

Who is guilty?

I used to meet with a group of Christian business people on a weekly basis for prayer and support, in the board room of a local manufacturing company.

A visitor at one of our meetings made a remark in conversation which I found quite astounding.

Describing his experience in obtaining business as frustrating because of the need to make what was effectively a bribe in order to obtain opportunities, he ranted about the corrupt practices he encountered, but had to go along with to survive.

He seemed oblivious to the fact that he might be equally guilty of corrupt practices.

I was reminded of this event by the story headlined in the electronic edition of the Herald on 18 May 2019, “Oscar denies dealings with a man who paid for his home renovations...”. The headline in the print version does tend to deal equally with the businessman rather than concentrating solely on the well-known public-sector figure.

The fact is though in our recent past, it is the public sector which has come under the spotlight, without equal emphasise on the private sector participants.

“Chief financial officers have been complicit in virtually all of the major corruption scandals that engulfed SA in the last decade – now it’s time to prosecute them and send the guilty to jail, said Sasha Monyamane, professor of governance and ethics at University of SA (Unisa), speaking at the CFO Talks Anti-Corruption debate in Sandton on Wednesday 15 May 2019.”

Said Angelo Agrizzi at the same debate “No-one wakes up and decides to create a corrupt organisation. There is a grooming process that takes place, which starts with small gifts, then larger ones, until you are captured by the corrupt organisation and become part of the conspiracy of silence. Then one day you are asked to drop off a parcel for someone, and God help you if you don’t.” Agrizza went on to say “Corruption is the CFO’s fault as “You are the ones who control the purse strings.”

For most of us, these reported instances seem so far removed from our own spheres of influence that we are wont to imagine that it does not happen in my workplace, in my industry or even the city I live in and love.

But speak to your colleagues in leadership roles, or especially middle management positions, and you will be aghast at what goes on behind the scenes.

From seemingly innocent gifts to blatant requests by buyers of large companies of their smaller suppliers to “add 10% to your price and this are my bank account details.”

Foreign companies also seem to have a different attitude to these types of incentives. A local manufacturer was asked for a facilitation fee for a large order, but insisted on including it in the invoice as a separate item in an effort to be transparent. This did not seem to be an issue from the customers point of view.

Although the Prevention of Corruption Act defines the type of gift or entertainment which would not constitute undue inducement, given what was said by Agrizza above, it is small wonder that a well-known large local manufacturer had an extremely strict policy on gifts and entertainment.

What are our remedies?

The same Act makes provision for what some might say are fairly draconian penalties.

Nevertheless, it appears when the time comes for sentencing what is strangely referred to as “white collar crime”, penalties seem anything but.

The Judge of Appeal in *S vs Sadler*, said in his judgement “So called 'white-collar' crime has, I regret to have to say, often been visited in South African courts with penalties which are calculated to make the game seem worth the candle. Justifications often advanced for such inadequate penalties are the classification of 'white-collar' crime as non-violent crime and its perpetrators (where they are first offenders) as not truly being 'criminals' or 'prison material' by reason of their often ostensibly respectable histories and backgrounds.

“This of course assumes that it eventually reaches the sentencing stage. Head of Corruption Watch, David Lewis said “Prosecutions must happen if the country is to slow the progress of corruption through the organs of state and business”.

Commenting at the debate in Sandton, he said “Commissions of Inquiry are great, and new appointments to boards are great, but public trust won't return unless there are prosecutions of individuals.”

On behalf of the Church Leaders Forum, TCN, its implementing agents have been in communication with the heads of various NPA agencies in NMB, who have supplied the names of many of the local suspected miscreants whose time in court has been delayed for all sorts of reasons and in fact have requested that the Church leaders use their influence to motivate by at least a letter to the Justice Department to more robustly use section 342A of the Criminal Procedure Act which allows for a harder line attitude to needless postponements of cases, thus dragging out for years the finalisation of these cases.

You can do so as individuals as well.

M D Smith, Marketplace Minister