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...in spite of a number of violations, high expectation for the observance of ethical values and standards in the public service continues. Unlike his counterpart in the private sector, the public servant's official conduct is expected to be beyond reproach. Public servants are regarded as custodians of the public trust and as such they are required to adhere to the highest standard of morality.

Ethical rules require public servants to be impartial, objective and manifest the highest degree of integrity in the conduct of public business. Public servants are expected to refrain from using their government positions for personal, private, pecuniary or partisan gains. Unfortunately, the gap between prescription and observance still remains wide.[2]

ICIPE Science Press

Ethics and Accountability in African Public Services

Edited by Sadig Rasheed and Dele Olowu

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United Nations Economic Commission for Africa

African Association for Public Administration and Management

AFRICAN ASSOCIATION FOR PUBLIC ADMINISTRATION AND MANAGEMENT

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Preface

Even though there is a consensus among experts and institutions that the development of the private sector is central to Africa's economic recovery, there is an increasing recognition that public sector institutions are crucial to this process. Public sector institutions in every African country are being called upon to create an enabling environment for private sector initiative — including providing a stable macro-economic setting, economic incentives for competition in the private sector, appropriate legal and conflict resolution mechanisms — as well as develop infrastructure, human resources and an appropriate financial system.

Unfortunately, African public administration systems lack the critical resources to provide these essential infrastructures for private sector growth. Rather, the lack of accountability, unethical behaviour and corrupt practices have become entrenched and even institutionalized norms of behaviour in their own right, in the public services across Africa, to the extent that the issue has become a matter of major and general concern. The bending of ethics and rules of conduct in the public office is of course not peculiar to Africa. However, the deteriorating economic and social conditions in Africa has further intensified the problems.

This volume contains a selection of papers from two Senior Policy Workshops sponsored by the United Nations Economic Commission for Africa (UNECA) within the framework of its Special Action Programme for Administration and Management (SAPAM) and the African Association for Public Administration and Management (AAPAM) in 1991. The papers discuss the state of ethics and accountability in African public services through thematic and case studies of Anglophone and Francophone countries from the various regions of sub-Saharan Africa (West, East, and South). They also propose remedies both in the short- and longer-terms. The proposals include: (a) Articulation of widely accepted ethical codes; (b) Education and training in Public Service ethics; (c) Promotion of internal organizational reforms in African Public Services; (d) Strengthening public accountability institutions within and outside the Public Service; and (e) Research on the most effective intervention strategies in African Public Services.

Contributors to this volume come from a wide diversity of backgrounds — African governments, universities and international organizations. Inevitably, the contributions are neither of equal length or quality but each provides a perspective which is felt helps to illuminate the issues under discussion in some way.

We do hope the volume helps to inform and challenge African Governments and those interested in the development of Africa as we confront the 1990s and beyond.

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and

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Obafemi Awolowo University
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Dedication

This book is dedicated posthumously to two of the contributors to this book who have shown an unusual commitment to the advancement of the knowledge and practice of public administration in Africa. They are:

Joseph H. Oyugi, Deputy Director,
United Nations Department of Technical
Cooperation for Development, Development
Administration Division,
New York, USA

and

R. Baguma, Professor of Public Administration,
Institute of Development Studies,
Morogoro, Tanzania and Chief
Consultant to Tanzanian Government on
Administrative Reform

Contents

Preface i

Dedication iii

PART ONE: The State of Ethics and Public Services Accountability in Africa

Chapters:

1. Introduction
   Dele Olowu & Sadig Rasheed *1*

2. Deeper into Original Sin:
   The Context of the Ethical Crisis
   in Africa's Public Services
   Claude Ake *11*

3. Ethical Standards and Behaviour in
   African Public Services
   W.N. Shellukindo & R. Baguma *25*

4. Causes and Consequences of Ethical
   Crisis in Africa's Public Services
   W.N. Wamalwa *41*

5. Socio-Cultural Dimensions of Ethics and
   Accountability in African Public
   Services
   K.K. Prah *49*

6. The Economic Crisis, Resource Scarcities
   and the Decline in Ethical Standards
   in Public Agencies
   A.D. Yahaya *63*

7. The Ethical Dimension in Africa's Economic Recovery and Development
M.J. Balogun *75*

PART TWO: Case Studies

8. Ethical Violations in Nigeria's Public Services: Patterns, Explanations and Remedies
Dele Olowu *93*

9. Organizations for Upholding Administrative Ethics in Africa: The Case of Ethiopia
Girma W. Selassie *119*

10. Promotion of Good Ethical Standards and Behaviour in Public Services in Africa: The Case of Zimbabwe
S.T. Agere *147*

11. Civil Service Ethics and Corruption in Côte d'Ivoire
Sarasoro H. Cabogo *165*

12. Watch-Dog Organizations for Upholding Administrative Ethics in Africa: The Case of Tanzania
Muhammed Aboud *183*

13. Ethics and Accountability in the Swaziland Civil Service
N. Holpe *201*

PART THREE: Remedies

14. Education and Training in Democratic Ethical Values for African Public Services
Peter Anyang Nyong'o *213*

15. Organizational and Institutional Mechanisms for Enhancing Accountability in Anglophone Africa: A Review
Dele Olowu *221*

16. Mechanisms for Enhancing Ethics and Public Accountability in Francophone Africa
Mouftau Laleye *239*

17. Ethical Codes for African Administrations: Nature, Content, Limitations and Required Improvements
C.H.M. Barlow *255*

18. The Relevance of Research: Size, Cost and Effectiveness of the Civil Service Reform Programmes in Africa
J.H. Oyugi *271*

19. Conclusion: Towards An Agenda for Action in Enhancing Ethics and Accountability in African Public Services
Sadig Rasheed *285*



The State of Ethics and Public Services Accountability in Africa

1

Introduction

Dele Olowu & Sadig Rasheed

There is a global resurgence of interest on how to prevent all forms of unethical practices including corruption and fraud in the public and private sectors today. In December 1989 for instance, the United Nations sponsored a major international conference at the Hague, Netherlands on the subject of bureaucratic corruption. A year before that, an international study group on the subject was established and has held five International Anti-Corruption Conferences annually since 1988 in Washington, New York, Hong Kong, Sydney and Amsterdam respectively. National governments as well as international organizations are creating anti-corruption institutions with substantial resources to tackle the problem of corruption and fraud in both the public and private sectors.

It is however important to emphasize three departures from past interest in the subject. First, interest is not only focused on unethical practices in public institutions but on private sector organizations as well. There is a social concern that massive fraud in the private sector can jeopardize economic and political institutions as recent cases such as the collapse of the Bank for Commerce and Credit and Industry (BCCI) and the scandal surrounding the Maxwell financial empire have shown. A second distinctive of the renewed interest in corruption is its more universal focus to include not only the developing nations but the industrialized nations as well. Indeed, some scholars have questioned the basis of the popular typologies of Weber and Riggs which led to the assumption that high level of corruption will be associated only with developing countries due to their patrimonial authority structures whereas in legal-rational systems of the industrialized western nations unethical practices were presumed to be theoretically absent. Nothing, it seems, can be farther from reality as unethical practices abound in the

industrialized nations.[1] There are differences of course, but they are more of degree rather than type.

A third important feature which distinguishes present interest in unethical practices from the past is that there is a greater emphasis on the internationalization of economic crimes and corruption. There is a realization that modern communication and transportation innovations have also assisted the internationalization of corruption and fraud. Moreover, it is becoming increasingly evident that even international institutions have not been exempted from unethical practices and organizations such as the European Economic Commission (EEC), the Council of Europe, international finance institutions such as the World Bank and national governments in Europe and the Americas to mention only a few have come to seriously address the subject.[2]

There are several reasons for the renewed global interest in the subject of ethics. A foremost reason has been the large scale financial scandals in which public and private sector institutions and personnel have been implicated. In particular, the anti-drug war has shown how international in scope is the trade in narcotics and the extent to which money-laundering activities have penetrated or implicated public and private sector organizations including the police.

A second major consideration has been the wind of democratic change that is blowing throughout the world. It is correctly perceived by development agencies and multilateral financial institutions that one important way to strengthen the emerging democracies of Latin America, Eastern Europe, Africa and Asia is to focus on assisting them to develop strong institutions for promoting "governance" or "good governance".[3]

Whereas these international actors had conventionally preferred to deal with economic rather than political issues especially because of the need to respect the principle of national sovereignty, the increasing recognition that economic reform is impossible in certain circumstances without some minimal political reform or accommodation has led these agencies to adopt good governance as some form of political conditionality for providing assistance to developing countries.

These considerations, no doubt, influenced the decision of the Economic Commission for Africa, within the framework of the Special Action Programme for Administration and Management (SAPAM), to host a senior policy workshop on "Ethics and Accountability in African Public Services" in October–November 1991 in collaboration with the African Association for Public Administration and Management (AAPAM).

The workshop was held at Arusha in Tanzania. AAPAM followed this up with yet another elaborate discussion of the subject at its 13th Annual Roundtable in December 1991 at Mbabane, Swaziland. A number of important themes were discussed at this workshop. This book contains a selection of the papers delivered at these two workshops. Altogether a total of over thirty papers were presented at the two workshops out of which we have selected nineteen.

Concern with ethics in any public service ought to focus on what is considered the right and proper behaviour of all public officials—civil servants as well as political officers. This includes being just and fair since these are the expectations by society from any rational bureaucracy. One of the contributors in this volume suggests that ethics constitutes part of the non-material resource of a society. We have adopted this approach in this book for indeed, without this resource, material progress becomes well-nigh impossible.

The overbearing evidence of ethical violations in African public services led the organizers of the two workshops to find answers to the question: why has public service ethics not only been neglected but rejected in Africa's public institutions? Rather than perceived as complementary to one another, ethics and accountability have become antonyms in African public administration practice. Ethics ought to provide the basis for accountability. The concept and practice of accountability is expected to make public officials responsible for their actions or inactions. It is supposed to increase the transparency of government, emphasize and enhance governmental responsiveness and legitimacy and improve policy implementation. One author actually equates accountability in government with the discipline of the market in business. Unfortunately, in the majority of African governments, widespread ethical violations and weak accountability only help to destroy the effectiveness and image of government further.[4]

Most of the papers in this volume thus focus on finding explanations or remedies to the twin problems of unethical behaviour patterns and weak accountability systems in African countries. We have therefore divided the contribution into three parts — those dealing with causes, (Part I) and those providing specific country-cases (Part II) and those proffering remedies (Part III). Inevitably, there are overlaps and continuities between these tripartite divisions.

In Part I, Claude Ake argues that what seems to be "unethical" practices in African public services are rooted in the poor disarticulation

between the state and society. This reveals itself in the plurality of "publics" and of public morality. He maintains that the African state is not yet a moral entity which enjoys the support of all and that considerable efforts must be made to transform the African state, if an ethical public service is to emerge. Shellukindo and Baguma in their joint contribution lay out the major ethical tenets expected of public servants and suggest a few reasons why ethical violations rather than ethical compliance have been the norm in many African countries. Mr. W.N. Wamalwa, the president of AAPAM also cites three major causes of unethical behaviour —economic, political and cultural, but places greater weight on the political dimension and discusses some of the implications for Africa's public service and society as a whole. Other contributors devote attention to single causes, even though all accept that unethical behaviour is a multi-dimensional problem. Nevertheless, each maintains that one problem is fundamental while the others are merely symptomatic.

K.K. Prah suggests that the problem may not lie so much in the qualities of the state as in those of its officials, several of whom, cannot make a clear distinction between their commitment to the modern organizational bureaucracy and to their primordial loyalties.

At this point, a very important debate is introduced by some of the contributors — all of them, again accept the existence of other causes and symptoms but go on to maintain that the current ethical crisis in Africa has been largely caused or aggravated by the economic crisis. This is the position taken by A. D. Yahaya and Shellukindo and Baguma respectively. On the other hand, M.J. Balogun retorts that the reverse is the case: Africa's fundamental ethical crisis — reflected in her developmental and technological options etc. — led to the economic crisis. Both would agree that these two factors have today become mutually reinforcing.

In Part II, Dele Olowu begins by using evidence from the Nigerian Public Service to argue that all of these explanations seem inadequate in the face of the evidence. He makes a distinction between fundamental and immediate causes of Africa's ethical crisis. He then submits that it is the policies of Africa's political leaders which have increased the incentives for corrupt or inefficient performance in the public service. Four such policies are mentioned: centralization, bureaucratization, non-democratization and pauperization of the public service. Thinking of the immediate causes of unethical behaviours as policies is helpful in that it underscores the possibility that unproductive policies can be

reversed. In a sense, if this is achieved, it may be possible for African countries to begin to address the fundamental causes as well.

The other case studies of seven countries drawn from the Eastern, Western and Southern Africa as well as from Francophone and Anglophone Africa in this section provide surprising consensus—unethical practices have become more rampant in African public services and have almost become institutionalized *and* institutions created to tackle this problem have been largely ineffective. This consensus has its merits and dangers. It is useful to the extent that it points to common patterns, thus providing opportunity for common or similar actions aimed at enhancing ethics and reinforcing accountability institutions in Africa. On the other hand, it is dangerous in the sense that it gives a false sense of commonality. There are a few countries which are not represented or on which no papers were presented which are reputed to have fairly ethical and accountable systems — Botswana and Namibia are regularly mentioned and there might be others. For instance, there was no presentation on the state of public service ethics in these two countries or from others such as the Sudan, Uganda, Mozambique, the Gambia, Zaire or South Africa or North Africa which might have provided fresh insights.

What emerged from the country cases however is one in which virtually every country has established a number of institutions to promote ethics and accountability but these institutions remain largely ineffectual. One wonders whether the proliferation of these agencies contributed to their joint ineffectiveness. What seems critical however is the absence or presence of the political will to tackle the problem head on. Where this was lacking the existence of several institutions would not be of any assistance, as such institutions lacked independence, critical resources and public visibility and respect. It is however useful to note that there are important differences from one country to the other and even from one agency to another in each country. The case studies provide ample examples.

The examples of countries outside Africa in the developing world which have used single anti-corruption agencies to tackle these problems are particularly noteworthy. These countries include: Mexico, Hong Kong and Singapore. Several other examples can be found in the industrialized nations as well. It is generally accepted in all of these cases that the scale and nature of anti-corruption activities require a special institution or institutions which are well-resourced (in funds and

skilled personnel) to complement normal police activities.

