

BY COURIER

1st September 2007

Hon. Wijeyadasa Rajapakshe, P.C., M.P.,
Chairman, Committee on Public Enterprises (COPE)
Parliament of Sri Lanka,
Sri Jayewardenepura,
Kotte.

Dear Chairman,

Action on COPE Reports of January 2007 & August 2007

I commend you on the courageous stance taken on fraud and corruption, and the strenuous efforts, which you and the other Members of COPE have put in, to release the above Reports. It was a pleasure for me to have extended co-operation and assistance in certain major cases.

I have noted with interest, that after a 'strange delay', it has been decided to refer certain matters in the Report of January 2007, to the Commission to Investigate Allegations of Bribery or Corruption.

Bribery cannot be presumed, unless discovered after investigation. 'Corruption' would *prima-facie* be disclosed, where **only public servants**, as defined in the Bribery (Amendment) Act No. 20 of 1994, with intent have caused wrongful and unlawful loss to the Government, or have conferred a wrongful or unlawful benefit, favour or advantage on themselves, or any person or have induced any other public servant to do so, as more fully defined in Section 70 of the Bribery Act. The offence of corruption is liable to imprisonment not exceeding 10 years and/or to a **fine not exceeding Rs.100,000/-**.

With due respect, ought not the instances, where losses of billions of rupees have been caused to the Government i.e the Public, by **collusive actions between the private sector and the public sector**, be referred to the IGP and/or the DIG-CID for investigation and action, under an in terms of the Offences Against Public Property Act No. 12 of 1982, as amended, wherein **not only public servants** but all persons, including **those from the private sector**, are held accountable and responsible ?

In terms of the said Public Property Act, the Offences would include the commission of:

1. Mischief to public property.
2. Theft of public property
3. Robbery of public property
4. Misappropriation or criminal breach of trust of public property
5. Cheating, forgery or falsification of accounts in relation to public property
6. Attempting to commit any one of the above offences

Punishment for any one of the above Offences is imprisonment not exceeding 20 years and a **fine of 3 times the loss or damage caused to public property**.

Given the gravity, seriousness and magnitude of some of the instances, which have been disclosed, do you not consider, that it is warranted, that action ought be taken in terms of the Public Property Act, inasmuch as, action has been taken under such Act for comparatively very minor offences *vis-à-vis* public property, with suspects being promptly remanded, **since offences under the said Act are non-bailable**.

My attention is also drawn to the interview you had given to *The Nation*, published on Sunday, 26th August 2007. You have specifically asserted that H.E. the President had been misled by Secretary to the Treasury, Dr. P.B. Jayasundera, who you state, was the one whose spread false information about the COPE findings, and misled H.E. the President, that the COPE Report, if published, might have an adverse effect on the donor contributions to the country, which had led H.E. the President to mention in a TV interview, that the COPE Report of January 2007 was conspiratorially released to coincide with the Aid Forum in Galle.

As COPE Chairman, having made such a public indictment of the Secretary to the Treasury, Dr. P.B. Jayasundera, ought you not take action, in that, in some of the major transactions you had castigated the very conduct and actions of Dr. P.B. Jayasundera ? Can a responsible senior public official be permitted to have so acted, and would it not tantamount to contempt of a Parliamentary Committee ?

As regards, the 'assertions' referred to above *vis-à-vis* the donor community, I cite the following, **which give the lie thereto:**

At the Opening Address made by Ms. Mieko Nishimizu, Vice President – South Asia Region at the Sri Lanka Development Forum held in Paris in December 2000, she stated thus:

"In formulating a new Country Assistance Strategy, my colleagues have been listening intensively to hundreds of **Sri Lankan citizens** from all walks of life. They said:

"The nation faces a deep crisis;
Public institutions are politicised;
Politicians are not accountable'

In the Foreword in the World Development Report 2002 of the World Bank, it was stated thus:

"Without effective corporate governance, institutions that check managers' behaviour, firms waste the resources of stakeholders. And weak institutions hurt the poor especially. For example, estimates show that corruption can cost the poor three times as much as it does the wealthy.

Addressing the challenge of building effective institutions is critical to **the bank's mission of fighting poverty."**

In May 2003, the World Bank in a Letter addressed to me on behalf of its President stated thus:

"the World Bank as well as other development partners are **assisting the country's endeavours aimed at reforming governance** and empowering the poor, including the enhancement of their legal rights"

"the senior management of the **World Bank** as well as the entire staff of the institution **consider issues of fraud and corruption to be of grave concern"**

As recent as February 2007, the World Bank in a Letter addressed to me on behalf of its President stated thus:

"The World Bank recognises the importance of good governance in the development of countries like Sri Lanka and in their efforts towards poverty reduction. **Our program of assistance to Sri Lanka includes a strong commitment to helping improve the governance of their public sector institutions"**

Yours truly,



Nihal Sri Ameresekere

cc: Mr. Lalith Weeratunga, Secretary to H.E. the President / Member to Committee to Combat Fraud, Bribery & Corruption

His Excellency President Mahinda Rajapakse

Mr. D.W. Prathapasinghe, DIG-CID

Mr. Victor Perera, IGP

Mr. Gotabaya Rajapakse, Secretary, Ministry of Defence, Public Security, Law & Order

Mr. C.R. De Silva P.C., Hon. Attorney General

Ven. Elle Gunawansa, Chairman, Committee to Combat Fraud, Bribery & Corruption

Hon. Members, COPE