taking place. Play your part by coming forward and reporting such practices to enable us to investigate them and take appropriate action. Please, we want to appeal to you to make substantiated reports, for allegations without supporting evidence amount to nothing. If called upon, do not remain seated on the fence, but come and give evidence to the Commission or in court, in the sure knowledge that you will remain anonymous.

6 CONCLUSION

The Commission will be addressing the following three guiding questions:

- Where are we now as a country with regard to corruption?
- Where do we want to go?
- How do we get there?

Generally, the Commission will be conducting a series of educational, awareness and prevention campaigns to promote ethics and integrity as a critical element at work places. It will be leading also the investigation and prosecution of those suspected of being involved in corrupt acts.

What matters to us now is how the Commission will be run. The Commissioners come from diverse backgrounds and each is bringing to the table different skills needed for the execution of our mandate. We are very mindful of the fact that the Seychellois people are looking to us with high expectations. We shall do our best to deliver on our mandate. However, we need your support, co-operation and patience. Now that the Commission is on its feet, we kindly ask you to give us the chance and time to establish ourselves firmly and do our job.

The Commission must be able to rely on the political will of the government in pursuing its mandate. Both good government and good governance are paramount in preventing and fighting corruption. Adherence to good governance creates an environment where corruption struggles to establish a foothold. The converse is true also.

Thank you for listening to me!