



THE AMERICAN ANTI-CORRUPTION INSTITUTE

SIGNIFICANT DEEDS REQUIRE SIGNIFICANT TIME

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Before I begin, I wish to thank his Excellency Dr. Abdallah Ensour and the Law and Governance Center for their warm invitation. I also wish to celebrate their courage and vision on making this world a much better place for our children, our grandchildren, and our great-grandchildren.

The speech is titled Significant Deeds Require Significant Time – because that is the truth. What we are doing, here today, is a continuation of what I saw over three years ago on my last visit, and yet, here today we are just beginning.

But, first let us begin with a simple, universal, definition of corruption.

It is a person that misuses the trust of his employer or client and acts against his employer's or client's interests for his personal gain.

The reasons for the abuse of trust can be for personal profit or ideological reasons.

It can be a legislator passing “special laws” for a business, or a regulator taking a pay off to look the other way. Here the politician and the regulator have misused the trust of the people for their personal gain.

It can be a buyer for commercial construction project taking kickbacks from the suppliers for buying just their concrete, steel, wiring, lights, flooring. Here the buyer has abused the employer's trust through paying too much for goods and services so the corporate buyer can make money from the kickbacks.

It can be the owner of a business taking those same kickbacks in cash – and everyone says – so who does it hurt? It hurts both the revenue authorities as the expenses on the seller's side are inflated, and the buyer's income is understated, and it would hurt any lender as there have now financed too much for a building that is not worth what it is purported to be. The business owner has abused the trust of the state and the bank.

Economists, Philosophers, Sociologists and Newscaster have made a very many, silly and complex series of arguments about “the what is” and “what’s the nature of corruption.” It is clear that these people have never dealt with corruption in anything but a laboratory setting or a movie theater. As someone who has seen and investigated cases of fraud and corruption in over 100 countries corruption is nothing but treachery and a total betrayal of trust.

Is that a bit strong? Yes it is, and it is accurate.

How did we, as civilized humans come to this state of corruption? I was going to tell several stories from the headlines about bribery of this group of politicians by another country, or the Prime Minister or President of this or another state arrested on corruption charges, or even grand corruption in the courts. The problems I faced were should I use examples out of today’s headlines of those from a hundred years ago or a thousand years ago? In truth, the stories are all the same story - just different players.

The point of the event is not to share what we already know about corruption, but to look into a way to prevent the harm occurring.

How did we get to this state of affairs with astronomical levels of grand corruption? Like any tragedy – it is not one event. It is a series of events that leads up to the cumulative error of each choice that creates the cascade of failures that lead to corruption. The prominent failures I see are:

- Ethics of leadership – the tone is set at the top and if the top is corrupt why should the employees or citizens be any different? As human beings, we follow leadership, and if the leadership is corrupt, it sends a clear message to everyone else – “I have to be corrupt to get ahead.”
- A culture that wants success now, where success is measured in material goods, not deeds. Just look at the television news and entertainment events. Everyone is driving an Italian or German Sportscar after they have become an overnight success. Sure it's a fantasy, but it is a very powerful fantasy. The ability to dispense with one's basic needs of food and shelter and focus on one's wants such as sports cars, big watches and helicopter skiing vacations in St. Moritz.
- A society’s reduction on the impact of shame, the shame of corruption. So you get caught, so you have been corrupt, so you lose a few dollars in the prosecution, you still get to keep the Italian Chateau.
- The systemic managerial failures involved in lean management and cutting all costs especially when removing redundancy. You can hear management now, “Why have a committee looking at bids, why have three people checking for expense reimbursements, why, why, why all of these extra people – after all we can just automate the process.” The 2008 Financial Crises clearly demonstrated there was not enough redundancy or people to ask the questions of a transaction at the right time.

- Single choice points of commitment. Anytime you have one person making the decision you have a concentration of risk. It does not matter if the person is buying a pencil for a
- company, construction supplies, or aircraft parts. Once you have the single point of commitment and control – your firm is at risk to be defrauded by corrupt means.

While there are more points, such as globalization, the speed of transactions over the internet and with modern banking, and significant knowledge deficits of most compliance professionals - these are the key issues on why corruption and its impact has expanded.

So let's look at some large-scale efforts to counter corruption.

The United Nations Convention Against Corruption is a noble attempt to combat corruption. It is great high-minded language and possesses many good points, but as wonderful a declaration against corruption – I see it to be an elegant toothless tiger.

Council of Europe Criminal Law Convention on Corruption (COE Criminal Law Convention) entered into force in 2002. The COE Civil Law Convention aims to define common international rules of civil law and corruption. Parties are required to compensate persons who have suffered damage as a result of corruption. It entered into force in 2003, and compliance is monitored by the Group of States against Corruption (GRECO). This is a really good step forward, or is it? The fact of the matter, to get the full benefit of the law is very expensive. Not only do you have to prove a corrupt practice occurred, you then have to prove damages, and do so before you, the victims are time barred from bringing the claim forward. While on the face of it the convention requires member nations to enact legislation, the reality is that local laws, standards of proof, and variable statutes of limitation make it very difficult.

