

Accountability and Corruption in the Public Sector

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I must thank the University of Ghana Business School (UGBS) for the kind invitation to me to participate in this important conversation on Accountability and Corruption in the Public Sector.

Opening remarks

Mr. Chairman, when as a country, we embarked on the agitation for Good Governance in the late eighties and early nineties, our concerns were: Human Rights, Media Freedom, Law and Order, Personal Liberties and Parliamentary Democracy. They were the governance challenges at the time. Today, we have achieved virtually all of these demands. Consequently, there has been a paradigm shift in our governance challenges.

Our concerns are:

1. How do we curb the excesses of Government?
2. How do we ensure transparency in Governance?
3. How do we ensure Participation and Inclusiveness in Governance?
4. How do we ensure Financial Accountability in the Public Sector?

At the Centre for Public Accountability at the University of Professional Studies (UPS), Accra where I work, Financial Accountability in the Public Sector is our major focus and we are convinced that there is a relationship between Accountability and Corruption. The theme of your Management Week Celebration is therefore most relevant and topical.

Mr. Chairman a nation puts in place a Government so that it will provide Public Goods and Public Services. But the Government has no money, on its own, to provide the goods and services. It relies on citizens for all the monies it needs to carry out its mandate.

This creates an Accountability relationship between the Government and the Citizens.

“Public Accountability demands that politicians and public servants who are entrusted with public resources must be answerable for the fiscal and social responsibilities to the people who provided the resources and who assigned the responsibilities to them”. Corruption on the other hand is “the misuse of office for unofficial ends and includes Bribery, Extortion, Influence Peddling, Nepotism, Fraud, Embezzlement and the use of ‘speed money’, which is money paid to government officials to speed up their consideration of a business matter falling within their jurisdiction”.

Robert Klitgaard has explained the link between Corruption and Accountability in a formula which shows that $\text{Corruption} = \text{Monopoly} + \text{Discretion} - \text{Accountability}$. He argues that one tends to find corruption when an organization or person has monopoly power over a good or service. He explains that the monopoly power is made worse when the organization or person also has the discretion to decide who will receive it and how much that person will get and where there are not sufficient mechanisms to ensure that the organization or person is Accountable.

According to this model, combating corruption begins with designing better systems, reducing or regulating monopolies, clarifying official discretions and enhancing transparency. There are practical difficulties with these recommendations though. Reducing monopolies in the delivery of Public goods and services is not easy in practice neither is it easy to clarify

official discretion with detailed or codified regulations.

Financial Accountability, therefore, emerges as the most potent antidote to the problem of corruption. Governments and Public Servants must feel obliged to account to the citizens who give them the resources to provide the public services and goods.

Mr. Chairman, Klitgaard further argues that corruption is a crime of calculation, not passion. He explains that there are saints who resist all temptations and there are honest officials who resist most temptations. He adds, however, that when bribes are large and the chances of being caught are small and also the penalties if caught are meager, many public officials will succumb.

Klitgaard is right and is as frank as Kautilya, the Indian statesman and philosopher who advises rather bluntly that:

“Human nature is disposed to acquire public money for private gain. Just as it is impossible not to taste honey or poison that one may find at the top of one's tongue, so it is impossible for one dealing with government funds not to taste at least a little bit of the king's wealth.”

He further advises that:

“Just as it is impossible to know when a fish moving in water is drinking it, so it is impossible to find out when government officials in charge of undertakings misappropriate money.”

He calls for the institution of checks and balances and accountability measures to address the problem of corruption and

Mr. Chairman, this is exactly what the framers of our Constitution and those who designed our Public Financial Management (PFM) system as well as the financial laws that underpin our PFM system sought to achieve.

Mr. Chairman, if you ask any Chartered Accountant to explain to you the mechanisms they employ in their profession to ensure that public funds in the hands of Government are protected against corruption, his answer will be that they put in place and rely on a PFM system with embedded accountability mechanisms or checks and balances. Therefore, in our search for solutions to address the problem of public sector corruption, I believe that we need not look beyond our PFM system and specifically the embedded accountability mechanisms.