In the final selection of papers the proposals for remedying the situation are made by several contributors. Again, they all accept the complex nature of the problem and the need for multi-dimensional or integrated solutions, but each focuses on a particular remedy. First, Mrs Simone Testa, a Minister of Education in Seychelles makes a strong case for using education of the young to tackle ethical problems in the work place. However, such education must not be limited to the school but must extend to the home, peer groups, youth clubs, religious institutions etc. Second, Nyong'o makes a case for a more elaborate and more sophisticated training of public officials. In particular, Nyong'o argues the need for increasing the democratic literacy of public officials, where literacy and sophistication means the ability to accept and evaluate competing viewpoints within the policy making and implementation processes.

Third, Olowu and Laleye in their separate papers focusing on Anglophone and Francophone experiences respectively suggest the creation or strengthening of the internal and external institutions for ensuring and sustaining accountability which have being rendered weak, dormant or legislated out of existence in the years of one-party or military rule in several African countries. Fourthly, Mr. C.H. Barlow suggests the need to review the present codes of ethics to make them more current, applicable and effective.

Fifthly, research into African civil services and the reform process is another proposed remedy. Given that a major problem of Africa's management crisis is the fact that very little is known about her public services and yet reforms are undertaken with counter-productive results, the contribution by the United Nations Technical Cooperation for Development (the Development Administration Division) in this regard is particularly enlightening.

All the contributors seem to make the point that the long-term remedies for bringing about ethical and accountable public service in Africa lie in four main directions: democratization of the polity, a more vibrant and productive economy, a citizenry that demands high ethical performance from its officials and the political will to enforce policy measures designed to tackle the problem.

In the concluding Chapter, however, Sadig Rasheed cautions against using this position as an excuse to do nothing in the short-run. He argues that measures to tackle problems confronting the public

service organizations including ethics were evolved in today's advanced societies (citing the example of the British Northcote-Trevelyan reforms of 1854 and the Japanese reforms associated with the Meiji restoration) at a time when those countries were far from having democratic institutions fully in place. Furthermore, he underscores the importance of the dedicated and sustained implementation of broad-based measures by the government and the public, and not simply partial solutions, to successfully deal with the problem.

Nevertheless, the consensus of the authors in concluding that economic and political reforms must proceed or even take place simultaneously with public sector reform underscore the fact that there has been a neglect in much of the social science discussion on African development of the moral principles underlying secular society as it has evolved in the West and much more recently in the Newly Industrializing Countries of Asia. These principles derive from long-standing religious beliefs and include the following:

A **Man is a Creature** — Hence mankind has not only a common ancestry but can lay claim to universal human traits, including creative abilities and frailties. Whether man evolved or was created by a Divine power is not material in this context.

B **Equality of Man** —To this end no individual should have more (legal) rights than another. Each should have an equal opportunity to be the best that he/she can possibly be.

C **The Golden Rule** — Do unto others what you want them to do unto you — This law of reciprocity is one of the key principles of modern judicial and ethical systems.

D **Man's Freedom Is Inalienable** — Freedom is regarded as a natural right possessed by every individual. That the individual's freedom cannot be annulled without cause is the basis of the global human rights movement and indeed of democratization. Moreover, it is assumed that man is best capable of rising to meet the challenges he confronts from his environment if he is allowed sufficient freedom to self-actualize his aspirations.

E **Government is a Moral Agent** — Governments exist to pursue

people's welfare — the maximum happiness for the maximum member. It exists to dispense justice — to punish evil and reward good.

F **Each Person is Responsible for His/Her Actions** — Each person is to be held accountable for his own deeds and misdeeds.

G **Governments are Best When Made Accountable to the People** — Power, according to the Actonian dictum, corrupts and absolute power corrupts absolutely. To that extent, governments are most effective and responsive to their citizen's interest if accountable directly or indirectly, formally or informally to the people or their accredited representatives.[6]

These principles constituted the clarion call for most of the historical revolutions either in the United States, France ("Liberty, Equality, Fraternity"), England, Eastern Europe or the winds of change which brought political independence to Africa in the twentieth century (1950s/60s). To this end, these principles are to be found in most modern constitutions whether in the industrialized countries of the West or in Africa. To properly ground ethics in political and administrative practice in Africa it would be necessary that training institutions at all levels — subnational, national and regional — pay greater attention to these principles and their application to political and administrative practice.

In conclusion, it ought to be noted that the approach adopted in this book is limited only to the public sector. In view of the earlier point made that corruption transcends the public and private sectors, it is expected that those interested in Africa's institutional development will begin to discuss the issue of private sector fraud more seriously and especially the role played by key institutions such as banks and foreign multinational corporations in undermining private and public sector morality in African countries.

Notes

1. See R. Theobald, "Some Observations on the Conceptual Problems of Identifying Corrupt Behaviour" paper delivered at the Fifth

International Anti-Corruption Conference, Amsterdam 8–12, March 1992.

2. See for instance A. Smeets, "Dealing with Fraud and Irregularities within the Scope of the European Agricultural Guidance and Guarantee Fund". Paper delivered at the Fifth International Anti-Corruption Conference, Amsterdam 8–12, March 1992, and H.G. Nilsson, "Future Corruption Control in Europe" *Ibidem.*
3. See World Bank *Managing Development: The Governance Dimension* Washington DC, 1992.
4. Aide-Memoire "Ethics and Accountability in African Public Service" issued by ECA and AAPAM. For a summary of the issues raised at the Arusha Workshop see *Ethics and Accountability in African Public Services* Report of a Senior Policy Seminar (ECA, 1991).
5. Important landmark studies on the subject of ethics, corruption and accountability in African Government include M.U. Ekpo (ed) *Bureaucratic Corruption in Sub-Saharan Africa* New York, University Press, 1979; D. Gould and Amaro-Reyes, *The Effects of Corruption on Administrative Performance: Illustration from Developing Countries World Bank Staff Working Paper,* No. 580, 1983; O.P. Dwivedi & D. Olowu, "Bureaucratic Morality: An Introduction" *International Political Science Review* 9, 3, pp. 163–166. Richard Stren (ed), "Accountability in Africa" in Economic Development Institute, *Strengthening Local Governments in Sub-Saharan Africa* Seminar Report No. 21, Washington DC 1989, pp. 121–126, equates accountability with the discipline of the market.
6. For a full discussion of the ethical foundations of modern governments and markets see, Vincent Ostrom, "Crypto-imperialism, Predatory States, and Self-Governance" and John F. Taylor "The Ethical Foundations of the Market" in V. Ostrom, D. Teeny & H. Picht (eds), *Rethinking Institutional Analysis and Development: Issues, Alternatives and Choices* San Francisco, International Centre for Economic Growth, 1988, pp. 43–68 and pp. 377–388 respectively.

2

Deeper into Original Sin: The Context of the Ethical Crisis in Africa's Public Services

Claude Ake

INTRODUCTION

It is bad enough that the rest of the world, especially the Western media, insists on representing Africa as the ultimate victim of the original sin, a sad forsaken place where nothing good or noble ever happens, its people forever victims of their warped character. It is worse still that we Africans are steadily accepting and propagating this representation by psychologizing our problems and treating them as effects of character deficiencies. We appear to have succumbed to the pitfalls of our colonial language and its epistemology which privileges the Western and denigrates whatever is African. The denigration arises from seeing Africa through received concepts such as the state, civil society, and bureaucracy which look like abstract universals but are, in effect, descriptive terms abstracted from Western experience. When we look at Africa with these concepts the corresponding realities, themselves fictional constructions of discursive practice, are necessarily imperfections. Unfortunately, the entire apparatus of our political discourse is prone to this type of representation. Whether we are talking of the market, the state, bureaucratic organization, interest aggregation or interest articulation, representation, democracy, separation of powers, political competition, political culture or civil society, the African specificity is always a deviation. This frames a paradox: What the African is, is what it lacks; the African is, by virtue of not being. But the paradox is a complex one for this is only one side of it. The other side is that in the context of this discourse, the African is an empty category constituted entirely by

negations, in other words, nothing. It is nothing because something whose definition and essence is an ensemble of lacks cannot be anything. Some of our miseries lie in this representation and paradox. Being the other side of an ideal existence, its imperfection and corruption, our institutions lose integrity and entitlement to civilized courtesies. For what accommodation can one seek with what is patently "bad" and how can one respect its integrity? This syndrome contextualizes our discussion of the problems of the public service in Africa. For a start, we assume that the concepts of bureaucracy applies to the public service in Africa, without major difficulties at any rate. More importantly, we assume that the concept of bureaucratic organization is a universal and not a specific cultural construction. It was easy enough to be seduced into this because Max Weber had presented bureaucratic organization as an ideal type. We have accepted this on faith, raised no questions of historicity, and applied it to Africa with predictable results. But before going into this let us look at our received modal of the public service in its classical source: Weber's conception of the main features of bureaucratic organization.

First, in bureaucratic organizations, roles, activities, and relationships are strictly governed by rules, which are rigidly adhered to. Every office has its prescribed duties and jurisdictional scope. Duties are not defined in terms of personal loyalty but in terms of "impersonal and functional purpose". There are rules about how the authority ascribed to a given office is to be exercised and how the duties of the office can be fulfilled in a continuous manner.

Bureaucracy is characterized by a hierarchic organization of office. A coherent chain of command with clear lines of communication ensures the easy location of responsibility, and the enforcement of discipline. In spite of the monocratic organization of office, there is no personal subordination. It is the offices that relate; ideally obedience and subordination are to the office, not to the person who happens to be occupying it at any given time.

The management of office is heavily dependent on specialized expertise, documentation, and the application of general rules. Expertise is required by the often technical character of the tasks to be performed and the rather involved rules of procedure that need to be mastered. Since the bureaucracy puts the highest premium on efficiency, aspirants are invariably required to be certified competent to fill the offices they seek. Documentation maximizes efficiency through objectivity. The

meticulous documentation of transactions show how far the files are being followed and how the official is performing on the job. The very requirement of documentation compels conformity to the rules as well as efficiency. Documentation also enables bureaucratic processes and functions to be carried on smoothly even when the occupants of offices change frequently.

Against these standards, the public service in Africa looks very bad. With minor exceptions public servants are not always objective, administration is often personalized, attitudinal orientations are more often than not diffuse rather than specific, particularistic rather than universalistic, ascriptive rather than achievement-focused. Rules are not always taken seriously sometimes they are applied *ad hoc* and, worse yet, discarded altogether according to convenience. The failings of our public service seem no less than failings of ethics and morality. There is a great deal of concern — that the incidence of corrupt use of office, lack of integrity, unlawful appropriation of public funds for private ends, is far too high in Africa. Considering popular notions of the exceptionally high incidence of "unethical" behaviour in our public service, there must be lots of people wondering whether Africa is a special case of moral depravity.

Confusions and Clarifications

I want to argue that there is a great deal of confusion in all of this, that our problem is not so much a problem of character defect or ethical failure as it is one of misunderstanding arising from decontextualizing and dehistoricizing social phenomena. We are making judgements based on false analogies and false comparisons on the separation of meaning from social context, behaviour from cultural milieu, and action from social structures. Our judgements are based on representations especially the perception that the Western state, and its correlates, market society and bureaucratic organization exist in Africa or ought to exist. They are not based on the realities on the ground. But what are the realities?

The project of establishing a specifically western form of political domination has not succeeded in Africa because of the colonial legacy and the determined resistance of African culture. What the colonizers of Africa established in the cause of the state project was not so much a state in the western sense as an apparatus of violent repression. The

colonial state needed a great deal of arbitrary power to subordinate the colonial territory, to exploit it, and to protect it from the hostilities unleashed by its dehumanizing treatment of its victims that put it in a permanent state of war against indigenous society.

The logic and assumptions of the colonial state were so different from those of the indigenous societies, that it was disconnected from their experience and so threatening that it has been fiercely resisted. Because of its licentiousness and the logic of the colonial interests which controlled it, this force was replete with contradictions and kept the territory which it was supposed to integrate disorganized. Instead of constructing an economy, its inclination was towards promoting enclave capitalism and the economic satellization of the colony ensured economic disarticulation. Set up to advance capitalism, it locked the process of capital into primitive accumulation. Purportedly a means of political integration, it turned into an agent of disunity by its threatening arbitrariness. Disconnected entirely from the values of the people, it is uncomprehending and incomprehensible. A force of law and order, this lawless power, caused by virtue of its arbitrariness and immense power, a lawless struggle for power which turned politics into warfare. Its subjects perceived it was an alien force to be appropriated, tamed, or defeated. They conformed to its demands when they had to, but they carried on their lives in what was effectively a parallel polity.

Independence has not changed the situation significantly in most of Africa. Most of the nationalist leaders who came to power at independence decided to inherit the colonial state rather than transform it in accordance with nationalist aspirations. This isolated them, and they became increasingly dependent on force to suppress a population that was inclined to revolt against their betrayal and unimpressive performance in office, a performance now epitomized by an economic crisis so deep it has become life threatening.

The alienation of state from society and the perception of the state as a hostile force have bred a crop of informal polities parallel to and competitive with the state, as people have politicized local communities, primary loyalties, ethnic groups and nationalities as a political force to shield themselves against the state and to compete for the appropriation and exploitation of its power. It is usually these informal polities which enjoy the primary loyalty of most people. In effect the state is displaced. Indeed, it is displaced in a double sense. For these informal local polities tendentiously constitute themselves as welfare systems to provide

necessary services which the official state is in no position to provide, including infrastructures such as water supply, electricity, clinics, and markets. Powerful as the state is in most of Africa, it is often quite irrelevant except as a nuisance.

It is in the relation of the state and society that we can begin to understand the nature and the performance of the public sector in Africa. The state is not really the quintessential public institution that it is assumed to be. It is not really a *res publicae*. It is not the state of all, it is at best, the state of some. By the same token its administrative apparatus is not really a public service, more than not, it is just an administrative apparatus.

In the context of this type of relation between the state and society, politics is not a peaceful competition for the control and exercise of state power ostensibly in the public interest. It is rather a bitter struggle among political factions for the appropriation and privatization of state power. This is aptly expressed in impersonal rule, phenomena of exclusion, longevity in office, and hostility to pluralism. Some countries have tried to minimize the disintegrative effects of the privatization of the public realm by legislating mandatory participation in office through a wide variety of political groups. Nigeria, for example, has a sharing formula called "federal character" which enjoins that in making appointments to high offices of state such as those of ministries, appointments must be spread to ensure the participation of a wide variety of groups. Paradoxically, this practice underlines the privatization of the public realm as the groups look at the high offices given to their members as their "share".

