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Jamaica: Struggles with Accountability

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INTRODUCTION

Successive Jamaican governments have created legal mechanisms to deal with accountability issues and there exists a significant body of law that seeks to curb corruption and discourage illicit enrichment of public officials.

But despite the creation of watchdog bodies such as the Auditor General, Contractor General, Public Defender, Integrity Commission, Public Accounts Committee of Parliament and lately a National Contracts Commission, there remains a public perception that corruption is out of control. An opinion poll undertaken on behalf of the Gleaner newspaper in 1999 found that 72 per cent of Jamaicans believe there is public sector corruption.

This paper will outline how government has undertaken the task of laying the groundwork for transparency and examine how effective these mechanisms have been. In the end, I will point to the media’s fundamental role in nurturing democracy and maintaining vigilance.

THEN AND NOW

There was a time when corruption in the public sector was dismissed as a cultural thing and accepted with resignation by most Jamaicans. But that was a long time ago. Today’s citizen is demanding accountability and holding public officials responsible for their actions.

In a country with low literacy rates, radio has traditionally had a great appeal and the granting of new broadcasting licences in recent years has facilitated a national debate on accountability issues. Citizens are seeking answers from elected and appointed officials, government agencies, large corporations and the judiciary as the actions and decisions can affect their lives in significant ways.

With talk shows ruling the airways, ordinary citizens are given numerous
opportunities to express their views. There is obvious anger with a government that is perceived as being corrupt and citizens are seemingly losing faith in many of the traditional democratic institutions. The fact that Transparency International handed Jamaica a lowly 3.8 out of 10 in its corruption index in 1998 did much to bruise the country’s image. Again the feeling that the government has not been a good steward may have been reinforced by the annual findings of the Auditor General whose job it is to make sure that our tax dollars are wisely spent.

THE AUDITOR GENERAL

Auditor General, Adrian Strachan, who has held this job for 22 years, is responsible for auditing the accounts of the judiciary, the Senate, the House of Representatives and all ministries and departments of government. He is required to bring to the attention of Parliament extravagant or unauthorised expenditure, irregularities in official accounts and improper variations from approved expenditures and illegal or improper transactions. Each year he tables a report in Parliament and predictably points to glaring examples of financial irregularities in the public sector.

For example, the audits conducted for the period 1999/2000 disclosed overpayments and improper payments totaling $3M. Mr Strachan cited several cases of losses, theft, shortages and other irregularities involving some $40M.

The country’s fiscal Watchdog was of the view that these irregularities were facilitated mainly by inadequate internal control, weak supervision or failure to comply with Government’s financial rules. He made recommendations to have these weaknesses corrected, losses recovered where possible and appropriate criminal, and or surcharge or disciplinary action to be instituted where warranted.

In reporting on accounting arrears he said:

"Ministries and departments are required to present for audit annual financial statements by July 31, following the close of each financial year. Included are the Appropriation Accounts which show how the funds provided by Parliament are spent. Up to December 15, 2000 I had not received 58 Appropriation Audits for 1999/2000; seven for 1998/1999 and six for 1997/1998."

He also found that reconciliation of bank accounts in several ministries and departments were in "serious arrears." He felt that this practice undermined the early detection of errors and irregularities.

This perennial catalogue of irregularities tabled in the House of Representatives is duly reported in the media. A few journalistic eyebrows are raised, but one gets the feeling that thereafter it is filed away and simply forgotten.

A letter writer to the Gleaner newspaper questioned why there had been no penalties meted out to public sector workers commensurate with instances of wrongdoing pointed out by the Auditor General.

Why, the writer asked, should heads not roll in a case where there were cost
overruns of $98M on a $97M road project which was completed 16 months after
the expiration of the completion date.

We might also ask what action was taken against the official in the Kingston and
St. Andrew Corporation (KSAC), the city municipal authority, who decided that
in order to recover from a contractor who had been overpaid $40,000, he should
be given another contract by the KSAC to facilitate a set-off. Why was no one
punished when liquor bought from public funds was improperly sold to the staff
of the Jamaican High Commission in London? Which Ministry of Local
Government official sanctioned the purchase of computers from the highest
bidder on the basis that the vendor guaranteed a seven-day delivery? In fact the
equipment were delivered three months later.

The Junior Finance Minister in a recent address to public sector workers in
Kingston used this same report by the Auditor General to illustrate that his
Government placed great emphasis on financial probity.

He told his audience: “The report indicates that the necessary policies, systems
and programmes including trained personnel should be put in place to manage
the business of Government.”

What was left unsaid was that the resources are never enough to provide the
required personnel to do an effective job. The very Auditor General’s department
has been a victim.

In pleading his special case, Mr Strachan reportedly said; “While I appreciate the
pressures in allocating scarce public resources among numerous competing
demands it is so vital that public accountability be enhanced. The department
should be provided with the funding necessary to ensure its effectiveness.” In the
same breath it was revealed that six members of the staff had been laid off,
several vacancies remained unfilled, travel had been restricted and working
conditions were described as adverse.