The Budget Cycle

Contained in the PFMS are in fact all the mechanisms needed to promote transparency and accountability. To gain a better insight of the PFMS and how it helps to promote transparency and accountability, it is useful to explain the theoretical framework for what has become known as the Budget Cycle. This is because Ghana adopts the Westminster model of Public Financial Management which revolves around the national annual budget.

In a Westminster model, the citizens contribute to the national coffers through the taxes they pay. The Government collects other non-tax revenues on behalf of the people. Through the Executive, the country obtains grants. And again, through the Executive and with the consent of Parliament, loans are procured for the country. At times Government sells state assets.

These constitute the revenue sources.

Before the year begins, the Executive makes an estimate of how much money they hope to collect from all the revenue sources. They also determine and set the national priorities for the ensuing year and on the basis of that, allocate and distribute the resources in the annual Budget Statement and Economic Policy of Government.

The economic policies as well as the estimates are scrutinized, debated and approved by the representatives of the people in Parliament and an Appropriation Act is passed. On the strength of the Appropriation Act, resources in the form of money are allocated to MDAs. The chain does not end there. The constitution demands a system of accountability and financial scrutiny. The Accountant General is thus mandated to put in place a suitable Public Financial Management system to, among other things, capture all accounting transactions and provide personnel to undertake the necessary accounting duties. The Accountant General is further obliged to prepare the year end financial statements of the MDAs together with the consolidated Public Accounts. The chain ends with an audit by the Auditor General whose report is sent to Parliament where the Public Accounts Committee is mandated to examine the financial affairs and accounts of the MDAs.

The Budget Cycle as described above has four interdependent phases as follows:-

- Phase 1:** The Formulation/ Drafting Phase
- Phase 2:** The Approval/ Legislation

Phase

Phase 3: The Implementation/
Monitoring Phase

Phase 4: The Audit/Assurance Phase

Each phase of the budget cycle contains key accountability mechanisms to enhance transparency and accountability. National Accountability demands that all the mechanisms are made to work.

The First Phase of the Budget Cycle

In the first phase of the Budget Cycle, the economic policies and financial estimates are formulated for presentation to Parliament. Budgeting theories demand that annual budgets should derive from and be linked to predetermined Long Term strategies and Medium Term Sector strategies developed through broad consultative processes. The key accountability mechanism in this phase of the Budget Cycle is the need to align the annual budget with the medium term plans.

In Ghana, the development and preparation of a Medium Term policy is the responsibility of the National Development Planning Commission (NDPC) which is charged *“to provide a national development policy framework and ensure that strategies including consequential policies and programmes are effectively carried out to enhance the well-being and living standards of all Ghanaians on a sustainable basis.”* The Annual National Budget on the other hand is prepared by the Ministry of Finance & Economic Planning (MOFEP).

The NDPC is provided for in the Fourth Republic 1992 Constitution as part of the Executive and the NDPC Act (Act 479) formally established the Commission under the Office of the President.

For an institution charged with such an important function, the Commission has been poorly resourced and indeed ignored for a long time. At a point in time, transfer to the Commission was equated with incarceration in Siberia. The Commission has, in spite of all these challenges, demonstrated a clear ability to perform as evidenced by such publications as the Ghana-Vision 2020 Policy Document, Ghana's Progress Towards the MDG (2006), the Ghana Poverty Reduction Strategy and the Medium Term Development Policy Framework: Ghana Shared Growth and Development Agenda (2010-2013).

The processes of the NDPC are widely consultative and do satisfy transparency requirements. Unfortunately, no attempt is made by the MOFEP to link its annual budgets to the Medium Term Development Plans of the NDPC thus defeating a key transparency and public accountability requirement. Both the Constitution and the NDPC Act specify that the NDPC is set up to advise the President and shall be responsible to the President. (Art. 86(3) and Art. 87(1)).

These two clauses create some amount of confusion in practice. Direct reporting to the President means that the Commission does not report to any Ministry and certainly not to the Minister of Finance. At the same time, the Chairman of the Commission, not being a Minister of State, does not attend Cabinet meetings and cannot directly engage with Parliament on the floor of Parliament.