Performance of the Public Service in Africa

That is the background against which the public service in Africa has to be judged. The problem is not that those who serve the public are corrupt, unpatriotic, high-handed, and prone to press public office into the service of parochial concerns although all that happens, too. The real problem is that the "public" which is being served and the state which embodies it is at best rudimentary, it does not quite seem like a concrete universal but a disorderly aggregation of particularities. And it has been kept so by a state which has turned society into its enemy, politics into warfare, and by doing so, thrown up political formations which have displaced it as the primary focus of political allegiance. The

state does not really constitute a public. It is not a *res publicae* but rather the very opposite of that, a *bellum omnium contra omnes*. In that sense, the judgements which we make about behaviour in this public realm with public servants who do not uphold the public good, who abuse their office, break administrative laws, and solicit bribes, miss an important point — namely that to the extent that the state is not a public realm but an arena of struggle, such behaviour may well be entirely appropriate and rational.

Perhaps all this will come into clearer relief if we recognize that in Africa we are often confronted with two kinds of polities. On one side is the central formal political system in which the state is embodied. In this political system the transition from power to authority has proven difficult, right remains largely coextensive with power, accountability and political participation are generally lacking. It is peopled by individuals and social groups who are essentially strangers to each other, they do not constitute a "public" or an "interpretative community" speaking the same grammar of politics. Their relation is mainly based on amoral calculus of strength.

The character of this central political system, a legacy of colonialism, has driven people to improvise informal alternative polities based on region, primary loyalties, sub nationalities, etc. These polities have a homogeneity which the central one lacks, they form a "public", they are invariably linguistic entities which means that they are "interpretative communities" speaking a common grammar of politics. It is here that the authentic African "state" is to be found. It is here that people direct their energy to collective self-realization through common enterprise by which the community seeks to reproduce itself at increasingly higher levels of spiritual and material well-being. It is here that people cooperate, sacrifice, and work for a better society, combating crime, improving health care, building schools, etc. As people give to the community, so it gives to them. It is to these local polities that people turn to for security, emotional support, and social welfare. These polities are highly participatory and operate on the principle of consensus-building. There is strict accountability of power, its operative norms are inclusive rather than exclusive, emphasis is on cooperation rather than competition, responsibility rather than rights and power. At this level, political behaviour is markedly different. There is a healthy regard for the rules, and manifest evidence of thriving civic culture; public-spiritedness, attention to one's obligations, honesty, integrity, and

consideration for others. Even the major actors in the Hobbesian politics of the central polity behave differently here. The same people who take their considerable official duties in the central system lightly pay meticulous attention to the execution of relatively minor community development projects. The same people who demand bribes and appropriate public funds illegally in the central political system donate substantial sums to community enterprises. What we have here is not a peculiar African schizophrenia; this dualism illustrates with poignant simplicity, the structural constraints on behaviour and the pitfalls of explaining the performance of the public service in Africa in psychological terms making moralistic judgements about what public servants in Africa do.

That is on the structural side. There is also a cultural dimension to this intriguing problematique. The salient values of African cultures are uniquely antithetical to the values underlying the state, bureaucracy, and the market. This is not simply something to be noted while we go on to assume their inevitable and welcome demise. For in their fierce resistance, they constitute an important reality, namely an alternative criterion of legitimacy which remains influential for the way we behave — and, I ought to add, usefully so.

African cultures "value" the communalization of being rather than its privatization, which is what Western culture values. In the Western tradition, being is seen in terms of separation, independence, and conflict. It constitutes a domain whose separateness is treasured and regarded as intrinsic to the integrity of being. And it is only when privatized that being has identity, autonomy, and freedom. By contrast, African cultures regard being as communal. Persons have identity only because they belong to a community, their freedom lies in the concrete capabilities, privileges, and immunities which derive from communal life. Integrity lies in their location in a community and the ways in which one manages the entitlements and obligations of community membership.

Aversion to the privatization of being goes hand in hand with rejection of the privatization of interests which is regarded as meaningless and pernicious. Meaningless in that the communal element is the essence of the particular existence. It is pernicious in the sense that such privatization would imply the dissociation of persons from the context in which morality and integrity are possible. For these are possibilities which arise only from our social nature and how we deal with the entitlements, the demands, and even the contradictions of communal

life. But in the western tradition, the privatization of interests is the correlate of the privatization of being, mere sociability becomes problematic and we have to rationalize a linkage between privacy and the possibilities of autonomy, freedom, and morality.

In essence then, the communalization of being and of interest militates against the norms of bureaucracy. But we have to see it in a broader context; it is an alternative legitimacy and, on balance, a major asset. It is a progressive mechanism which has encouraged collective consumption of wealth, it is a strong element of social solidarity; it gives resiliency to poor societies to absorb economic austerity without systematic breakdowns. Most importantly, it is the engine of the community self-help projects which have been the driving force in the development of rural Africa.

What Really is the Problem?

It is easier now to see that what we popularly call the problem of ethics and accountability in our public service is not quite what it seems. One may well question whether there is indeed such a problem because to all appearances it is constructed to some extent by a way of perceiving and valuing so replete with distortions that it does not help us very much to comprehend what is happening out there. That we see unethical behaviour so ubiquitously depends not so much on what we are looking at as on where we are looking from. It is certainly not a problem of psychological dispositions, character deficiency, or even one of morality. At one level it is a problem of the character of the state and its relation with society, a relationship which engenders and reproduces not a public but a plurality of "publics" struggling for the appropriation and privatization of state power in circumstances in which even the very idea of political morality is highly problematic. At another level it is a problem of conflicting legitimacies. First, at a structural-political level, the conflict of the legitimacy of the received state whose "public" is nominal with the informal kinship-based local polities which are relatively homogenous and constitute a real "public". Second at the structural-cultural level, it is a conflict between the legitimacy of salient values of indigenous African cultures and those of the value systems of the modern state and its correlates, bureaucracy and the market. Third, at an epistemological level, the problem is partly constituted by the antimonies, distortions, and confusions of an epistemological stance which insistently privileges

the Western experience and sees Africa in the image of the West.

To emphasize these objective conditions is by no means to deny the pertinence of subjective dimensions. We have choices, we make choices — to demand bribes, to falsify official records, to stand up against abuse of office, to take our official duties seriously or lightly, to heed the rules or to ignore them, to strive for excellence or drift cozily along the line of least resistance. And in making these choices, we collectively decide in a daily plebiscite the quality of our institutions and even our own lives and we bear responsibility for our decisions whatever the state of objective conditions. However, we cannot understand let alone explain several phenomena including the performance of our institutions or even our own behaviour unless we relate our volition and actions to those externalities which delimit but do not determine the range of feasibility.

Solutions

What can we do about the problem of ethics and performance in our public sector? Clearly we are up against a complex problem which will not yield to quick fixes, orchestrated indignation, and lofty sermons on moral and civic responsibilities. It calls for difficult long-term solutions. Two broad tasks are central. First, a public which is at best rudimentary has to be created or developed. We cannot talk of patriotism, public service, civic virtues, and obligations to public institutions unless political society is a "commonwealth", a population which is substantially homogeneous culturally, at least, politically. Going by the historical experience of the West, this ideally presupposes the breakdown of primary group solidarities and the reconnection of individuals in commodity relations. This will take some time to emerge especially as its emergence is constantly threatened by a destitute, uncaring, and violent state which throws up informal community and kinship-based polities which compete effectively against it for the people's loyalty. In so far as a "public" is created through such homogenization, notions such as accountability, public service, civic virtues, political culture, and political morality begin to make more sense. The conditions which make them more meaningful also improve ethical standards and accountability in the public sector.

It is necessary that we task our imagination and try to solve the problem in a manner more relevant to the African experience. Thinking

merely in terms of homogenization is not the way to proceed, because that will mean waiting for the process of industrialization to atomize our societies and turn us into market societies. Instead of homogenization we could perhaps think of harmonization, reconciliation, and consensus-building across our social pluralities; a strategy of promoting unity in diversity will make more sense than one of uniformization. Paradoxically, this strategy will have to recognize the social pluralism of our societies and actively seek the incorporation of every group into equitable sharing of the rewards and burdens of common citizenship through democratic discourse and democratic practice, and through assiduous commitment to negotiated consensus. An important part of realizing unity is to ensure the legitimacy of the state. This will entail not only changes in the behaviour of those who wield power; it will also entail rethinking and changing our political arrangements. In particular, we need to rethink our inherited notions of representation which presuppose the social atomism and organic solidarity of a market society. Will it not be better to have representation on the basis of nationalities or subnationalities since that is more likely to connect the peasant to the central power, improve accountability, allow our culture to find more space in our political life, increase the legitimacy of the central authorities in the eyes of the people and bring us closer to being a public?

Along with the process of homogenization or "unification" of political society must go the transformation of the state. As long as the state in Africa is perceived as being essentially a hostile force to appropriate for exploitation or plunder, even its employees will tend to treat it exploitatively as they share the prevailing political consciousness of the broader society. The state has to change its image of a hostile force, a prize to be captured and used at the pleasure of the captor. To shed this image it happens to be carrying, it has to stand on consent rather than coercion, and turn power into authority, domination into hegemony. The state needs to displace the informal polities which are currently the repositories of the primary loyalty of most people in Africa by providing a comparative level of security and social services. It is unfortunate that it is becoming more difficult for African states to make this type of change as many of them sink deeper into fiscal crisis. Most of them are constrained to cut social welfare, already minimal to begin with, by the structural adjustment programmes which call for massive destatization including removal of subsidies, privatization of public enterprises, reduction of government expenditure especially in the

social sector — measures which will unfortunately deepen the alienation of the state from its citizens and ensure that political loyalties remain focused on local communities. In some countries of Africa the adjustment programmes are so harsh and so alienating that they are destroying the fragile social consensus of political society.

Another kind of change which is no less difficult is also badly needed. To a greater extent than is often acknowledged, those who control state power are a major cause of the problems which we blame on the public service and public servants in Africa. Their political insecurity arising from the alienation of the state from society impels them to monopolize power often in a personal way. Once there is personal rule at the top, it bends the bureaucracy to all the means — which are antithetical to bureaucratic organization. We are all too familiar with the tendencies of our life presidents to make policies and change the rules *ad hoc*, commit the government on impulse to projects which have not been budgeted, re-write the national budget in speeches at whistle stops to the chagrin of officials. In most countries in Africa, the political class is still crystallizing, it is still prone to intense political competition in which politics is a zero-sum game. When politics becomes a zero-sum game the public service is merely the victor's booty. In this setting the public service is unable to sustain bureaucratic norms and unable to avert privatization. One reflection of this is that politicians in power use administrative rules, public enterprises, the power of appointments, and promotion of senior public servants as their own political and economic resource and thus undermine the performance of the public service. It is not simply the state that has to change but politics too. And this too is going to be a very difficult change considering the circumstances which have constituted our politics in this particular way.

The public service suffers from the pressures of economies, no less than those of politics. The economic realities prevailing in Africa render our expectations of our public service rather unreasonable. For most junior public servants in most parts of Africa daily survival is nothing less than a minor miracle because their wages lag behind the requirements of self-reproduction. On second thought, it is perhaps not so miraculous. Those who cannot bridge the difference between wages and requirements for self-reproduction, reproduce themselves at lower levels of welfare until some of them eventually die "incrementally" from deprivation. Others survive by stretching to bridge the gap between

wage and self-reproductive needs—some by taking second and third jobs when possible, some by keeping their wives in the villages as farmers, some by becoming urban peasants cultivating small plots or enlisting in the minimalist capitalism of the informal sector, many by using their official positions as economic leverage. It is familiar knowledge that there are office messengers who conceal, burn or advance files for a token fee, official drivers who collude with petrol stations in over-invoicing, officials who sell forms that should be free to the public. It is not very useful to call this corruption. One could, with equal validity, call it survival strategy. What is involved in such behaviour is not so much a simple case of immorality as a clash of moralities.

Even the people in the higher echelons of the public service have these problems, too. It is too simple to argue as is often the case that they are privileged, much better paid and therefore have no excuse for abusing their office for gain. It is too simple because the African crisis has engineered a mass descent into poverty. Seniority in the civil service is now a fragile defense against poverty, ethical behaviour among senior public servants looks increasingly utopian. Even the most senior and best paid of our public servants are under pressure to abuse office for material rewards, as they struggle to maintain living standards in the face of rapidly declining real incomes. The price for resisting abuse of office is very high, often prohibitively so. Those who hang on stubbornly to their integrity can expect that poverty and its indignities will be staring them in the face when they retire. Worse still, not many people including their relatives are likely to honour them for their virtue. In all probability, they will be chided for their naivete and held in contempt.

We may well lament this and in turn hold in contempt a society which disdains virtue. But that will be drawing the wrong conclusions and diverting attention to irrelevant concerns. What should engage us here is how the performance of the public service is related to prevailing economic conditions. Performance will not improve very much unless we can solve the problem of extreme scarcity, increase productivity and the size of the economic surplus, and improve its distribution. That is not to say that if we can generate more economic growth, we will solve the problems of our public service. What I am saying is that economic growth is a necessary though by no means a sufficient condition for solving the problems simply because there is no chance at all that the civic virtues and civic culture at issue will thrive amidst a rising tide of poverty.

Conclusion

I have tried to contextualize the problem of ethics and accountability in the African public service so that we can understand it better and devise a comprehensive approach to solving it. In doing this I have shifted emphasis away from the subjective factors which are usually stressed to objective conditions. In particular, I have tried to show how the problem is constituted by extra-systemic pressures, epistemological postures, and the contradictions of our colonial discursive practices, structural and cultural dichotomies and their interactive dialectics, competing legitimacies and moralities. This approach must seem abstract and impractical since by refusing to privilege the subject and his or her volitions, it does not readily yield a checklist of practical remedial actions. Perhaps it is.

My point, though, is that the most practical first step to the solution of any problem including the one under consideration here is to understand it. And it is this initial and all-important task of understanding that I have addressed. It so happens that the understanding, on this analysis at any rate, points to the relation of our subjective states to complex interconnections of social phenomena and deep-rooted objective conditions and unhappily offers us no prospect of easy, short-run solutions, beyond our lonely unheralded struggles "to do the right thing" against all odds. I hope that some of us, better yet, all of us, will strive to do just that even as we tackle the larger problems.

3

Ethical Standards and Behaviour in African Public Services

W.N. Shellukindo & R. Baguma

INTRODUCTION

Membership of the public services arise from a voluntary choice of employment, rather than from compulsion. As in other forms of employment, the public service is characterized by privileges and obligations basically essential in the conduct of public affairs. By becoming a public servant, a person assumes these obligations which include administering laws to which his duties pertain, rendering faithful service to effect the aims and objectives of the government, implementing lawful decisions, advising his political master and above all serving the public diligently and impartially.