PUBLIC ACCOUNTS COMMITTEE

In 1964 The House of Representatives established the Public Accounts
Committee (PAC) with the function of scrutinising the accounts relating to the
appropriation and expenditure of public revenue. The Committee’s work is
facilitated by the Auditor-General’s office which in addition to undertaking
random audits of Central Government is also obliged to do special audits on
behalf of the PAC or any member of the public who makes a complaint.
Chaired by a powerful member of the Parliamentary Opposition, this bipartisan
Committee aims to promote fair and frank accounting of government’s
stewardship of financial resources as well as cost effectiveness in government
activities.

Critics have said this committee has a loud bark and an ever so slight bite. PAC
Chairman Audley Shaw responded, “There is no question that the PAC has a
potentially bigger bark than its bite, because the majority of members are
government members who want to put a rein on the exuberance of the PAC.” A
recent report in the press confirms this as a government member was heard to scold the chairman for “unnecessary harassment of ministry officials.”

Mr Shaw is of the view that arguments about the effectiveness of the PAC could have been made with greater force say ten years ago. That was before their sittings were made public. “Since the sittings have been opened to the public there is general consensus that there is a desire among agencies and ministries to follow the recommendations of the Auditor General... there is more and more compliance at the level of Central Government,” he said.

The PAC has no powers of sanction and can only seek redress by referring matters to Parliament. Yet Mr Shaw points to some notable successes. Two years ago the PAC blew the whistle on bloated public sector salaries that reflected increases in excess of the wage levels set for that sector. The vigorous efforts of the PAC to expose what became known as the “salary scandal” resulted in the resignation of one high-level public sector officer and the rationalization of some agencies.

Then two years ago when the microscope was turned on the Commissioner of Lands, it was found that he was engaged in corrupt practices including selling land to his wife and he was dismissed from his job. He also reported minor cases where surcharge was imposed

The soft image of the PAC may have been formed by the way it has dealt with some issues. Take the $341M debt of national carrier, Air Jamaica, a privately-controlled corporation. Instead of handing over the revenue collected from passengers on behalf of Government the cash-strapped airline has apparently treated it as housekeeping funds. When the matter came up for discussion in the Committee, the Financial Secretary advised, “We are trying to resolve the issue in view of the airline’s importance to tourism.” And there the story ended.

But the wary public is looking to such a committee to stimulate real advances in accountability concepts and improve accountability practice in government.

THE CONTRACTOR GENERAL

The stench of corruption hangs heavily over the issuance of Government contracts and the distribution of benefits, such as housing. Opposition spokesmen have alleged that the current administration is corrupt, citing a partisan bias especially in the award of contracts. It is alleged that political activists allied to the ruling party consistently come out on top particularly in the award of road contracts. There are whisperings that these party faithful are required to kick-back something to their beloved party from their handsome earnings. If true, those involved may view it as a creative campaign financing, but in truth it would be rank corruption.

Members of the public and the Parliamentary opposition are not the only ones disgusted with the process. Prime Minister P. J. Patterson has reportedly said he was “unbelievably distressed” at what turned up during a fact-finding mission to examine water and sewage contracts across the island.
Mr Patterson said, “Too much time is spent on finding out what went wrong with government contracts and why it went wrong, rather than building a system that makes it impossible for these egregious errors to keep occurring.”

The Contractor General Act of 1983 created the Office of Contractor General which came into being three years later, with the purpose of monitoring the award and implementation of government contracts. In particular to eliminate corruption in the award process and to protect against irregularities and impropriety in the implementation of contracts.

The Contractor General has substantial powers in the exercise of his duties. He is empowered to enter any premises in order to carry out investigations. He has extensive monitoring and investigative authority. He has the same powers as a Supreme Court judge in respect to attendance and examination of witnesses and the production of documents.

The Contractor General’s independence is supposedly assured by the fact that he does not seek funding directly from the Executive. A special committee of Parliament votes his budget. In reality, however, the Minister of Finance holds the purse string and can starve the office.

Asked whether his office was effective, Contractor General Deryck McKoy said it was difficult to measure success. He was certain of one thing, though: that the citizens had lost faith in their government and public sector management.

His staff is confident that they are doing a good job. However, the University of the West Indies trained lawyer isn’t quite sure they have met their objective to reassure the public that Government can look after its affairs with integrity. “The best deal is to bring that reassurance back to the public” he said.

Like the other watchdog agencies, the Office of the Contractor General has to suffer through shortages and insufficient resources to do the job assigned to them.

Mr McKoy admitted there are a few established positions that cannot be filled and this is due to the budgetary constraints in a very tight economic situation.