The result is that the Commission has no champion to represent it either in Cabinet or in Parliament. It used to be argued that

this defect could be cured if the Commission was chaired by distinguished and eminent persons. This has not turned out to be the case. Indeed, there could have been no better chairman than the distinguished J. H. Mensah under the NPP administration or the equally distinguished P. V. Obeng under the present administration and yet, this defect continues. Today, we have the highly respected Dr. Kwesi Botchway and, as they say, we live to see.

Yet another problem is that successive Ministers of Finance have had at best, only lukewarm attitudes towards the Commission. This is not surprising since the Minister of Finance and the Commission compete for the ears of the President when it comes to advising the President on issues on development economics. The composition of the Commission has also not been entirely helpful. It has a Chairman appointed by the President, the Minister of Finance and such other Ministers of State as the President may appoint, the Government Statistician, the Governor of the Bank of Ghana, a representative each from the ten regions of Ghana and such persons as the President shall appoint. In recent times, virtually all senior Cabinet Ministers are made members of the Commission thus duplicating the Cabinet and yet the Chairman is below the rank of a cabinet minister.

There are two other important issues related to the Budget formulation that need to be mentioned. First is the mechanical slashing of estimates submitted by the MDAs when the revenue envelope is not enough to cover estimates from the MDAs. The practice, in such instances, has

been for MoFEP to 'cut' the estimates of some MDAs. The cutting is normally done without any meaningful consultation with the Ministries involved. The result is that a project which has been professionally costed for some US\$100,000 is allocated about US\$80,000 forcing the Ministry to reduce not only the cost but the quality of the end product.

The second issue is that even after the Appropriation Act, releases to the MDAs are uncertain and the MDAs have come to think that the budget is no guarantee that moneys due to them would be released. Besides they have normally been able to obtain significant amounts from MoFEP without any budgetary cover. To most civil servants therefore, the budget is not that important planning document that we proclaim it to be and they don't accord the whole budget process the seriousness it deserves. The clear conclusion is that as far as the first phase of the Budget Cycle is concerned, the key Accountability Mechanisms are not allowed to operate.

Recommendations

The Chairman of the Commission should have a Cabinet rank and be made a Cabinet Minister. After all, the duties of the Commission cut across all sectors and the Chairman deserves to be where the final decisions on economic management are taken, i.e. at Cabinet Meetings.

It must be made mandatory for MoFEP to derive and align its annual budgets to the NDPC Medium Term Plans and there must be visible and clear audit trail for Parliament and Civil Society to track that such has been the case.

The power to negotiate Government

loans should be vested exclusively in the Minister of Finance. Any such borrowing must be tied to the financing of an approved budget expenditure which derives from the Medium Term Plans of the NDPC.

Where estimates from MDAs for a particular project have to be slashed, care must be taken not to effect it in a manner that will affect the quality of the end product.

Once provided in the Appropriations Act, all attempts must be made to release the funds to the MDA and no expenditure must be made by the MDAs unless provided for in the Appropriations Act.

The Second Phase of the Budget Cycle

In the second phase of the Budget Cycle, the draft annual budget appropriately styled as the Budget Statement and Economic Policy of the Government is submitted to Parliament for scrutiny, debate and approval. This phase provides Parliament the opportunity to review and debate the economic policies of government, the assumptions underlying the budget as well as the annual estimates of the Ministries, Departments and Agencies. There are very potent accountability mechanisms in this phase.

Unfortunately, the key accountability effect for Parliament to engage in broad debates on the government's economic policies and assumptions as well as the annual estimates is often lost for a couple of reasons:

1. The Budget Document is a voluminous one and will require days of careful reading for the average parliamentarian to

grasp the issues contained therein. Unfortunately, the budget is normally presented so late that Parliament has only some few days (at times less than a week) for members to make contributions on the policy goals and economic objectives. Because of the time challenges, only a handful of the 230 members of the House have the opportunity to make interventions on the floor.