But as in many other situations in life, conflicts between these obligations and the public servant's private interest and conscience do occur. A public servant however is required to reconcile his private interests and conscience with these obligations.

Clustering around these basic obligations are the number of rules which constitute the code of ethical obligations peculiar to a public servant. These ethical obligations are important because they create and maintain standards which constitute the atmosphere in which public servants work and live. The need for these ethics arise from the fact that public servants participate in the governing process of the society which requires among other things that a public servant be responsible to the public. Ethical rules are designed to ensure the impartiality, objectivity, integrity, efficiency and discipline of public servants when exercising discretionary powers.

It is unfortunate however that the essential ethical values have been eroded in many African public services to an extent that in some countries there is utter ethical decay. The failure to observe ethical obligations by members of the public service has not only affected the efficiency levels of the services, but even more seriously has brought the public service into discredit with the public losing faith in their governments.

The degeneration and decay of public service ethics may be said to be influenced by three main factors. The first is *the political factor*, through deliberate violations of and disregard for the ethical obligations and standards due especially to corruption by the political class, in particular through the erosion of bureaucratic principles and the promotion, and increased eminence and supremacy of politics. Second, is *the economic factor*, namely the sheer need for economic survival in the face of the ever worsening economic situation of African economies, which has in many situations led to the erosion of the official income of the bureaucratic class, triggering a chain of negative responses in order to survive. Third is *the cultural factor* which for want of a better term we have termed *cultural trappings*, which is especially pertinent to the third-world countries, arising from cultural bonds which tie African societies together. To fulfil cultural obligations, officials in positions of power and influence are constantly called upon to violate laid down rules and obligations that are the constituents of ethical values and standards, in order to accommodate demands arising from their cultural attachments.

This chapter is divided into three parts, including this introduction. In the next part, we briefly present what we consider as basic tenets of public service ethics and accountability. In part three we discuss causes for the degeneration of civil service ethics and accountability of African Civil Services.

1 Basic Tenets of African Public Service Ethics and Accountability

While there are ethical obligations and codes of conduct particular to each profession within and outside the public service, the following list of ethical obligations/standards do apply to the whole range of public services, namely *loyalty; accountability; courtesy and respect; discipline and integrity, honesty and impartiality and confidentiality.* Below we make brief elaboration on some of them for illustrative purposes only; the list is of course not exhaustive:

Loyalty

The civil service is the executive arm of the government. Its effectiveness in exercising this responsibility has material influence on the image which the government presents to the public and the attitude of the public towards the government. The intimacy in the relationship between government and the civil service requires the existence of a special spirit of loyalty between the two — the civil servants to the government and the government to the civil servants. This tradition must persist if the civil service is to exercise its special role in the affairs of the government. The loyalty is basic to all the traditions and values of the civil service.

A public servant receives his instructions, specific or general from the government, and so long as he is able to carry out his instructions faithfully without being required to offend his professional or technical integrity, there is no question that he can give his complete loyalty to the government. In return a public servant is entitled to receive from the government full support and responsibility for actions taken on behalf of his superiors in good faith.

Accountability

Accountability is probably a prime and enduring ethical value required of all the public servants. It involves legal hierarchical concerns within an administrative system by which a public servant may be held accostable or answerable for his actions to the legislature (through Minister) or courts of law. In a democratic system of government, public servants must account to their superiors (at all levels in the hierarchy) for their official actions and inactions. They must accept the responsibility for the authorized acts of their subordinates, and where errors have been made by their subordinates they should not volunteer to superior officers any identification of the person or persons to blame.

Courtesy and Respect

Public servants, deal with people both from outside the department(s) and fellow employees. In their interaction with the public as well as with fellow employees, public servants must always be courteous and fair. They must avoid arrogance, deliberate hostility, roughness and apathy

and use of abusive language towards people they are serving. Instead they must create an atmosphere of friendliness and respect and be ready to attend to the affairs of all who appeal to them and advise them promptly. In short, a responsible public servant must be prudent, patient, respect human dignity and be empathetic to the public he is serving.

Respect for superiors is demanded, outside as well as inside the office, even when the superior is objectionable in character and demeanor. Towards all officials, inside and outside the office, a respectful attitude must be observed. In their dealings with the public, public servants must always be courteous. They must avoid roughness and apathy, they must be friendly and obliging, they must try to further the affairs of all who appeal to them and readily give advice and information to persons who are ignorant of the law and official procedures. They must not allow insults to pass unnoticed, lest the service suffer. In non-official life, public servants must have regard to the special obligations which their official positions impose on them. Because they have a place in society, they should accept the normal obligations of ordinary citizens. They should not attempt to seek special privileges for themselves merely because they are public servants. They must seek to retain their integrity within the society and it would be improper for them to stand aloof from the public they are serving. They must therefore order their general way of life to conform to prevalent opinions on virtue, manners, morals, dignity and confidence. This duty they owe not only to the State to which they stand in a special relationship of loyalty, but to all officials.

In addition, public servants must serve as role models who do not tolerate unethical behaviours. They must display an attitude of responsibility to public property like the use of vehicles or diversion of official materials to their own use. They must work to set examples in daily operations by talking about the needs of the public as well as the government and the ethical implications of them. They must be diplomatic in their approaches, trusting people and letting them know that they trust them.

Integrity

Integrity refers to the ethics public servants are required to maintain while in public office in order to preserve the public confidence in government. It requires public servants to maintain high ethical standards

by being honest, trustworthy, frank but unobtrusive, principled and morally upright to avoid bringing discredit upon the public service. To be morally upright, public servants should not indulge in corrupt practices which may discredit the service. Moreover, "there are institutional morals involving loyalty upwards and downwards, the manners of disagreement and resignation, all kinds of cases of conscience and ethics".[1]

Confidentiality

Confidentiality in respect of non-disclosure of public (government) information is of widespread public and government interest. The leaking of confidential documents and reports is a serious unethical behaviour that public servants are required to refrain from. Of course the essence of confidentiality is obvious. There are documents in government files which may prejudice the security or integrity of the state if leaked. Pursuant to this obligation, there are regulations/acts prohibiting public servants from disclosing any confidential or secret information or report acquired in the course of their official duties without proper authorization. In addition, no use is allowed either during or after the cessation of employment in the public service, of disclosure of the official information acquired during the time of employment for any private advantage, unless such information is practically unavoidable in the ordinary course of private life. Should an official fail to adhere to this convention then penalties attached to the offence should be applied.

Neutrality

Neutrality as an aspect of administrative responsibility demands that public servants should be politically neutral in the event of partisan conflicts for a politically defined policy and to the value of society they serve. Neutrality also requires that public servants should not assume the role of politically responsible officials to make their views public. Instead, they should execute their advisory and decision making roles within the policy parameters allowed by their political superiors. In situations where they are empowered to exercise full discretion in decisions, they are expected to predict possible reactions of their superiors by making acceptable decisions. By rules of conduct which are conventionally accepted rather than explicitly, public servants keep

enough distance both from the Minister as a person and from more grossly partisan aspects of public affairs that one can transfer the same kind of loyalty to another political master either of the same partisan complexion or otherwise. Neutrality also requires that public servants be impartial in all official dealings regardless of personal, ethnic, religious, racial or any other consideration.

2 The Degeneration of Public Service Ethics and Accountability in Africa: A Review of the Causes

The degeneration/erosion of public service ethics and accountability can be contextualized in terms of the ascendancy of corrupt tendencies in the public service whereby public officials, in the course of performing their official functions, deliberately violate, contravene or otherwise disregard the ethical obligations/standards. A common feature currently transcending many African public services is that ethical standards, moralism and fair play have been thrown asunder and corruption has taken an upper hand in the performance of public functions, resulting in systemic dysfunctions of African public services. The causes for ethical degeneration are many and varied, but as noted earlier can generally be said to arise from three sources, namely political, cultural and economic factors, whose developments during the past two decades have resulted in the erosion of ethical standards. Below we elaborate on the causes, nature and character of the ethical degeneration and decay.

Political Corruption

i Ascendancy of Politics over Administration

With the achievement of political independence, the bureaucratic colonial administration was, in many countries transformed into a bureaucratic administration that emphasized the sovereignty of politics rather than the impartiality of administration. This was effected in particular through the stressing of political values and dominance over bureaucratic values, which resulted in a style of administrative behaviour that is highly politicized despite the formal acceptance of career system of administration based on high degree of professionalism. Before independence (1961) and the first four years of independence i.e. until 1964, civil servants in Tanzania were free from politics. Nevertheless in mid-1964, it was made obligatory for any civil servant appointed to

a position at the Staff Grade level to become a Member of the ruling party —TANU (Tanganyika African National Union). Later on, a system of vetting of Staff Grade Candidates by Party Branch Leadership at the work places was instituted. Politics has since become the most significant state activity, and the politician — whether a party leader or head of a military junta — occupies a position of unquestionable supremacy in matters of decision making. With the paramountancy of the political party or military junta, their actions are constituted as the natural guide to State actions. To sustain such situation, the system disciples are called upon to indoctrinate the masses about the legitimacy of political supremacy.

However, the resulting "associate-relationship" tends to legitimize and entrench political supremacy over administrative values. In reality however, these associates are bound together by patronage, fear or opportunism. In many cases though, most are concerned with exploiting the situation for their personal gains. Where the political leadership is driven by gluttony — which is always the case — those who track in the footsteps of the leader, i.e. those who are most corruptible are seen to be the most cooperative while those who resist corruption are suspect and constituted as dangerous. Michael Baigent et al. have correctly summarized this apparent erosion of ethics and standards of behaviour as follows:

> "... Morality, for example rested to a significant extent on the concept of punishment and reward. Punishment and reward rested, in turn on cause and effect. With cause and effect compromised, the underlying laws governing punishment and reward become ever more bendable. Punishment no longer followed ineluctably from transgression, nor reward from virtue. On the contrary, one could hope to evade punishment one deserved and reap rewards one did not."[2]

II The Socio-Political and Economic Environment

Political corruption is not only a function of gluttony on the part of the political leadership, which has in part precipitated the suppression and undermining of the administrative/bureaucratic norms. It is also a function of a given *logic* when politics are contextualized in the socio-political and economic realities of the African countries. When a political leader arrives at the political helm, he has at hand at least three formidable handicaps: First is the lack of national political culture in

terms of a well institutionalized political system that guarantees safe-entry and safe-exit. One's survival in that enviable position, and even safe transiting out is thus not guaranteed, which makes it the more necessary to bend the rules of fair play and administrative careerism, so that one can institute measures, including constitutional amendments, suppression of opposition parties and the freedom-of-speech etc., so as to create a safe constituency for his political survival. Second, is the imbalance between the political and all that it entails on the one hand and the economic power on the other. Invariably most of the African top political leadership have acquired their political positions without commensurate economic power. Yet many — and this is particularly true in the African historical context — consider political and economic power to be symbiotic. Their acquired political positions therefore do not only provide the opportunity to enhance themselves on the economic front, but even more significantly it becomes a condition for economic advancement. However, since that cannot be fully realized through the legitimate income accruing from the office, it becomes obvious that it be realized through other means. However, since in the normal operation of state matters, government resources are managed by the bureaucratic class measures must be taken to erode the established values and standards so that they become amicable to the interest of the master and the associates.

iii Lack of a Sense of National Identity

A third factor is the weak sense of national identity. Many African countries still constitute various ethnic entities loosely bound together by convenience rather than cultural or psychological bondage. Given the scarcity of resources, and especially given the state in Africa as the main "provider", there is obvious competition for those political positions. Those within would want to shut out the others, those out want to come in. Hence the endless feuds, rebellions, and coups d'etat that Africa experiences. Given such a situation, the cunning leader will "naturally" want to surround himself with associates whose allegiance is unquestionable. But how can that happen, except by bending the rules of the game.

iv The Prevalence of Soft-States

Another major cause contributing to political corruption is the lack of effective leadership. As a number of studies have shown, political corruption tends to be more widespread where the essence of national interest remains weak, resulting usually in the emergence of a soft-state. A soft-state manifests various types of social-indiscipline expressed in the form of deficiencies in legislation and in the observance and enforcement of law. Moreover, there is widespread disobedience, variation of rules and directives by public officials, and much collusion with powerful individuals. Thus, the prevalence of a soft-state allows corruption to become a mighty influence in the political system.

As a consequence of these developments in the political system, a strong political interest has developed in public personnel matters, which has in many instances resulted into nepotism and pork-barrel appointments, which are effected through a system of political patronage which is further facilitated by the highly personalized environment, and the sensitive political atmosphere in which political sympathies tend to be generally known as the civil servants become overexposed to the political machinations. As a result, administrative structures have become patronage institutions rather than being agents of change.

Of course the use of personalism and patronage for political ends is a well known departure from the Weberian model. The Civil Service in Africa incorporates an intense internal politicization of its officers who succumb to various political patronage pressures in the hope that they may, thereby gain advancement and recognition. There is abundant evidence of erosion of basic Civil Service regulations.

What has therefore emerged in most African countries, is the ascendancy of the political apparatus over the state bureaucracy. Political leaders are able to use the political apparatus and state machinery to foster a growing personalization of the political system, in order to give legitimacy to their actions. The effects of these trends has been to create a bureaucratic elite which is dependent for its position on its access to political power, which acts at the same time to sustain the obtaining political order.

The Economic Factor

The Biblical saying that "man does not live by bread alone", is subject to many interpretations. The original message was premised on moralism, that the word of God was supreme. But given the demands made on man in the real World, the Biblical saying seems to echo Maslow's theory of the hierarchy of needs. That man's needs rise from basic physiological needs of getting "bread" to higher needs for self actualization, high esteem and status. To satisfy those worldly needs depends on the economic factor.

The present trends in the erosion and decay of ethical standards and the attendant lack of accountability in the Civil Service of many African countries is to a great degree on account of the economic factor. This has taken place due to at least two main causes, namely, one, the erosion or decline, in absolute terms of the real income of the majority of the civil servants. Two, partly due to the above factor, and partly due to the political corruption noted earlier is "extensionism" that is the spill-over of corrupt elements from the political sphere for the satisfaction of economic needs. Below is an elaboration of the two aspects.

The Decline of Civil Servants' Official Earnings

A major motivator to employee performance is the level of compensation for services rendered. A poorly compensated staff cannot be expected to contribute his/her best, be it in the public or private sectors.

