

NIA

National Integrity Action

THE FACULTY OF LAW INAUGURAL SYMPOSIUM ON LAW, GOVERNANCE
AND SOCIETY
AT THE HYATT ZIVA, ROSE HALL, MONTEGO BAY

APRIL 24 - 26, 2015

MESSAGE FROM PROFESSOR TREVOR MUNROE, EXECUTIVE DIRECTOR,
NATIONAL INTEGRITY ACTION; HONOURARY VISITING PROFESSOR, SIR
ARTHUR LEWIS INSTITUTE (SALISES), Mona, UWI

(PLEASE CHECK AGAINST DELIVERY)

FIRST – CONGRATULATE FACULTY OF LAW FOR ORGANIZING THIS
INAUGURAL SYMPOSIUM, IN PARTICULAR, DEAN DERRICK McKOY AND
DEPUTY DEAN, SHAZEEDA ALI

AS WELL, SPECIAL CONGRATULATIONS FOR INCLUDING THIS SESSION ON
'CORRUPTION'. UP TO 25 YEARS AGO, NOT EVEN A CONFERENCE OF
POLITICAL SCIENTISTS WOULD HAVE INCLUDED THIS TOPIC, MUCH LESS A
LAW FACULTY SYMPOSIUM. THEN ONE RECOGNIZED ACADEMIC TEXT
ONLY ON CORRUPTION; TODAY A SCORE OF SCHOLARLY BOOKS WOULD
HAVE TO BE INCLUDED IN ANY SERIOUS COURSE ON CORRUPTION AND
GOVERNANCE.

JUST LAST OCTOBER, 2014 THE QUALITY OF GOVERNMENT INSTITUTE AT
THE UNIVERSITY OF GOTHENBERG IN SWEDEN PRODUCED A COMPENDIUM-
**STATE OF THE ART REPORT ON THEORIES AND HARMONIZED CONCEPTS OF
CORRUPTION** - IT RAN TO 300 PAGES

CORRUPTION IS OF COURSE NOT JUST A CONCERN OF SCHOLARS AND
JUSTICE SECTOR OFFICIALS. IT IS VERY MUCH A PRIORITY ISSUE OF THE
'MAN IN THE STREET'

IN 2013, THE GLOBAL CORRUPTION BAROMETER SURVEYED 114,000
CITIZENS IN 107 COUNTRIES. ON A SCALE OF 1 TO 5 WHERE 'ONE MEANS
CORRUPTION IS NOT A PROBLEM AT ALL ' AND 'FIVE MEANS CORRUPTION
IS A VERY SERIOUS PROBLEM', THE AVERAGE SCORE ACROSS THE
COUNTRIES SURVEYED WAS 4.1

IN JAMAICA IN DECEMBER, 2014, THE RESPECTED POLLSTER DON
ANDERSON FOUND THE MORE JAMAICANS ATTRIBUTED 'CONTINUING
HARDSHIP', NOT TO THE PRESENT OR PAST GOVERNMENT'S
MISMANGEMENT NOR EVEN TO THE IMF BUT TO CORRUPTION.

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ON A SCALE OF 0 TO 100, WHERE ZERO INDICATES CORRUPTION PERCEIVED AS 'VERY UNCOMMON' AND 100, CORRUPTION 'VERY COMMON', IN 2012 TRINIDAD SCORED 81, GUYANA 79, BELIZE 67, HAITI 66 [LAPOP 2012]

ALL OF THIS IS TO SAY GIVEN THE MAGNITUDE AND COMPLEXITY OF THE ISSUE OF CORRUPTION, I SHALL HAVE TO CONFINE MYSELF TO A SUMMARY ONLY OF TWO DIMENSIONS:

AREAS OF RELATIVE CONSENSUS IN THE LITERATURE AND AREAS OF CONTINUING CONTESTATION

AREAS OF CONSENSUS:

1) HARMFUL CONSEQUENCES

- UNDERMINES DEMOCRACY AND THE RULE OF LAW
- DISTORTS MARKETS- ADDITIONAL TRANSACTION TAX ON INVESTMENT-BRIBES ADD 20 TO 50% TO COSTS
- DISPROPORTIONATELY HURTS THE POOR BY REDUCING SERVICES, QUANTITY AND QUALITY, PROVIDED FOR THE POOR
- FACILITATES THE FLOURISHING OF ORGANIZED CRIME

2) COSTS OF CORRUPTION

- GLOBAL TAX EVASION : US\$ 3 TRILLION
- BRIBE PAYMENTS FROM RICH TO POOR COUNTRY OFFICIALS US1 TRILLION
- 20-40% OFFICIAL DEVELOPMENT ASSISTANCE LOST TO CORRUPTION