2. There is absolutely no consultation with Members of Parliament from both sides of the House before the Document is submitted to Parliament. While this in itself is acceptable, there has always been the tendency for the Government of the day to adopt the attitude that, once presented to Parliament, the Budget document is too delicate a political document to be allowed to be defeated on the floor. All efforts are, therefore, made by the government whips to insist that members from the governing party do not criticize the budget statement.

Our constitution demands that the majority of Ministers be picked from among members of parliament. And since all parliamentarians on the government benches harbour the ambition to become ministers of state, getting the members to "behave" and avoid incurring the wrath of the President is not normally a difficult enterprise for the government whips.

3. Another issue we need to address during this phase of the Budget Cycle is the constitutional demand in Article 108(a) (ii) which denies Parliament the right to impose "*a charge on the Consolidated Fund or other public funds of Ghana or the alter-*

ation of any such charge otherwise than by reduction.” The effect of this provision is that even though Parliament is obliged to scrutinize and approve the budget, it is denied the right to make any upward revision so as not to place any burden on the exchequer. While there can be some wisdom behind this provision, it has the tendency to diminish the enthusiasm of parliament in reviewing the estimates. As a direct result of this, the scrutiny of the estimates has become rather mechanical and does not provide the accountability mechanism it is supposed to serve.

Again and regrettably, the major Accountability Mechanisms in this second phase of the Budget Cycle are rendered ineffective.

Recommendations

To strengthen the transparency and accountability mechanisms under this phase of the Budget Process the following recommendations are made:

1. Article 179 (1) which allows the President to lay before Parliament the annual budget “at least one month before the end of the financial year” should be reviewed. It should be possible for the budget to be submitted to Parliament two to three months before the year end to give members sufficient time to scrutinize and debate the Budget proposals.
2. To enable members of Parliament from all sides, to exercise their independent minds in all debates, the constitutional requirement that Ministers of State can be picked from among members of parliament should be reviewed. This way, Parliament can assert its autonomy in full and enhance its capacity to hold

the executive accountable at all times.

3. A mechanism should be found to allow Parliament to participate in the consultations that take place prior to finalizing the Budget for presentation to Parliament.

Article 108 (a) (ii) of the Constitution should be reviewed to give parliament the right to impose a charge on the Consolidated fund under some defined guidelines and conditions.

The Third Phase of the Budget Cycle

The third phase of the Budget Cycle is the Implementation and Monitoring Phase where monies are released to MDA's on the strength of the Appropriation Act. The Minister of Finance, through the Controller and Accountant General, is mandated to put in place a public financial management system to among other things, capture all accounting transactions. The accounting system should incorporate relevant internal controls and internal audit and should be able to generate year-end financial statements.

This phase has several accountability mechanisms such as the requirements for:

- Procurement practices
- Accounting Systems
- Internal Control systems
- Internal Audit
- Periodic Management Reports for Monitoring and Evaluation Purposes
- Year End Reporting Requirements

In practice there are a number of challenges with respect to the above-mentioned accountability regime. The Accounting and Reporting Modules under the country's PFM have never worked. What this

means is that, the MDA's are unable to capture and record all accounting transactions and neither are they able to produce year-end financial statements.

This, of course, is as serious as it is outrageous but we have had to live with this rather scandalous state of affairs for many, many years. Article 187(2) of the Constitution stipulates that "*the Public accounts of Ghana and of all public offices..... shall be audited and reported on by the Auditor General*" annually.

Such an audit can be feasible only when all accounting transactions of the MDA's can be captured and recorded and annual financial statements prepared. In the absence of financial statements for the MDAs, the Auditor General has been restricted to undertaking Transactions Audit instead of a complete Balance Sheet audit envisaged by the Constitution.

Although, the Accountant General manages to prepare what is referred to as the Annual Public Accounts of Ghana, this is achieved through some rather "cute accounting" methods. The Public Accounts of Ghana must in theory be a consolidation of the accounts of the MDA's. In the absence of accounts of MDA's, the practice has been for the Accountant General to prepare the Public Accounts on the basis of disbursements to the MDA's from the records of the Accountant General.