The compensation of the public service personnel in most African countries, however, is inadequate and inappropriate. Inadequacies in public service compensation is in respect to two elements, wage levels, and wage structure. In terms of levels, wages and salaries have been declining in relation to the cost of living, so much so that in some countries current wages are just a pittance: the monthly wage is enough only for a week's supplies. On the other hand, even where the average wage is reasonable, in that it can allow a worker reasonable sustenance, developments in the structure of wages as a result of policies adopted by governments have been unfavourable to some groups, to the extent that critical skilled personnel no longer feel attracted by the wages in place and are leaving the services. We discuss below each of the two issues, their relative incidence in African countries, and their impact on productivity.

i *Wage Erosion*

The decline in the economies of African States has been followed by inflation that has eroded the purchasing power of their currencies. Despite this, however, salaries and wages have either remained unchanged or changed marginally relative to the decline in the values of respective currencies and have tended to adversely affect the purchasing power of employees. It has been noted, for example, that in every country, and virtually for all levels of civil servants, salaries have declined in real terms (Lindaeur 1986:8). In many countries this decline has been greater than the fall in the real per capita income. The most extreme cases are Uganda and Ghana, whereby in 1983 the real basic starting salaries had virtually disappeared compared with what they were in 1976; and in the Sudan, where by 1983, real basic starting salaries had fallen to around one-third of their 1975 level, and to one-fifth of their 1970 levels.

ii *Compression and Wage Structure*

While wage erosion has tended to affect all categories of public service workers, there has been in most countries a corresponding development that has tended to affect mainly the people who earn higher salaries. The phenomenon has involved reducing the gap between the highest paid employees and the lowest paid employees, in some countries, making it almost ludicrous for one to invest in training and acquisition of skills because the difference in pay between the skilled and unskilled personnel is so insignificant.

As a consequence of the decline of income of the various cadres, and the attendant wage compression as observed above, the civil servants, have had to evolve other means of supplementing their incomes, both in order to sustain themselves i.e. meeting their basic physiological needs, as well as to sustain their higher need — needs of self-esteem, and status. Now, given the civil service structure, rules and regulations how does one raise additional income?

The magnitude of compression is further illustrated below:

Table 1

Trends in Salary Compression in Selected African Countries 1970–1983 (in ratios)

Country/Level	1970	1975	1980	1983	Total percentage change in salary compression (1975–1983)
Malawi Under Sec./Unskilled	n.a.	33.0	30.0	29.8	-9.7
Nigeria Permanent-Sec./Unskilled	29.9	17.6	15.4	9.2	-47.7
Sudan Dep. Under Sec./Unskilled	13.0	13.1	10.8	8.3	-29.0
Zambia Under-Sec./Lowest salaried	19.2	14.5	10.3	6.9	-52.5

Source: D.L. Lindaeur, O.A. Meesook and P. Suebasaeng *Government Pay Policy in Africa: Some Findings and Policy Issues*, 1986 p.12.

The answer becomes obvious. One has got to use the very system which denies one adequate income, to compensate oneself. Given one's position, and access to illegal (unethical) opportunities for extra-income, there evolves operational behaviours by members of the Civil Service, such as favouritism in the offer of tenders and contracts, over invoicing of stores, engaging in sideline business during official hours, moonlighting, embezzlement of public funds, use of public property for personal use, etc. Indeed, with the level of economic hardships, it would be flattering oneself to expect such people to resist the temptation to bend or violate the rules, regulations and ethical obligations for extra gain when an opportunity presents itself.

Moreover, the moment one has been exposed to those unethical operations and they bear additional income, the tendency is for the behaviour to become habitual. Instead of one being solicited to take a bribe, one begins to demand it as a matter of right. In time such behaviour becomes a pattern of life and percolates the whole system. In such a state of affairs, Chief Accountants have become "Thief Accountants" Managing Directors may suitably be called "Damaging Directors" and what have you!

The Socio-Cultural Factor

A manager in Africa is trapped in a wide web of allegiances. He must pay allegiance to his organization, for it is the organization which contracts him and from which he makes his living. In this sense, a manager does not only have to fulfil the organization's laid down objectives, but in so doing he has to follow strictly the laid down procedures, rules and regulations.

This same manager, is also a member of an extended family, and a tribe, besides having personal friends. Customarily members of the extended family and tribespeople have their own expectations on one's status, because in these predominantly rural (prismatic) societies, powers, wealth, or status are assumed to carry certain privileges which once one has acquired are considered as constituting a common pool of the entire society. They thus expect as a matter of right to partake in the "spoils". Hence a man is judged by others upon how he has used his position to satisfy their own demands.

The moment therefore one becomes a senior public official, his kinships and tribesmen will come to look for favours. If he clings on the established procedures of operation, and thus refuses to accommodate their demands and expectations, he will be cursed by the members of his society for betraying their trust, and his acceptability by them will be in doubt. Hence in order not to betray the trust of his tribesmen, he may try to manipulate the procedures and the system so as to accommodate their demands.

Conclusion

Ethics and codes of behaviour in the African Civil Services have been eroded to an alarming level. Corruption, nepotism, moonlighting and

utter disregard of basic Civil Service behaviour patterns have come to be accepted as unavoidable factors for one's survival.

We wonder whether the Rt. Hon. Lord Boyle of Hardsworth, President of the Royal Institute of Public Administration, and Vice-Chancellor of University of Leeds, UK would still maintain that, "government is a discipline with its own inwardness and its claims to public understanding and respect".

How on earth can a corrupt government and its Civil Service claim public understanding and respect? Unless corrective action is taken immediately Civil Services in Africa will never regain their public respect and understanding.

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4

Causes and Consequences of Ethical Crisis in Africa's Public Services

W. N. Wamalwa

The vast majority of African States have been sovereign nations for about three decades. These nations inherited public services from their former colonial masters which had been created to serve largely the needs and purposes of the colonizing powers. These needs were essentially those of control and care and maintenance and the staffing and leadership of the public services was by nationals of the metropolitan powers. Therefore one of the highest priorities of the new national governments was replacement of colonial civil servants with nationals. This process was given a variety of names — localization, Africanization or indigenization.

The first efforts at reform of public services in these newly independent nations focused on a number of characteristics of public services which were considered to be out of tune with the new demands of accelerated socio-economic engineering in order to achieve better standards of living which the era of independence had promised to the population. In consequence, public service reform efforts during the 1960s and the 1970s concentrated on such aspects as structure, procedures and acquisition of technical and managerial competence, all of which were considered essential to meet the new demands and aspirations of the peoples of the new nations. While inculcation of proper attitudes during these early stages of civil service reform were not completely neglected, such crucial characteristics of a good civil service as integrity, honesty, non-involvement in politics seem with thirty years hindsight to have been either taken for granted or their importance to a good civil service not fully recognized. Thus we find today all over Africa that an absence of a sense of accountability and a disregard for

proper ethical standards among public officers, both civil servants and politicians, are perhaps among the most intractable problems in Africa's public services. These have contributed quite significantly in turning the promise of national independence into the nightmare pervading all Africa today. In many countries, leaders at all levels are no longer responsive to the public and therefore feel no sense of accountability for their actions and they no longer feel obliged to observe proper standards of ethical behaviour of persons who view public office as a trust.

This chapter seeks first to explore and review some of the reasons which have led to the current situation of lack of accountability and the seriously eroded standards of ethical behaviour in African public services. In addition an attempt will be made to assess the impact on the performance of public services as well as to society as a whole. It needs to be noted at the outset that I have no illusions about the hazardous nature of the assignment.

Nature of the Problem

The two words, "ethics" and "accountability" are perhaps simply the most critical for African public services today. In essence the absence or presence of acceptance of proper ethical behaviour and accountability by government officials determines whether a government can be considered democratic or otherwise.

Conventional use of the word ethics in relation to the behaviour of public servants evokes feelings of such activities as bribery, corruption and general misuse of public office. According to La Rue Tome Hosmer, ethics in administration and management refers to the "determination of what is "right" and "proper" and "just" in the decisions and actions that affect other people."[1] Thus concern with ethics in public services focuses on what is considered the right and proper behaviour of public officials, that is, civil servants as well as politicians. The words "right", "proper" and "fair" are ethical terms which express a judgement about behaviour towards other people that is considered to be just. Public servants, in the discharge of their official functions, are expected to act in a "just" manner. This position is based on the belief that there are "right" and "wrong" ways of behaviour, in turn this constitute a society's moral standards.

The term *accountability* is closely linked with the notion of responsibility. Responsibility in this sense connotes the obligation a

person or an organization has to someone else, outside of self, for something or some kind of performance.[2] In a way the term *accountability* is synonymous with answerability. In democratic countries governments are accountable to the people (electorates) and they remain in power only as long as they still enjoy confidence of the people.

It is the view here that abandonment of the sense of accountability creates the fertile ground and climate in which unethical behaviour thrives. In many African countries unethical behaviour and practices by both politicians and civil servants have contributed quite significantly to the current economic crisis. Public officers insist and get commissions which inflate the cost of projects thereby endangering viability of such projects. In some cases public funds and properties are actually converted to personal use by public officials. Thus in many of our countries today bribery and corruption have become rampant but since by their very nature such practices are difficult if not impossible to prove the culprits go undetected and unpunished. In other cases those in power use national resources to serve very narrow parochial interests without regard to national needs and priorities. In this respect take the case of a powerful Minister responsible for water resources. The government secures a loan to provide water for the drier parts of his country. In spite of his own constituency being in the best watered part of the country he nevertheless spends most of the loan funds in his own area. Similar cases can be cited in other sectors of national development. This is clearly misuse of office.

Since corruption in its popular version is considered to be widespread and having a debilitating effect on national moral standards and economic development it merits special treatment. But first it must be acknowledged that corruption is known to exist in varying degrees in all countries and societies. However in many African countries corruption has become so flagrantly widespread that it is having a disastrous impact on socio-economic development. There are many definitions of what corruption is, but for our purposes here we regard it as corruption if a public official "... accepts money or money's worth for doing something that he is under duty to do ... (or) not to do, or to exercise a legitimate discretion for improper reasons, such as awarding favours on the basis of ethnicity, region of origin, religion or such other sectarian considerations.[3] While it is acknowledged that there is an economic crisis in Africa, in most of these countries the crisis of corruption is no less critical. This in turn is in part created by and thrives on the crisis of

leadership. In this connection it is the thesis here that corruption on the scale known to exist in Africa starts at the top of the political and civil service leadership and flows down the ranks by example. Once the head gets rotten the body has no chance of escaping the cancer. For example, if it is rumoured (and normally it is true) that persons at the top who are well paid are engaging in corruption, the attitude of the traffic constable to his job is likely to change quite radically and he will see nothing wrong taking a bribe to let off a driver who breaks the highway code. In this atmosphere all junior public officials discover ways of making easy money from their jobs. However, it is important when discussing corruption to realize that political leaders and civil servants are members of society. While it is true that the corruption cancer starts with the two categories, in the end it affects most members of society who are in a position to benefit illegally from their office.

Some Causes of Corruption

It is often argued that most corrupt officials are forced to resort to the practice by adverse economic factors including low remuneration in order to make ends meet. In the case of political leaders it is further argued that the uncertainties of politics and the absence of insurance schemes to provide for their future when they fall out of office provides a powerful incentive for corruption. While there is some element of truth in these economic arguments they should not be stretched too far.

Some commentators on corruption in Africa have sought to explain its origin and existence by invoking the African tradition of gift giving to leaders and elders. However, this approach misses the essence of the African tradition in this regard. The essence of this tradition was its motive: there was no expectation of reward. In many African communities the only remuneration for an elder or chief was the gifts offered by the people. More credible explanations for corruption in African public services seem to relate to the nature of African political systems, and creation of a perception and culture of public service which ignores the principles, rules, regulations and procedures which form the foundation of a modern government bureaucracy.

African political systems have created the conditions which have provided a fertile ground and nurtured corruption in a variety of ways. In the first place politics in most African states are based on patron-client relationships. It is also sometimes called "Bossman" politics. The

system consists of factions each under a leader who dishes out favours including money or other resources to individuals in return for support. In such a situation naturally the "boss" or "patron" requires resources. Such resources are more often than not acquired by corrupt means. Thus, to get elected to an elective body one has to belong to a faction, which destroys the independence of such a politician to regard his formal electorate with the requisite seriousness. This syndrome of willing dependency is reinforced by the backgrounds and economic circumstances of the vast majority of Africa's politicians and civil servants. From their humble origins once they achieve high office many seem to resolve to exploit to the maximum their official positions. The most pernicious aspect of this phenomenon is that "appetite" seems to grow sharper with the "eating".

In many cases the first generation of African leaders after independence laid the foundations for corruption. Many of these leaders considered themselves God's chosen to lead. Opposition, real or imaginary, was destroyed, western symbols of democracy and modern government were drained of their essence and empty shells remained to be invoked by the leader and his confidants as rituals. Thus parliaments as structures remained in existence so did the judiciaries and civil services but they were no more than vassals for the ruling cliques. The most powerful shield for the people, public opinion,'ceased to matter — and even to exist. Thus decades after Europe had got rid of kings and emperors who ruled by "divine right", Africa acquired "Demi Gods".[4] It is therefore no wonder really that many African nations are today in a sorry state of corruption and lack of accountability. In this regard it is common knowledge that some leaders' wealth is either equal to or more than the national external debt. The conspicuous life styles of the leaders tell it all.

Impact of Corruption on National Development

Widespread corruption has very serious adverse implications for a country. These implications have political, economic as well as social dimensions.

At the political level, corruption creates a situation of potential instability by destroying trust and confidence which are the foundations of political stability. The leaders' preoccupation with serving sectarian interests creates and magnifies divisions within the society and thus

leads to loss of respect for established authority and the law. This situation normally leads to a sense of insecurity among leaders who then resort to extra legal measures to sustain themselves in power at all costs. In the end change of government occurs only through violence and invariably the new leaders pledge to get rid of corruption to make their action in taking power legitimate.

As already noted corruption ensures selective access to economic opportunities to sectarian groups of family, clan, friends etc. In this way private initiative and enterprise are stifled. Furthermore the huge commissions and kickbacks demanded and the time needed to secure enabling action act as disincentives to investment whether by foreign or local entrepreneurs. Naturally, foreign investors seek to invest in other countries. As already noted, quite often corrupt leaders actually convert public resources (money, land etc.) to their own use, thus depriving the nation of much needed resources not just for investment but also for financing of services. In this connection hospitals without basic drugs and schools without basic facilities are a common phenomenon in many African countries; much of the infrastructure inherited at independence is no longer functional.

