

**Keynote Address by the Deputy Minister of Justice and Constitutional
Development,
the Hon JH Jeffery, MP,
At a Virtual Conference on a *Human Rights Approach to Preventing and
Combating Corruption*, 29 March 2021**

Programme Director, Adv Thipanyane,
The Chairperson of South African Human Rights Commission, Prof Majola,
The Acting Public Protector, Adv Gcaleka,
The Auditor General of South Africa, Ms Maluleke,
Commissioner Fikeni from the Public Service Commission,
Dr Munns of the South Coast Business Center,
Ladies and gentlemen, friends,

I am honoured to be part of this very important conference. It is not often that we see so many of the guardians of our Constitution and the defenders of good governance all together in one, albeit it a virtual, room.

I refer to these organisations as guardians of the Constitution, because when reading the second certification judgment, one is able to see the foresight that the drafters of our Constitution had when putting in place all the necessary institutions and safeguards for our new democratic state.

They had the foresight to predict that, even in the most democratic of nations, structures and institutions have to be put in place to deal with a myriad of different situations, whether it be lapses in service delivery, or the need to investigate and remedy improper conduct in state affairs.

They identified the necessity of not only having institutions which prevent and combat corruption, but in fact, to address any situation that does, or has the potential to, detract from the observance and protection of human rights for everyone.

They knew that our country needed to promote the constitutionally prescribed values and principles governing public administration in the public service. They wanted to ensure that public funds be used in a transparent manner and thus deemed it crucial to set up an institution to audit and report on the accounts, financial statements and financial management of all national and provincial departments and municipalities. These reports are made public and are submitted to a legislature that has a direct interest in the audit.

Programme Director,

I am specifically highlighting the roles of the Public Protector, the Auditor General, the South African Human Rights Commission and the Public Service Commission to illustrate that not only do we have a constitutional and legislative framework to ensure that we have a firm commitment to good governance and clean administration, but we also have the institutions to give effect to this framework.

The question that perhaps we have to ask ourselves is whether the drafters of the Constitution were too idealistic when setting up these structures? Were they placing an over-reliance on these structures and institutions to “fix” everything that is broken?

Or is it more a case of not empowering these institutions sufficiently and not giving them enough teeth to remedy what is wrong in society and in government?

Because, inevitably, many in our country will ask, when we have with institutions like these in place why is it that we still have some communities who live with sewerage streaming down their streets? How is it that we see some departments and municipalities racking up copious amounts of expenditure which is deemed fruitless and wasteful?

From the side of government and law enforcement specifically, we have made enormous efforts in preventing and combating corruption. We play a significant role in the Anti-Corruption Task Team. We also play a leading role in providing support to the Zondo Commission of Inquiry.

An anti-corruption strategy is at the core of our developmental trajectory. Law enforcement agencies, particularly the National Prosecuting Authority and the Hawks, both financially and from a human resource perspective, are being capacitated to ensure that they are more effective. The establishment of the Special Tribunal has enhanced the Special Investigating Unit's ability to recoup embezzled funds from the state. We applaud the SIU for their biggest recovery to date against ABB South Africa amounting to R1,5 billion.

Civil service reforms are underway with the professionalization of the public service framework having been published for public comment.

The implementation of our National Anti-corruption Strategy will bring together civil society, the private sector and the government to monitor implementation.

As you know, the National Advisory Council on Anti-Corruption will be operational for two years and ensure that all the components of the multi-disciplinary agency are put together whilst reporting to Parliament on its progress. Our immediate focus is on public procurement issues related to Covid-19, the security sector and criminal justice system and a clean-up campaign at SOEs to root out corruption. To support this, law enforcement agencies coordinate their work through what is now known as the Fusion Centre.

Since its inception, the Fusion Centre has handled 231 cases or incidents related to Covid-19. Thirty cases were closed after investigation and 31 accused persons are appearing in 14 criminal cases in courts across the country. More than 12 referrals were sent to various departments for disciplinary action for employees involved in irregularities.

Furthermore, R145,6m has been blocked by the Financial Intelligence Centre and R119m has been preserved by the Asset Forfeiture Unit through the Prevention of Organisation Crime Act. The Special Investigative Unit has to date enrolled cases in the Special Tribunal to the value of R 365m and has to date saved R124m one involving supply chain irregularities. The South African Revenue Services recovered R 165m in taxes. In total, R718,6m has been recovered by the Fusion Centre and returned to the fiscus.

We have also recently set up additional Specialised Commercial Crimes Courts in four provinces - which did not have one – to speed up the finalisation of criminal cases. These are dedicated courts at Regional Court level which focus on corruption and serious economic crimes.

Whilst these are successes and should be lauded, the pertinent question is, how did we get here in the first place?

Corruption, at its very core, is stealing from the poor and looting resources that are meant to build our country. Funds that are meant to be used for service delivery, for human rights programmes or to build houses and schools and clinics, are funnelled away by those wanting to enrich themselves.

Our country cannot advance if there is corruption. It diminishes the public's faith in government and detracts from the gains we have made as a country.

Have we created a society where corruption is viewed as part of “business as usual”, where, in a sense, it seems par for the course for service providers to inflate their prices when dealing with the state, where some in both the private sector and the public sector turn a blind eye to doing business with family members and friends, nepotism and cronyism. Is this what we view as normal?

There is no question that we have the legal framework and the institutions in place, but we have still not been able to curtail the very ills these institutions sought to prevent.

Granted, one could argue that the work of the guardians of the Constitution is, mostly, retrospective in nature. They are often the ones who arrive last at the crime of scene, when the damage is already done.

The work of the Office of the Public Protector has led to the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State. This has exposed some of the horrific details of allegations of corruption.

The question that arises is where were our institutions when this happened? Could they, and should they, not have prevented this? And if the answer is yes, then were they sufficiently empowered and resourced to be able to prevent it? Or were their remedial actions or reports ignored? And what lessons can they draw from what has been laid bare before the Zondo Commission?

One can argue that one of things we have not done well in recent years is to really ensure that the work of these institutions does not simply gather dust. Our institutions cannot be relegated as less important than law enforcement institutions. If anything, the work of law enforcement institutions should be heavily predicated on reports and findings of these institutions. For example, findings of fruitless and wasteful expenditure by the Auditor General should anchor investigations of corruption.

In this regard, the Auditor-General's reports have been given teeth to bite. No more shall the AG's reports expose financial impunity without consequences, law enforcement agencies will be activated through these reports.

These actions need our urgent attention because we run the risk of corruption subverting good governance and undermining public trust in government. This may further reduce political participation by adding to growing cynicism about politics and the political process amongst citizens.

Most critically our new anti-corruption approach will have to borrow from international experience. We have observed that systems, structures and processes do not necessarily provide the template for success. Unless the will to succeed is forged, much of any anti-corruption drive will remain a passive idle declaration - it is as much a question of fixing the hearts and minds as it is a question of fixing the system.

Furthermore, public support is vital in any anti-corruption programme. The war on corruption is best won through successful action against the corrupt, regardless of who they are and executed without fear or favour, firmly and fairly. Clear demonstrable success is the surest way of regaining public confidence.

For all of us, from the side of government and the institutions which are represented here this morning, it is clear that much more needs to be done in deepening democracy and good governance in South Africa. How do we do more to prevent corruption to manifest, how do we deter and uproot malfeasance?

These are but some of the crucial questions which this conference will need to consider over the next three days.

I thank you.