1. Because of the absence of the financial accounting and reporting module in the PFM, much needed internal controls and internal check systems are not in place leading to several cases of corruption and misappropriation of budgeted

funds.

2. A direct consequence of the inability by the MDA's to produce their financial statement is that there is no financial data to permit effective monitoring and evaluation. For the same reason, management information reports such as Budget Variance Analysis which are all part of the accountability regime cannot be prepared. Once again the essential Accountability Mechanisms do not work.

Recommendations

1. Government should speed up the introduction of a sound accounting system. GIFMIS is the latest attempt by MOFEP to produce an entity-wide state-of-the-art budget and financial system that will serve as the official system of record to meet GOG's budget, financial accounting and reporting, disbursements, internal control and auditing requirements. We must all give it our utmost support.
2. Staff at the Public Accounts Section of the Accountant General's Department should be motivated and the Section accorded the importance it deserves. It is no secret that staff members dread the prospect of a transfer to that unit.
3. Government should find a way to attract qualified and experienced accountants into the MDAs.
4. The present state of affairs where the MDAs cannot capture all accounting transactions to prepare annual accounts is too scandalous to be entertained. Accounting firms should be contracted to perform the accounting functions for

the MDAs until they can build the capacity of the MDAs.

5. Chief Directors should be sanctioned for failure to prepare timely annual financial statements.
6. Unless there is a clearance by the Auditor General and the Public Accounts Committee of Parliament to the effect that MDA's have discharged all accounting and reporting obligations and have cleared all audit queries, the Minister of Finance should withhold budgetary releases to the MDA.
7. Public Officers, particularly the Chief Directors and Heads of Departments and Agencies must be conversant with the financial rules and regulations and they should administer them firmly and strictly. They must be bold to stand up to political leaders and advise what they can or cannot do.
8. Probably, it is about time to legislate to entrench the independence of the public service from political interventions as advocated by some writers.

The Fourth Phase of the Budget Cycle

The fourth phase of the Budget cycle is referred to as the Audit/Assurance phase and it seeks to provide assurance to the public that the government has sufficiently accounted for its spending of taxpayer's money and for its stewardship over public assets in the manner approved by the legislature. The activities in this phase represent the most prominent accountability mechanisms.

In a democracy and in the African context,

where citizens are suspicious of politicians and indeed do not trust them, such independent assurance by the Auditor General is very important. Democracy, as was said earlier, entails accountability for the exercise of power and this independent confirmation is of crucial importance.

An audit is described as an independent examination by an independent auditor who issues an independent report as the end product of his examination. Independence is, therefore, central to the whole audit process and in fact a "dependent auditor" is a contradiction in terms.

It is, therefore, necessary to advocate for a truly independent Auditor General in such matters as the method of appointment, tenure, career expectations, method of removal, funding as well as legal immunities attach to the office. It is important to stress that the Auditor General is not part of the Executive arm of government. He is not a government auditor. The trend is for the Auditor General to be associated with the legislature as an officer of Parliament both responsible and accountable to Parliament. The Auditor General conducts various types of audit. These are Compliance/Financial Audits, Performance/Value for Money Audit and Special Audits.

In the advanced countries and from the 1970s, the focus is now on Performance /Value for Money Audit. In UK, 75% and in Canada about 70% of audit time and effort focus on Performance/Value for Money audit. This has expanded the role of the Auditor General from being an auditor of the public accounts and financial transactions of the state to that of a promoter of organizational perfor-

mance. The focus on Performance/Value for Money Audit in the developed countries has been made possible because of the effectiveness of their Public Financial Management Systems. Compliance can now be taken for granted and there hardly are any qualified audit reports on public accounts.

In Ghana, our concentration continues to be on compliance audit because we do not have a sound and effective PFM. All the same, the trend has been for the Auditor General to take on board Performance/Value for Money Audits even if on a limited scale. The Auditor General presents his reports not to the Executive arm of government but rather to Parliament where the PAC gives finality to the audit process.