Corruption leads to inefficiency. Often resources are misallocated or misappropriated leading directly to inefficiency in government operations. This situation is magnified many times by bad personnel practices aimed at benefiting sectarian groups such as family members, friends and relatives. As in the case of appointments to civil service and other public positions, promotions are made on criteria that completely ignore principles of merit and general suitability to perform. Actions of this nature in addition to appointing and promoting persons who are not qualified have often quite a disastrous impact on staff morale thus further depressing the performance of individuals and the entire government machinery. In this regard loss of revenue in such services as customs and excise and income tax become commonplace.

Some Measures for Alleviating Corruption and Other Unethical Practices

As already pointed out by its very nature corruption is difficult if not usually impossible to prove. It would therefore be presumptuous to pretend that there are definitive and sure solutions to the problem. However, the impact of widespread corruption on any nation is so

serious that every effort must be deployed to attack the problem.

In many countries the top leadership finds it difficult to acknowledge the existence of widespread corruption and its debilitating impact on many aspects of national life. Usually the main reason is that they themselves are not clean and the people know it. Nonetheless it should be admitted that there are countries where heads of State or heads of Government have readily acknowledged existence of unethical behaviour, including corruption. Therefore the prerequisite for attempting to fight corruption and related practices must be acknowledgement of its existence by the top leadership. In this regard we see in some countries reports by Auditor-General's departments highlighting fraud, embezzlement etc. of public funds but no attempts are made to correct the situation. It is suggested that measures to tackle the problem should consist of both short-term and long-term.

Short-term measures may include strengthening the powers of Public Accounts Committees of the National Assembly with a view to empowering them to conduct investigations of their own based on the report of the Auditor-General's department. It should be made mandatory for the Attorney-General to take action on the report of the Public Accounts Committee within a specified period.

The second short-term measure should consist in removing the acute feeling of job insecurity among civil servants which creates the temptation to protect oneself when thrown out of a job quite often for reasons unrelated to one's performance and conduct.

These short-term measures should be reinforced by those aimed at attacking unethical practices on a long-term basis. In the first place governments should radically reduce involvement in the social and economic life of society. Today in many countries government involvement is so widespread that it presents vast opportunities for corruption by politicians and civil servants. It is true that World Bank - IMF efforts have been directed to this end for sometime now but the results are not impressive. The second measure to reduce corruption is the democratization of African governments which is in formative stages in some countries today. This process will in the end release the most powerful instrument to bring about a sense of accountability: the force of public opinion. Democratization will also enable establishment of "citizen groups" which could act as watch-dogs to contribute to the achievement of good government. The establishment of the office of Ombudsman, which has proved useful elsewhere, particularly in the

Nordic countries, should go a long way in strengthening the other proposed measures.

As a back-up to all the measures proposed above, there should be a programme of mass education with the purpose of increasing the awareness of what the public could contribute in fighting these unethical practices. Such a programme could be implemented through workshops, seminars and the news media including television.

Conclusion

All countries in the world experience some degree of unethical behaviour among public officers. But in Africa because of special circumstances the extent of unethical behaviour, especially corruption, can best be described as a crisis and should be addressed as such with the sense of urgency which the problem demands. In this regard the top leadership both political and Civil Service hold the key to finding solutions.

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Case Studies

5

Socio-Cultural Dimensions of Ethics and Accountability in African Public Services

K.K. Prah

INTRODUCTION

A distinctive feature in Africa's present-day crisis is the malaise of inefficiency and malpractices of various sorts which permeate all areas of African public services. There is hardly an African country today, which is not accused or cannot be accused of the persistent development of unethical and unprofessional habits. There are of course differences in the extent to which malpractices have cancerously affected African public services. Some of these differences are considerable but differences aside, it is indisputable that corrupt, diffident, inept and functionally unproductive attitudes are entrenching in public or civil services throughout Africa. Thus while in Botswana or Namibia, their pervasiveness is relatively limited, in other countries like Ghana, Nigeria, Tanzania, Zambia, Sierra Leone or the Sudan, the lack of a sense of accountability, structurally irresponsible, unethical, and organizationally debilitating practices have become the norm in public services.[1] Some services like Customs and Taxes, Immigration, Health Services, Police, where the general public interacts with officialdom for services on a more or less continuous basis are particularly prone to the cultivation of unethical and unprofessional practices.

In terms of how the wider public reacts to these practices, it is interesting to note that, in the initial stages of the development of such unethical cultures in the public services, the public is shocked and incensed. Indignant voices of outrage are raised. But as such practices become more generalized in the social fabric, cynicism and a collapse of public morale sets in. As unethical practices seep into the interstices

of the public services, they tend to penetrate the wider field of social intercourse, affecting the overall ethos of society. A new corrupt culture develops, in which terms like "Kalabule" (in Ghana), "Wako-ni-Wako" (in Zambia), "Bakshish" (in the Sudan) or "Magendo" (in East Africa) summarize the dominant corrupt ethos of the public services. They are publicly decried and condemned often by the same elements who on an almost daily basis supervise their persistence. Pilferage is quietly accepted, leaders and public servants get away with graft and nepotism. The masses lose trust in the ethics of leadership and social responsibility in the public services, and in their aggravated poverty admire the visible material display of prosperity of the looting *nouveau riche*. The aide memoire for this project rightly points out that;

> ...in spite of a number of violations, high expectation for the observance of ethical values and standards in the public service continues. Unlike his counterpart in the private sector, the public servant's official conduct is expected to be beyond reproach. Public servants are regarded as custodians of the public trust and as such they are required to adhere to the highest standard of morality.
>
> Ethical rules require public servants to be impartial, objective and manifest the highest degree of integrity in the conduct of public business. Public servants are expected to refrain from using their government positions for personal, private, pecuniary or partisan gains. Unfortunately, the gap between prescription and observance still remains wide.[2]

The existence and proliferation of what in neo-Durkheimian terms can be described as anomic conditions within African public services is as much a symptom as it is a disease. On the one hand, there are economic, political and cultural conditions which favour the emergence and expansion of aberrant practice in public office in Africa. But, on the other hand, it needs also to be pointed out that, the culture of corruption which is spawned by malpractices in public office reproduces itself, consolidates, and deepens the organic character of the corrupting culture. It has a wider socio-cultural impact. Thus in the end, the cause becomes the consequence and vice versa.

One of the most significant contributions of Max Weber to our understanding of the social process is the fact that, bureaucracy is an abiding feature of modern and civilized society. It is an instrument for the development and maintenance of rationality in modern organizations and cannot be avoided in developing or an advancing society.

Bureaucratic coordination of activities, he argued, is a characteristic and distinctive mark of the modern age. Bureaucracies are per definition organized according to analytically rational principles. Offices within a bureaucratic system are ranked in a coherent and hierarchical order and their operations are sanctioned and characterized by strict impersonal rules. There is a clear separation of public and private interests. Incumbents are governed and directed by a methodical allocation of areas of responsibility and jurisdiction, and logically delimited spheres of duty. Appointments are made according to specialized and achieved qualifications rather than ascriptive sociological criteria. Only through this organizational principle and instrumentation, has large-scale planning, both for the modern state and modern economy, become organizationally possible. Bureaucratic types of organization are technically and operationally superior to all other forms of administration.[3]

While its inevitability is a fact of social life, its proper and efficient functioning is by no means easily assured. Indeed the problems of the cultivation of efficient bureaucracy have often been so overwhelming that, for many and in popular language, bureaucracy conjures up images of mountains of paper and files shuffled from desk to desk by armies of bureaucrats each self possessed by the idea of his or her own importance in an unwieldy self-serving administrative machine lumbering on with its sense of purpose lost in the perpetuation of the motions of goal-oriented work. The negativity of red-tapism is associated with bureaucracy in the minds of innumerable victims of bureaucratic inefficiency in all parts of the world.

If modern man or woman must live with bureaucracy for his or her own organizational and collective societal profit, then bureaucracies would as of necessity need to respond effectively to needs, and not degenerate into societally parasitic forms sapping resources and constraining efficient social practice. Expensive instruments of the state, vast and paralysed by their own inadequacies. Neither the injudicious tolerance of the effects of Parkinson's law, nor the acceptance of the pitfalls of the Peter Principle support the effective functioning of bureaucracies. But away from these "natural" diseases of bureaucratic organizations, other less "natural" and often more malignant forms of pestilence ravage the bureaucratic order. These pertain to a whole range of unethical approaches; "corruption, graft, patronage, nepotism, power peddling, seeking pleasure by using one's official position, favours to relatives and friends, moonlighting, divided loyalty, delay in

decision-making, late coming, partiality, partisanship, absenteeism, insubordination, misuse of government property, leaking or misusing government information and engaging in any unsanctioned activity".[4] These pathological elements which affect the body of bureaucracies vary in their intensity and malignancy from society to society, but by and large they affect African and other Third World bureaucracies and Public Services in more intense forms and often cripple or seriously incapacitate the system.

The Social Pathology of Public Service Practice: The central preoccupation of most African states since the beginning of the era of independence some three decades ago, has been the desire to develop. This desire has dogged the progress of most African societies, although invariably like a mirage, it has receded as African countries attempt to march towards it. A range of reasons can be identified for the elusiveness of the African developmental challenge. Some of these like declining terms of trade, economically paralysing debt-burdens, socially and economically disenabling Structural Adjustment Programmes, and the unspoken wish by some forces in the developed world to maintain socio-economic thraldom over "the rest of us",are discussively much visited issues. They are essentially exogenous impositions on the African situation. Sometimes, they are belaboured *ad nauseam*, and held up for all that is wrong or unhappy in the contemporary African situation. Apart from such externally motivated conditioning, there are crucial internal factors which cramp and inhibit the development effort in Africa. These include, poor planning, bloated bureaucracies, bad public-expenditure policies, runaway inflation, and the lack of viably adapted institutional structures for accumulation, based on indigenous cultural usages. Apart from these constraints, there is the large area of social practice in public services which is generally carried on in a developmentally disruptive and socio-economically destructive fashion, on account of the lack of probity and unethical behaviour, on the part of public servants.

Balogun has suggested that, apart from the tendency to misplace priorities, by and large, the public sector in Africa is riddled with serious problems of general mismanagement.[5] Our attention is drawn to Adedeji's observation that:

> Inefficiency has become the norm in our public service whether it be the Civil Service, the parastatal or the local government .... It seems that

> within the first quarter of a century after independence, African public services have lost their mission, have ceased to be serving public interests and have become a self-perpetuating, self-centred and self-aggrandizing cabal.[6]

Balogun goes on to say that, indeed, among the different constraints on public service efficiency in contemporary Africa are "ethnic loyalties which subvert merit and breed nepotism, and aspects of the traditional social values which promote corrupt tendencies",[7] Essien-Udom has also articulated a not dissimilar view:

> ...where the kinship system(or clan organization) has a great deal to do with the organization of social life, it can be a source of nepotism and corruption in public life, especially in the recruitment and promotion of men in the public service.[8]

What is essentially enlightening in these arguments is the fact that these weaknesses interpenetrate and inter-breed. Where there is nepotism, ethnicism is not far away. Patron-client relations in public services encourage favouritism, practices of sexual advantage, and the creation of corrupt social networks within the administrative system.

As A.L. Adu years ago pointed out in his, *The Civil Service in Commonwealth Africa* (1969), that Anglophone Africa inherited a well-functioning civil service, Francophone Africa likewise at the onset of the era of independence was in possession of a well-tuned if more centralized administrative machinery.[9] While much has been said about an apolitical public service put in place under colonial tutelage, it is arguable that administrative services under colonialism carried out policies on behalf of the colonial system and in as far as the colonial system was ultimately a political order, albeit without contending political parties, the political dimensions of administrative practice geared towards colonial domination was implicit in the structure and working of administration.

The period covering the late colonial and the early post-colonial was in most instances preoccupied with Africanization or Localization processes. In the majority of cases, this proceeded in a fairly organized and smooth fashion with the exception of cases like Guinea, Congo (Zaire), Angola, Mozambique and Guinea-Bissau and Cape Verde, where the transition to independence was in each case for various reasons more problematic than usual. In the wake of independence, as

one observer has suggested there was:

> ...an urgent need for a reoriented, sound, and sophisticated public administration for the implementation of the twin objectives of underpinning economic development and promoting nation-building.[10]

These objectives were not matched by sound practice. Politicization of civil administration came to override the concerns of the new rulers who tended to regard those elements in the civil service who wished to maintain their professional independence as types suffering from a"colonial mentality". Some of them were indeed elements who had been close in word and spirit to colonial power, and were in general resistant to changes which would upset their patterns of administrative conduct. Others had sympathies with political groupings which were not responsible for spearheading the independence movement. In some cases these types were eased out of the administrative machinery to make way for more politically pliable elements. Some of the newer incumbents were not necessarily well or better trained and administratively as tested as their predecessors. Their professional work ethics were often fragile and lacked commitment. Robert Gardener captured the mood of the times when he pointed out that; "the substance of the colonial tradition has disappeared but the form lingers on in many administrative practices".[11] For the colonially trained civil servant who had been strongly disciplined in the colonial era, and tutored to bow reverently to colonial power, the early independence years were difficult years of change. A senior Nigerian civil servant of that period is reputed to have voiced the opinion that;

> After independence the Nigerian civil servant became the servant of all and sundry. The departing expatriate senior servants contributed in a great way towards debasing the image of the top senior servants as the adviser and confidant in the decision-making process. They pampered the new Nigerian political master, but he gradually came to look on the disciplined civil servant as the major obstacle to the exercise of absolute power.[12]

The infiltration of national politics into the civil bureaucracy in the early post-colonial period undermined the *esprit du corps* of the civil administration in many countries. Many administrators regarded some of the politicians as upstarts, recent arrivals into positions of influence

who were often ill-educated and socially raw. They were supposed to lack the social graces and the *savoir vivre* which was supposed to go with responsible or high administrative office. Some of the older native senior civil servants had been in "European Appointments" with home-leave benefits in the UK. They were the residual replicas of the retreating *Pax Britannica*. New administrators, brought in through the patronage and blessing of the post-independence politicians on the whole did not measure up in efficiency to their predecessors. As the pan-Africanist Makonnen who served the Nkrumah regime in its first years illustrated:

> Ghana decided to create her own central bank, with the idea that it should compete with the foreign banks and make them capitulate. But rumours soon went around that undermined people's confidence in the national bank; they said that everybody knew the amounts that individuals held in the bank, because there were irresponsible girls working there, and no ethic of secrecy had been built up. It was the result of wanting to change colonial institutions overnight, but not having the qualified staff to do it. That was the anatomy of our misery.[13]