3) PREVENTIVE MEASURES FOR CONTROLLING/COMBATTING CORRUPTION

- ADDRESS INSTITUTIONS OF SOCIALISATION- HOUSE-HOLD, CHURCH, COMMUNITY, SCHOOL, UNIVERSITY
- ROBUST ETHICS TRAINING
- EFFECTIVE AND ENFORCED CODES OF CONDUCT FOR BOTH THE PUBLIC OFFICIALS AND CORPORATE ENTITIES
- TRANSPARENCY IN THE FUNDING OF POLITICAL PARTIES, OF CANDIDATES FOR PUBLIC OFFICE
- REQUIREMENT OF INCOME AND ASSET DECLARATIONS FROM PUBLIC OFFICIALS
- TRANSPARENT AND EFFECTIVE PROCUREMENT SYSTEMS
- SOCIETAL OVERSIGHT THROUGH CIVIL SOCIETY BODIES, ACCESS TO INFORMATION LEGISLATION

4) PUNITIVE, LAW ENFORCEMENT MEASURES. CRIMINALIZATION OF A NUMBER OF PRACTICES:

- BRIBERY OF NATIONAL/OVERSEAS PUBLIC OFFICIALS
- ' ILLICIT ENRICHMENT'

- LAUNDERING OF PROCEEDS OF CRIME
- FREEZE/ SEIZE/ CONFISCATE ASSETS/ PROCEEDS OF CRIME
- INTERNATIONAL COOPERATION IN INFORMATION-SHARING, MUTUAL LEGAL ASSISTANCE, EXTRADITION

AREAS OF CONTINUING CONTESTATION/DEBATE

- 1) **DEFINITION OF CORRUPTION**-THE MORE WIDELY USED DEFINITION CONFINED TO 'ABUSE OF PUBLIC POWER/ENTRUSTED AUTHORITY FOR PRIVATE / ILLICIT GAIN'. THE SECOND, TO WHICH I SUBSCRIBE, IS BROADER IN SCOPE: 'ABUSE OF POSITION, WHETHER IN THE PUBLIC, PRIVATE OR NON-GOVERNMENTAL SECTORS (FIFA, IOC, ICC ETC) FOR ILLICIT ADVANTAGE, NOT JUST FOR ONESELF BUT FOR OTHER CONNECTED PERSONS, PARTY, FAMILY ETC. THE ABUSE OF MARKET POWER HAS TO BROUGHT INTO THE DEFINITION OF THE UNDERSTANDING OF CORRUPTION, ESPECIALLY FOLLOWING THE 2008 GLOBAL FINANCIAL CRISIS. US FEDERAL COMMISSION OF ENQUIRY INTO THE 2008 GLOBAL FINANCIAL CRISIS: 'SYSTEMIC BREAKDOWN IN ACCOUNTABILITY AND ETHICS'. WARREN BUFFET, HEDGE FUNDS WIELD 'FINANCIAL WEAPONS OF MASS DESTRUCTION'
- 2) **THE DESIGN OF ANTI-CORRUPTION COMMISSIONS**- SINGLE OR MANY. MUCH EVIDENCE THAT A SINGLE ANTI-CORRUPTION COMMISSIONS, COMBINING INVESTIGATIVE, PUBLIC EDUCATION AND PROSECUTORIAL FUNCTIONS MORE EFFECTIVE eg INDONESIA, BOTSWANA
- 3) **APPROPRIATE SANCTIONS FOR VIOLATIONS**; JAIL TERMS ONLY APPROPRIATE FOR PUBLIC OFFICIALS?
EG 5 MPs IN UK SINCE 2011, 6 MEMBERS OF US CONGRESS IMPRISONED FOR CORRUPTION-RELATED OFFENCES SINCE 2009. BUT MAJOR FINANCIAL INSTITUTIONS AND THEIR KEY FUNCTIONARIES MORE OFTEN THAN NOT FINED. CONCEPT OF 'TOO BIG TO FAIL': JP MORGAN FINED 13 BILLION; GOLDMAN SACHS 550 MILLION DOLLARS; UBS \$1.5B; DEUTCHE BANK YESTERDAY (APRIL, 23, 2015) AGREED TO SETTLEMENT OF \$2.5 BILLION FOR ROLE IN RIGGING LONDON INTER-BANK BENCHMARK INTEREST RATES (LIBOR). YET, NO PRISON?
- 4) **BALANCE BETWEEN POLITICAL WILL; SOCIAL WILL AND PROFESSIONAL WILL IN COMBATTING CORRUPTION?**