Recommendations

1. Enhance the independence of the AG by appointing him/her through a transparent process. A vacant position should be advertised and a short-list prepared by an ad hoc committee of the local accountancy professional Institutes. Those short-listed should be interviewed by the Public Services Commission and whoever emerges as the most suitable candidate should be appointed by Parliament. In other words, the AG must be an officer of Parliament both responsible and accountable to Parliament.
2. The provisions of the Audit Service Act, 2000 (Act 584) with regard to the budgetary estimates of the service which stipulate that in respect of the Audit Service, the estimates they submit *“shall be laid before parliament without revision but with any recommendations that the Government may have on them”* should be strictly enforced.
3. The Audit Service should be supported to attract qualified staff and to continuously build the capacity of staff members.
4. Donor Partners should recognize the important role played by the Auditor General and provide such support as is necessary for the service to maintain its professional competence at all times.
5. The Audit Service should adopt Contract Monitoring as a new focus for audit in line with emerging new trends.
6. The important oversight role by the Public Accounts Committee should be supported and the Committee provided with resources to clear all long dated reports.
7. Donor Partners should provide financial support to PAC to continue with its public hearings
8. The AG and PAC should both put in place mechanisms to monitor and follow up on audit recommendations.
9. Members of Audit Report Implementation Committees (ARIC) should be given training on the Financial Management Act and Regulations and on their duties as members of ARIC.
10. Sanctions must be used to punish all those cited in the reports of the Auditor General and the Public Accounts Committee as having committed various acts of financial indiscipline.

Conclusion

What emerges from what I have tried to demonstrate so far is that the key Accountability Mechanisms in our Budget Cycle have all been rendered ineffective for various reasons. We should move to quickly reverse this unfortunate situation. Today, there is a groundswell of frustration in our country and growing demand for efficiency, transparency and accountability in government and in public financial management.

Our people continue to demand whether public funds are being utilized with due regard to Economy, Efficiency and Effectiveness and are there systems in place to check fraud, theft and corruption. I am afraid the facts on the ground do not suggest that public funds are being accounted for properly because key accountability arrangements are not being followed.

If we have an effective PFMS which is functional, we can all go to sleep in the belief that not only donor funds but the taxes we pay to government are utilized with due regard to economy, efficiency and effectiveness. It is a matter of regret that where it really matters, our PFMS does not work. Specifically, that very crucial Accounting and Reporting Module which will enable the MDAs to capture and record all accounting transactions and produce periodic financial management information is not operational. As a consequence of this, our MDAs are unable to give an account of how much revenue is made available to them, how the money was spent and in particular, the financial position of the MDAs at the year end.

To reverse this position, we need concerted actions by various stakeholders to

get the Accountability Mechanisms to work. The first group of stakeholders is:

- Government must show commitment and lead the way.
- The Minister of Finance and Chairman of the NDPC must agree to work together in the preparation of the Annual Budget.
- The Auditor General must assert his independence and continue to improve the quality of work.
- Parliament must appreciate the importance of its oversight roles and do it in a non-partisan manner

The second group of stakeholders is the Donor Community who can demand that governments allow the various Accountability Mechanisms to operate freely.

The third group of Stakeholders is Civil Society Organizations and Media who can put pressure on Government and the other Stakeholders to ensure proper accountability.

Mr. Chairman, the framers of our Constitution foresaw the need for Accountability and they, therefore, provided for Accountability Institutions. These institutions are referred to as the Horizontal Accountability Institutions and they comprise the Audit Service, Parliament, the Judiciary and the Anti Corruption Agencies such as CHRAJ. Unfortunately, all these agencies are headed by appointees of the President and, therefore, lack the independence to hold the government to account. Civil Society Organisations, including Academia and the Media, do not suffer from this lack of independence and should constitute themselves as the Vertical Accountability Institutions to complement the efforts of the horizontal institutions.

Finally, if we want Accountability, the Government must feel obliged to give Information and the Citizens must feel obliged to demand Information. A Right to Information Act will facilitate access to such information and I urge everybody here to support early passage of the Bill which is now in Parliament.

Mr. Chairman, let me conclude by thanking the UGBS for providing me with this platform to embark on what, for me, has become a crusade for proper financial governance in the country.