In one country after the other, politicians who had assumed office as poor people in no time became rich and often by African standards wealthy.[14] It was all too obvious that such wealth had been acquired by dishonest means. Their constituencies observed such practices in amazement, but were often quiet, on account of fear of the dangers of victimization or imprisonment on the basis of spurious charges, or social difficulties which could upset the balance in an existential tight-rope walk to maintain subsistence. The culture of the African *nouveau riche*, is characterized by flamboyant display of the emblems of prosperity. This has attracted attention of both admiration and condemnation in the eyes of the wider public. The idea of a commission (the legendary 10%), a kick-back paid to politicians and senior bureaucrats has spread wide and deep in the work ethos of the contemporary African in public office. Politicians set the tone for this, and bureaucrats have in many countries matched such practice when and wherever the opportunity has arisen.[15]

The bending of ethics and rules of conduct in public office, is not particularly characteristic of Africans. Western monarchs and Japanese Ministers of Government have been known to be culprit to unethical practice. It is a universal phenomenon, found both in the industrialized as well as the non-industrialized world. It is however particularly rife in the Third World especially in those countries where the search for daily

bread is very problematic. I would argue that the one most important condition for its development and persistence is deteriorating economic and social conditions. Where bureaucrats have difficulty in making ends meet and providing the barest necessities for the subsistence of their families, the temptation to adopt irregular and unsavoury methods to meet their personal and family needs becomes very real. This is especially so if bureaucrats notice that politicians are helping themselves with ill-gotten gains on vast scales. For many corrupt civil servants, the only avenue available for them to augment their earnings is to bend rules and regulations, suspend ethical practice, and use their offices for their personal needs. It is thus not accidental that, it is in those African countries where economic conditions are worst that such malpractices are also most endemic. Indeed I would argue that depressed economic conditions constitute the most important stimulus to the breakdown in the ethical standards in African public services. Structural Adjustment Programmes have not helped. Excessive devaluations, and sudden removals of long-standing subsidies have only succeeded in giving Structural Adjustment Programmes an inhuman face. For salary earning bureaucrats, commodities are increasingly priced out of the reach of their purchasing power. Under such circumstances, the temptation to indulge in unethical practices is almost overwhelming. A good illustration of these conditions is provided by a write-up which appeared in the *New African* during 1986. In the early months of the emergence of the Museveni regime, the government under pressure from foreign aid donors halved the Ugandan shilling within six months. Some encouragement was given to rural producers by almost doubling the prices of major traditional exports. But as the writer indicated:

> ...as in the past, the wage-earners continue to bear the brunt of the country's economic ills. Employees in government work for almost nothing. At the official exchange rate of Shs 5000 per dollar (US), a Professor at Makerere University earns a mere 24 US dollars per month while minimum wage earners get only 1.2 US dollars per month. To survive, employees in government and parastatal organizations have resorted to theft, corruption and embezzlement, all done in their work places. Although the Government has set up committees to investigate and advise on how to combat corruption, little is expected to be achieved by the present economic circumstances.[16]

Corruption and unethical conduct in public services thrive under

conditions of poverty and relative deprivation. Apart from the above type of deteriorating economic and social conditions which provide a fillip to unethical practices in African civil services, authoritarian and undemocratic political systems, political-boss rule, dictatorship, and the lack of probity on the part of politicians foster a climate in which patron-client relations, considerations of financial benefit, ethnicism, nepotism and favouritism in appointments and promotions become rampant.

The structure of an open society, preserves the atmosphere in which accountability and probity feature prominently in the social ethos. In open societies the risk of public sanction and exposure checks the tendency towards malpractice. The contrary situation of politically closed systems, latent and manifest conflict and war, create conditions in which the collective social conscience of a society is seriously undermined and impaired. When such conditions are compounded by scarcity and economic hardship bureaucrats both in the public and private sectors become easy prey to unethical conduct in their professional positions. War situations where they exist further weaken the functioning of administrations and exacerbate difficult economic conditions which in turn lower the temptation threshold for public servants to indulge in unethical practices.

Conclusion

Socio-cultural values guide human operations in social practice and in the area of public service order our work in its everyday relations. Ethical values are deeply internalized sentiments handed down in culture. They are socialized fairly early in the human socialization process. Guidance about practice in bureaucratic organizations comes later, in the formal educational setting and early work experience as people move into adulthood. Today, the middle-aged African with civil service experience of more than twenty years is likely to be someone who saw the beginnings of post-colonialism, the initial burst towards colonial freedom. They have seen efficient administrative organs of society function smoothly in Africa and have seen these bodies go to waste and atrophy two decades later, as the social and economic conditions of society degenerated and in some instances moved into permanent crisis before their eyes. Some have been part of this process and have played important roles in the process of large-scale organizational regression and the collapse of the moral and ethical fibre of society.

Ethics in general form part of the non-material culture of society. Outside the area of law, mores, and customs, they operate as the systemic grid for ensuring that social practice is conducted along socially acceptable patterns. They are often sanctioned by social control and are unwritten although well understood and respected as the bedrock of social intercourse. Adherence to ethical behaviour in full view of the wider public elicits respect and honour in society. Failure to follow societally accepted ethical practice invites contempt and ridicule, or, depending on the magnitude of the offensive behaviour sanction and reprimand or punishment. The structure of the ethical code may vary according to one's station or birth i.e. ascriptive criteria. Ethics are social products, and are therefore historically and culturally bound. They are the finest and most fundamental unspoken rules of social conduct. By and large specific social institutions are governed by their own code of ethical behaviour, and the success of the socialization process is in part determined by the extent to which individuals are responsive to the ethical code prevalent in a given society in a specific point in history.

Obviously, there is merit in the social ethos which regards the welfare of the brother/sister, or kinsperson as deserving attention in as far as the person's welfare and social success are concerned. This is certainly far removed from the western idea of, "each for him or herself and God for us all". What is however crucial is that the arena of relevance of the ethos of concern for the kinsperson should be kept separate and distinct from bureaucratic office in modern organizational practice. It is not all traditional African values which pose problems in modern organizations of a bureaucratic type. Rather it is the inability to separate modern societal requirements from general traditional social practices which creates the problems under review in this paper. Indeed this area of developmental difficulties in Africa constitute one of the most serious issues in African development. How much of traditional African values and organizational principles can and must be maintained in the development effort? It is impossible to conceive of African development on the basis of unmitigated cultural borrowing from the West. African development is only possible, I would argue, only if it is premised on African roots and cultural usages. But this does not mean that all traditional values can be carried whole as a basis for the transition into development. A selective and carefully considered process based on democratic practice and consensual methods of decision-making in which rival options are societally openly debated provides the only

realistic mode of progress in this field. It is arguable that unethical practices and the lack of accountability of civil servants in Africa is partly but importantly due to the fact that the public including public servants are not sufficiently aware of the overall social and economic costs of malpractices. For as long as offices appear to be functioning all seems all right. If and when sensitization of the society on these matters is taken seriously and approached systematically, and sanctions imposed on offenders, this would tend to deter such malpractices. The social rewards, honour and recognition bestowed societally on ethical practice in office should be better institutionalized and consolidated. Unblemished office should be acknowledged and rewarded both materially and socially. In similar manner, abuse of public office needs to be more consistently sanctioned, condemned, and punished. The shame and disgrace society accords unethical conduct in public office should be definitive and long-standing, so that the deterrence factor is overwhelming. Such approaches would be largely in line with historico-cultural African usages, and would not negate the functioning of bureaucracy.

Sanctions and punishment of offenders should be harsher for the leaders of public life than for the lower echelons of society. Justice in such matters must be seen to be done, by all and sundry. An open democratic socio-political culture is the enabling condition for this.

Traditional values of honesty, probity and accountability should be used constantly in the media for education and entertainment purposes. Such positive values should be glorified in the media.

While such efforts will enhance the cultivation of notions of accountability and ethical practice in African public services, without a stable democratic society, and a sound economy, corruption and malpractices in African public services cannot be viably checked.

Notes

1. The recent history of Africa in this respect suggests that, as countries collapse economically the social climate becomes prone to increasing breakdown in the ethical order. This is possibly why in countries like the Sudan, Ghana, Uganda, Sierra Leone, Bourkina Fasso, Nigeria or Zambia where economic conditions have seriously retrogressed for much of the post-independence era, and in some instances, warfare has destroyed much of what productive

infrastructure that there was, corruption in public services has grown in striking proportions. Today, countries like Namibia and Botswana with buoyant economies supported by relatively open political systems show greater sense of probity in the conduct of public services.

2. Aide Memoire of the Senior Policy Seminar on Ethics and Accountability in the African Public Services. Mimeo. UNECA, Addis Ababa, 1991.
3. See Reinhard Bendix and Max Weber, *An Intellectual Portrait.* New York, 1960, p. 421.
4. See list in UNECA Aide-Memoire of the Senior Policy Seminar on Ethics and Accountability in the African Public Services. *Op cit.*
5. M.J. Balogun, "The Managerial Dimension of Africa's Socio-Economic Crisis: The Role of Training and Development Institutions" in K.K. Prah and A. Setsabi (eds). *Human Resources Development and Utilization in Africa.* Maseru, 1988, p.19.
6. A. Adedeji, *Administrative Adjustments and Responses to Changes in the Economic Environment.* Paper presented at the Fifth AAPAM Roundtable, Arusha, Tanzania, December 1983.
7. M.J. Balogun. *Op cit.*
8. E.U. Essien-Udom, "The Responsibilities of the Higher Civil Servant in Nigeria" in A. Adedeji (ed). *Nigerian Administration and its Political Setting.* London, 1968, p.128.
9. See J.A. Ballard "Alternative Administrative Arrangements: The Experience of French-Speaking West Africa" in A. Adedeji *Ibid.* pp.134–135.
10. A.H.M. Kirk-Greene, "An Historiographical Perspective on Administrative Studies in Africa" in A. Adedeji and Colin Baker. *Education and Research in Public Administration in Africa.* London. 1974, p. 294.
11. R.K. Gardener. Quoted here from A.H.M. Kirk-Greene. *Ibid.* p. 296.
12. A.H.M. Kirk-Greene. *Ibid.* p. 296.
13. Ras Makonnen, *Pan-Africanism from Within.* Nairobi, 1973, p.248. Elsewhere in the text, Makonnen describes what he considered to be the Achilles Heel of African capitalism. "You can see the weakness, or primitiveness, of African capitalism in the famous system of the mammy traders. These market women each formed their special relationships with the import-export firms. They would

know Fitzgerald of the United Africa Company, or other contacts in Leventis and elsewhere. The whole point of their endeavors was to gain special concessions from their man, so that they would get a virtual monopoly on a special line of cloth or...right at the heart of this mammy system was to be found the practice of the 'dash', or bribe. The mammy trader would have her contacts...when a special consignment arrived...this trusted clerk would send a message to her up at Kumasi. She would come down right away and begin negotiating with Fitzgerald for a good price. She sometimes had an advantage in the negotiation in that the African (contact) would have told her beforehand: 'Beat him down; don't let him charge you such and such a price; I have seen the real price in the invoice books, so fight hard'. And if the mammy got a good price, then the trusted clerk would receive his 'dash' " (Makonnen *Ibid.* p. 240).

14. A good example of such types is provided by Andrew Kimani Ngumba who fled Kenya in 1986 ahead of investigators who were looking into the collapse of his Rural Urban Credit Finance Co. Ltd. According to the *Weekly Review* (Kenya), March 9th, 1990. "A man who rose from humble beginnings to the post of deputy mayor of Nairobi, and then mayor and finally MP and Assistant Minister...from Central Province...He was known to be a close friend of the late Mzee Jomo Kenyatta's whose daughter he succeeded as mayor of the city in 1976. In the two years that he was mayor, Ngumba ... used to place, and protect, his close associates in key posts within the city council. Most of Ngumba's appointees later posed major challenges to city administrators especially during major exercises to streamline civic services and were said to have been selected by Ngumba with ethnic considerations in mind...in 1982, he formed Rural Urban Credit Finance Co., whose coffers he used to get to parliament in 1983 ....Using his finance house, Ngumba employed unethical lending and borrowing procedures that allowed thousands of relatively poor people, especially from the Mathare constituency...to borrow money with virtually no security". There is a way in which corrupt private and public servants continue with unethical practices once they have started. As the Roman Cicero would have it; "A man who has once stolen is capable of stealing again".

15. See O.P. Dwivedi, *Public Service Ethics: Report of the Study*

Group on Ethics in the Public Service. Mimeo, Brussels, 1979, p.2.

16. See Uganda: "A Black Economy", *New African*, October, 1986. p. 34.

6

The Economic Crisis, Resource Scarcities and the Decline in Ethical Standards in Public Agencies

A.D. Yahaya

INTRODUCTION: ECONOMIC CRISIS AS A FEATURE OF THE 1980S AND 1990S

Independence in Africa ushered in an era of high expectations and phenomenal expansion in the role of the state directed towards the attainment of sustained development. Endogenous and exogenous factors have hindered the achievement of the goals of national development. Today, the African region is facing an economic crisis. This constitutes the new challenge facing African countries in the 1980s and beyond. The character of this challenge is presented as the struggle against poverty; the balance of trade deficits arising from the collapse of commodity prices; the ever-increasing and strangulating effect of the debt burden and population explosion. Their physical manifestations could be noticed in terms of declining productivity; deprivation of basic material but essential needs; mounting human wants and perpetual hunger further compounded by seasonal droughts in some parts of the continent.

The gravity and intensity of the present situation can be further appreciated especially if it is recognized that there is no end in sight to the present situation. Analysts have for instance predicted a continuation of the global pattern of growth that has been witnessed since the 1980s; a pattern of growth in which East and South Asian countries have progressed tremendously at a significant pace while Africa and Latin American countries have stagnated and even regressed.

With this skewed developmental pattern, it is no wonder then that Barber Conable (President of the World Bank) rightly stated that:

> Low income Africa is the only region of the world where the number of people living in poverty would if current trends continue, increase by the year 2000; it is the only region where population is doubling every 20 years or so — in fact, it is the only region where for some three decades; economic growth has barely kept ahead of population growth; and it is the only region where debt is now greater than its total economic output. The severity of the situation cannot be under-estimated. The 1990s are going to be extremely difficult years for Africa.

Going by statistical data available and socio-economic indicators, the continent is gradually but surely losing its share in world trade and manufacturing. This is apart from the fact that the relative global proportion of such negative indices as poverty, infant mortality and illiteracy is increasing. The most visible indices of Africa's increasing marginalization are its sharply declining shares in world exports, imports, foreign direct investments and official development assistance.