The UK's passed its Anti Bribery Act in 2010. In 2014 the UK published its Anti-Corruption plan and by the end of 2016 was still behind in the implementation of the 66 points of the plan. The UK, like the EU, has spoken big words, but the deeds have been lacking. The UK's anti-corruption police are currently part of a 4-nation team investigating bribes allegedly paid in the sale of several decommissioned naval vessels. We will see what happens, but the record of successful investigations and prosecutions in the UK – despite what appears to be a rare law with enforceability – has been very poor. The current negotiations for Brexit are complicating both the letter of the law and the execution of anti-corruption initiatives with European Countries. And I add, as a fraud investigator with three decades of experience, if they are as successful as the UK's Serious Fraud Office – criminals need not fear anything.

ISO 37001 Standard is in theory designed for ISO compliant companies to craft policies and procedures to deal with potential corruption. ISO 37001 was initially a voluntary standard. However, it is now a required standard for companies to keep their ISO certification. I find the standard unhelpful, bureaucratic, expensive to implement, and ultimately infective. Organizations are not corrupt; societies are not corrupt, countries are not corrupt, only individuals can be corrupt. ISO standard 37001 will not stop corruption; it will just require the addition of a transactional

layer or two to avoid detection. It is the classic example of bureaucratic body thinking about corruption, how corruption occurs, and how to prevent corruption and earnestly getting it wrong.

The US Foreign Corrupt Practices Act is one of the first attempts at addressing corruption. While I believe it has some significant flaws – its application by the US Department of Justice and the US Attorneys General, to date, have made it the most effective law against corruption in the world. And in that last sentence is the key concept "application." The US is willing to prosecute anyone. The Federal lawyers and investigators are applying the law and getting results. After all, what is a law if the law is ignored, not enforced, or worst of all unenforceable? Great laws are nothing – if not enforced or unenforceable.

And here is where His Majesty King Abdulla II of Jordan has done something utterly unique. The King's 6th discussion paper on the rule of law in a civil society and what needs to be done to address corruption is spot on. It has two significant virtues. The King has set forth a very concise argument on the importance of the rule of law and addressing corruption. The second virtue is it is happening.

It was most heartening that both business and the universities were taking up the challenge to educate their peers and students about the effect and disastrous impact of corruption. I have not seen this in any other country and I have visited and or worked in just over 100 countries.

The fact is corruption is the hardest type of investigation. The investigation has to get someone on the inside of the corrupt transaction or relationship to, essentially, to turn their backs on what had been a profitable relationship in favor of the law. The problems are significant. The person has to give up the money, inform on the co-conspirators, and possibly face prosecution. We can all see that those are three very large hurdles for any one person to face. When in truth, it is easier to remain silent, as most anti-corruption investigation do not develop evidence sufficient for prosecution.

The rule of law, as the King has stated is paramount in the prevention of corruption.

The AACI regards highly and deeply appreciates the tone that His Majesty the King of Jordan stated in the 6th Discussion Paper entitles The Rule Of Law and The Civil State. The King's proclamation is internationally unprecedented. The AACI announced last August that we would address the 6th Discussion Paper and its insights worldwide at all Universities where The AACI has cooperation and reach.

I announce today The AACI's advisory board has already approved including his Majesty the King's 6th Discussion Paper as a part of the Certified Anti-Corruption Manager certification program. The new exam will be offered officially January 01, 2018 in Canada, the United States, Netherlands, Jordan, the State of Palestine, Qatar, UAE, and Malaysia.

Coming back to my visit over three years ago. I could hear, I could see, and I could feel the energy of those who had decided finally to address corruption. Three years

ago I spent my Thanksgiving holiday with dear friends listening to them describing the changes that were occurring. It was truly a time of Thanksgiving.

If we, at the AACI, were to design controls for a society or a business these philosophies would apply.

- A clearly stated rule of law and code of conduct. The laws and rules would be widely known and transparently enforced.
- The enforcers would be transparent in their actions and independent of the outcomes.
- Significant contracts would be authorized by a committee that is beholden only to the outcome of the choice. This is key to the elimination of a concentration power that can be or is manipulated.
- Forgiveness and maybe even a reward for those who come forward and share where corruption is active.
- Significant internal (in-house) as well as external (legal) penalties for the unrepentant corrupt actors.

It is our position at The AACI that good governance is a pillar of the successful fight against corruption. It is our firm position that the prevalence of the rule of law is a prerequisite of an effective implementation of the best governance practices. I have no doubt that the role the board of directors plays in effecting proper corporate governance and preventing corruption is paramount.

Corruption is a noxious weed that chokes out the fruits in a garden. While it is impossible to 100% eliminate corruption, as humans we are always looking for a bit more in the wrong place, we can control corruption so the garden will thrive. This tells you that prevention and prosecution of corruption must not cease, there is no end, it is an ever ongoing process. We must be ever vigilant. Significant deeds require significant time.

Before I conclude my speech, I would like to thank Bright Jordan's management for their commitment to their innovation in enhancing transparency, integrity, governance, investment and the quality of healthcare sector in Jordan and the MENA region. They are the first organization in the healthcare sector that is certified by The AACI under our Organization's Anti-Corruption Certification Program.

I would also like to thank the Law and Governance Center (LGC) and its founder, general manager the visionary Dr. Omar Daoud who provide another proof that Jordanians are not only innovative but are pioneers in the soft and sophisticated skills such as when you blend law practice with anti-corruption in a local and regional practice.

Finally, a quick read of history shows that mighty empires were never destroyed by an external enemy. It was corruption that rotted them from the inside out.

The future of Jordan is very bright. The rule of law combined with an open and vigorous debate ensures a healthy today and a prosperous and peaceful tomorrow.

Thank You

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