Bearing in mind the above, it came as no surprise that in 1999, the Contractor General Act was amended in order to create a National Contracts Commission with the responsibility of recommending the award of government contracts. This eight-member commission, which began, working in 2000, has the mission to ensure transparency, equity and integrity in the contract award process. In an attempt to change things around, the Commission has introduced requirements such as registration of contractors, the invitation of public tenders and limits on the number of government contractors awarded to any one entity.

According to a member of the Commission, “This is the first time the award of government contracts will be supported by an adequate and appropriate regulatory and administrative infrastructure.” Addressing a meeting in Kingston,
the Commissioner said the new system should overcome public concerns about transparency, fairness and integrity.

But for all that, the Contractor General had reason to criticise one of Government’s housing projects known as Operation Pride, after it was revealed late last year that close to a billion dollars in contracts, (a third of the Operation Pride contracts) were awarded, to two known activists of the ruling People’s National Party. The Opposition Party was in the dark about this latest scheme and used the media to express its concern. Among the questions asked were: Who are the contractors? When were the contracts signed? What is the total value of these contracts?

In trying to understand the rationale for creating a National Contracts Commission in the face of his own mandate, I asked the Contractor General to explain the relationship between the two agencies. Whereas the Contractor General has the authority to investigate and monitor the performance of contractors, the Commission is expected to make recommendations for the award of contracts, but it does not have a monitoring role. To its credit the Commission has provided some information about recent contracts awarded and one is able to access this information on the Internet. For some inexplicable reason the Operation Pride contracts were not posted.

THE INTEGRITY COMMISSION
The Parliament (Integrity of Members) Act established the Integrity Commission to investigate the assets, liabilities and income of parliamentarians. Parliamentarians are required to file annual declaration of assets. The reports are intended to provide a basis for determining whether the member is enjoying unexplained wealth. Offences under the Act include failing without reasonable cause to furnish the statutory declaration, knowingly making a false statement in a declaration. The Commission has the power to summon witnesses, request documents and take steps necessary to expedite their investigations.

Although the Commission is bound to confidentiality relating to all statutory declarations, Parliamentarians on both sides of the aisle have been tardy in filing their declarations. The offenders have decreased over the years, but one cannot recall any sanctions ever being taken against delinquents. A few months ago Prime Minister Patterson publicly chastised Parliamentarians for failure to file within the prescribed time.

CONCLUSION
It is clear that Jamaica is not short on legal mechanisms to do the job. And the obvious question on the lips of concerned citizens is how then do we promote a culture of accountability in the country? Accountability has serious limitations and the only way in which to ensure vigilance is through openness. There is a saying that sunlight is the best disinfectant and this could be applied to public exposure of the problems of government. The more the public knows the better - that’s what democracy is all about.
In the case of the PAC, Chairman Audley Shaw is convinced that the fact that their sittings are conducted beneath the glare of the media has greatly contributed to a higher level of compliance and guaranteed him some success.

The media must do more than cover Parliamentary Committees. Their responsibility cannot end with a news report and sound bites. Democracy will not thrive in an environment of ignorance and our public wants us to give our opinions about the relative importance of things. Yes there is a place for that kind of journalism. Additionally, there is a duty to follow-up and do exposes of the irregularities such as those disclosed by the Auditor General. The press in the 21st century will have to become very active in the defence of democratic values.

Democracy requires information but it also calls for participation by its citizens. The media are able to invite that participation by creating forums in newspapers and the airways.

The call for transparency has never been louder and this is why the recently passed Freedom of Information Act was so anxiously anticipated. The Prime Minister stated in his Cabinet submission that the proposal for Freedom of Information legislation is “intended to reflect the fundamental principles which constitute the basis of democratic government, namely accountability, openness and public participation. These need to be balanced against the need to protect other essential public interests such as right to privacy.”

Undoubtedly the press can do much more. For instance, the secret declarations filed with the Integrity Commission serves absolutely no purpose unless they are subjected to the scrutiny of an independent agency, or better yet, the public. The press should agitate for public disclosure and if needs be, be prepared to press their demand in the court. Government must be made to understand that many of the mechanisms now in place could be done away with resulting in concomitant cost savings by the simple expediency of opening the channels of information thereby allowing the public aided by the media to perform the watchdog role. There would be no need for an Integrity Commission if the information contained in declarations was in the public domain.

While it is commendable that Government has established a variety of agencies to prevent corruption, there is no escaping that they cannot achieve any measure of success if they do not have strong investigative and prosecutorial capabilities.

These agencies must be provided with a cadre of experts and the requisite resources to do their jobs. Audley Shaw is one of those arguing for greater enhancement of the resources made available to the Auditor General, because he acknowledges that the office is overburdened. It is important that these agencies be properly staffed so that in addition to conducting investigations they can widen their scope to educate citizens on how to detect corruption and sharpen the national debate on how to fight corruption.

According to one public sector leader the road to accountability is under construction and it is constantly being reviewed.