The magnitude of Africa's economic crisis can be appreciated by reference to relevant statistical information.

- Africa's share of world exports fell by more than 50% from 1980 to 1989, i.e. from 4.7% in 1980 to 2.1% in 1989;
- Africa's share of world imports also declined by about 37% from 1980 to 1989; i.e. from 3.8% to 2.4%;
- Africa's share of world manufacturing fell from 2% in the 1970s to around 1% in the 1980s.

Another gloomy but graphic indicator of Africa's deterioration and economic crisis is the region's external debt burden. This phenomenon has been on the increase. The total stock of debt rose sharply from an estimated $48.3 billion in 1978 to about $230 billion in 1988 and $250 billion in 1989. This presents an annual growth rate of 10%. Economists and Public Finance Experts agree that this external debt burden cannot be repaid. This, notwithstanding, many countries are still clamouring for more loans and developmental aids despite the fact that lending conditions with interest rate have risen from about 6%

in the 1970s to well over 10% in the 1980s and still on the increase. The cumulative effects of the interest rates now constitute about $75 billion of the total stock of debt. Subsequently, debt service ratio as a percentage of annual export earnings has risen correspondingly from about 26% in 1985 to an average of 45% in 1989 for Africa as a whole. Thus, the region's total debt service payment in 1989 stood at over $30 billion with net transfer to multinational institutions such as the IMF and World Bank being around $15 billion in 1989 alone.

Africa's economic crisis is attributed to many factors among which is the absence of a political leadership strongly committed to govern on the principle of democracy and to promote self-reliant development through popular participation. Coupled with this is the lack of indigenous capacity both at policy and executive levels to manage the development process. It is further agreed that lack of policy formulation capacity of the political functionaries coupled with inadequate skills and competence for programme implementation at the top echelons of the bureaucracy is responsible primarily for the failure of the African states to grapple with the monumental challenges and intricacies of sustainable development process.

This gloomy economic condition of African countries has promoted the initiation of economic reform programmes for the resolution of the economic crisis. Multi-lateral institutions like the World Bank and the IMF have their economic recovery models. The ECA has formulated an African Alternative Framework of Structural Adjustment Programme. Prior to the launching of AAF-SAP, the ECA had sponsored a Conference of Ministers in 1979 at Monrovia which enunciated the Monrovia Strategy for the Economic Development of Africa. The Lagos Plan of Action defined the strategy for the implementation of the Monrovia Strategy. Both initiatives were based on five main objectives:

- Deliberate promotion of increasing measure of national self-reliance;

- Acceleration of internally located and relatively autonomous process of growth and diversification and the achievement of self-sustained development process;

- The democratization of the development process;

- The progressive eradication of mass poverty and unemployment and a fair and just distribution of income and the benefits of development among the populace; and

- The acceleration of the process of regional economic integration through cooperation.

The World Bank/IMF framework is the more prevalent model in Africa with slight variation from country to country. The economic reform programme which is designated Structural Adjustment Programme has a number of policy components which include: the adoption of realistic exchange rate for the local currency, progressive trade liberalization, commercialization/privatization of public enterprises, stimulation of domestic production and the broadening of the supply base of the economy. Today, more than 30 African countries have adopted this economic reform programme.

Economic Crisis and Scarcity of Resources

From the foregoing, it is evident that economic crisis has had its most devastating impact on the productive sectors which account for the resources available to a country. Economic crisis will therefore, contribute to scarcity of resources in human, financial and material aspects.

The resources of a nation include all those physical, human and material resources which a country has within its possession or can acquire and utilize effectively for its own survival and progress. Resources therefore, become a means to an end and may be tangible or intangible, natural or synthetic, latent or manifest.

Tangible Resources

i Human Resources;
ii Money or Financial Resources;
iii Material (Natural or Synthetic) Resources;
iv Technological Resources.

Intangible Resources

i Knowledge Resources;
ii Information Resources;
iii Time Resources.

These resources abound, albeit in varying degrees, number and amount in all economies. The state like every other producer mobilizes, harnesses and utilizes these resources to achieve results. The performance of the state in the design and implementation of development plans, in scanning the environment for new opportunities and for the improvement of existing conditions are activities for which officers must render public accountability for actions taken and expenditure incurred.

Human resource is the most important of all the resources which are available to a country. Other resources (materials, equipment, capital, information) are passive and their contribution to productivity depends to a large extent on the effectiveness of the human resources. Thus, the human being is fundamental to the production process. Yet direct investment in human resource development in Africa is not accorded the significance it deserves.

Consequently, most African states are looking outward for human resources instead of inward and developing what they have. This state of affairs has created an environment in which there are now more expatriate advisers in the continent than were at the end of the colonial period. As the World Bank President has noted, "Africa is generously endowed with natural resources compared to many other regions of the world. What is virtually needed is the human capacity to make the most effective use of these resources and to harness them for its development. The first item on Africa's strategic agenda, therefore, is to increase her human-resources centred on development process".

This reaffirms the fact that in the development drive of Africa, people come first. The major concern is to equip public agencies with the right calibre of manpower and at the right quantity such as would enable them to meet and respond in positive terms to the needs of the people. If human resources of right quality and quantity are not available economic recovery will be hard to achieve. Thus adequate indigenous human capacity is a recipe for enhanced public service performance. As a corollary, it has been asserted that many of the UNDP projects failed in Africa because of the human capacity inadequacies.

The inadequacy of human resources as well as other factors like the inability of Governments to respond quickly and decisively to a rapidly changing, global and economic environment has unleashed a movement for the redefinition of the role of the state in national development. This movement has gathered momentum and is being justified as a result of the economic crisis of modern states in Africa. There is an increasing demand that the state should be relieved of some functions while the private sector and non-governmental organizations are being called upon to be more aggressive and positively involved in development efforts. This need arises from the incapacity of the state to achieve the objectives of enhancing economic and social progress and the promotion of all round national development.

Closely, related to the development of human resources to surmount the myriad of economic problems is the question of good governance and efficient administration with transparent honesty. The importance of this fact has been attested to during the 27th OAU Summit:

> ...we can build capacities, we can increase regional cooperation, we can invest in human resources and we can pursue with all our might the other goals of Africa's strategic agenda. But, it has become increasingly clear that all will be to no avail unless the quality of governance in Africa improves.

Thus, the quality of governance especially in relation to ethical standards, human rights, social justice, public accountability and democracy are necessary conditions for sustainable development.

Economic Crisis and Public Accountability

I have been at pains to point out the virulent nature of economic crisis and its all pervading influence and effect on the social fabric of the society. The resultant effect of economic crisis is the creation of a general climate in Africa which is reminiscent of Myrdal's concept of the "soft state". A "soft state", according to Myrdal, one that is characterized by various types of social ills, malaise and indiscipline, the result of deficiencies in legislation and in the observance and enforcement of law. Furthermore, rules and directives are not obeyed by public officials and thus collude with other powerful individuals and groups in the society to undermine probity and proper conduct.

Of equal importance, is the fact that with economic crisis, essential materials and resources become scarce and ethical standards become increasingly difficult to maintain. With scarcity occasioned by economic crisis, the demand of Government is usually high with calls to conducive environment for private sector performance, to establish institutional framework for public accountability and ethical conduct like Public Accounts Committee, Ombudsman and Code of Conduct Bureau. Thus, the state apparatus becomes complex and through the performance of these various agencies, public servants and their ministers are controlled and made accountable.

However, during economic crisis, more people will be struggling for the little available resources. Instances of misuse of power and unethical activities would definitely be on the increase, and if left unchecked, would further tarnish the image of a government. The vicious cycle which most African countries have inadvertently found themselves is that economic crisis has precipitated government intervention and the appropriation of full powers to regulate economic activities. These regulatory powers are intended to facilitate the smooth operation of free competitive markets. Some have argued that this shift to the market has tended to make corruption and unethical behaviour to thrive in the public service.

Economic Crisis and Ethical Behaviour

As stated earlier, ethics is a moral code or set of principles by which human behaviour is measured. Ethical behaviour will, therefore, be such behaviour that can measure up to these set and accepted ideals which act as an aid to moral guidance and can only be ignored at a great risk to the society. Thus, ethics is more than just what is good or bad, just or unjust, right or wrong, it also encompasses a systematic attempt, through the use of reason, to make sense of our individual and collective social and moral experience in such a way as to determine the rules that ought to govern human conduct and the values worth pursuing in life.

Conversely, an unethical behaviour would be such behaviour that disregards social mores and norms, that seeks to pursue individual interest and glorification over and above those of the society. However, I have pointed out that economic crisis tends to breed unethical behaviour which in turn begets either political corruption, bureaucratic corruption and corruption of the bureaucratic process. I am also of the

opinion that without the direct connivance and acceptance of bureaucrats, political corruption may not be perpetrated and that political corruption is allowed in order to pave way for bureaucratic corruption and corruption of the bureaucratic process. Thus, when discussing unethical behaviour, I have always held that this can only be meaningful if it is discussed in the light of these three types and recognized that one begets and actively cultivates the other in order to allow the former to be perpetrated.

In this respect therefore, the structure of corruption can be classified into three broad categories:

Political Corruption

- election and electoral fraud
- rigging of results
- award of false contracts
- wealth acquisition through financial impropriety
- misuse and abuse of political office
- conversion of public facilities for personal use.

Corruption of the Bureaucratic Process (Corruption in the Routine Course of Government Business)

- bribes solicited for and paid, to have compromising documents removed from files
- fraudulent use of government's facilities, e.g. stationery
- payment for letters of recommendation
- kick-backs for hiring
- permanent kick-back (no-fault bribes)
- phoney travel documents
- ghost workers and salary fraud
- neglect of public service for personal business
- embezzlements in every facet possible.

Fraud (Corruption in the Exercise of Substantive Government Business)

- false bills
- income tax fraud

- excise tax fraud
- import tax fraud
- business auditing fraud
- export tax fraud
- tax stamps fraud
- postal fraud
- court tampering
- military and police shake-down.

This list is not, in any way, exhaustive but do help to expose the tip of the iceberg. Ethical and unethical behaviour may be either institutional or systemic. Unethical behaviour is said to be institutionalized or systemic in a society where it has acquired a degree of acceptance, where it has become the norm, where it is the standard accepted behaviour necessary to accomplish any goal, and where it has become so regularized that its occurrence can be predicted. It is systemic when officials and clients can describe the same illegal process, when for each service rendered there is a standing illegal fee and the illegal takings are shared, up and down the hierarchy.

In most cases of unethical behaviour, money is usually a major factor of exchange. This is not surprising especially in a situation where virulent economic crisis has created scarcity of essential materials and goods; where the political-economy is characterized not only by market forces but also by a sharp distinction between the "haves" and the "have-nots". In a situation of grinding poverty, sharp class antagonisms, a callous and distant government, and the absence of any effective community organizations; of any institutions or values that might encourage cooperative efforts at self or group betterment, the public servants of low ethical standard will aspire to be among the "haves" and resort to demonstrate this through conspicuous consumption of luxury goods which they normally cannot afford from their salaries. Corruption will offer one means of augmenting the official's income in this case.

Thus, in a situation of economic crisis unethical behaviour or activities find support by an emerging but powerful economic class which sought immediate economic gain for themselves. Bureaucrats and politicians become vehicles for achieving such ends.

Conclusion

From the foregoing, I have attempted to show that economic crisis, resource scarcities and the decline in ethical standards have a mutually reinforcing relationship. This may, however, lead to the erroneous belief that if economic crisis or the factors that caused it are eliminated, resources would be readily available and the decline in ethical standards and instances of corruption will cease. This is not the case because corruption alters its character in response to changing socio-economic, cultural and political factors. As these factors affect corruption, so does corruption affect them. Corruption carries a dynamic mechanism that allows it to spill over and perpetuate itself.

Governmental machineries are not, by themselves, corrupt. It is the people; the public officials and political leader, that employ this machinery for corrupt purposes. Hence, the need to eradicate corruption and install ethical standard is dependent on the will of public officers to enthrone the principle of fair play, justice and a commitment to national development and respect for integrity.

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7

*The Ethical Dimension in Africa's Economic Recovery and Development**

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INTRODUCTION

In contrast to the immediate post-independence period when policy makers and administrators focused their attention on how to engineer socio-economic change, the recent years have witnessed a gradual retreat from central development planning. It is no longer taken for granted that a mathematically precise plan document reflecting the technocrats' idea of the statistical archetypes in society would by itself translate into rapid material progress. Besides, the dream of "catching up" with the industrialized societies receded as soon as it was discovered that factors beyond the planners" control made the expected "quantum leap" to modernization impossible. Today, instead of economic growth, Africa has had to live with economic decline, and in place of institutional vibrancy, institutional decay.

The question as to what were responsible for the devastating socio-economic crisis is closely related to that regarding Africa's capacity to stem the crisis in the short-run, and in the long run, eliminate or overcome the main obstacles to self-sustained development. It is a question which has elicited conflicting answers — ranging from the purely technical to the highly philosophical.

On the one hand is the argument that the on-going socio-economic crisis is the direct outcome of the persistent structural imbalances in the economy. If that is all there is to the crisis, the recovery

* This paper is derived from a study on *Ethics and Development Administration in Africa*, forthcoming.

strategy would appear to be obvious. For the economy to rebound, a number of short-term "structural adjustment" measures (such as the reduction in the size of the public sector, balancing the budget, and extending the frontiers of the "productive", private enterprise) would appear necessary.

However, structural adjustment programmes have been viewed with suspicion by the advocates of an inward-oriented strategy of development. Thus, according to the African Alternative Framework to Structural Adjustment Programmes, not only did structural adjustment inflict pains in the short-term, its effect in the long-run was to impede the economy's capacity for structural transformation and self reliance.

It is clear that in all the discussions of the socio-economic crisis, one subject that has not received the attention it deserves is the ethics of development policy and management. Yet, as this chapter goes on to argue, neither would the crisis facing the African economy be contained in the short-run, nor would an inward-oriented strategy of development succeed in the long-run until the ethical issue is settled. This of course is in contrast to the view currently gaining ground that economic decline is the "cause" of the rising frequency of ethical violations.

But to argue that a strong ethical foundation is a necessary precondition for economic recovery and development raises the question as to what is meant by ethics, or for that matter, development. The first part of the chapter discusses the nature and significance of ethics. The second part attempts to carry out a critical review of development theory taking into account the place of ethics in the construction of development models. The third part traces the relationship between Africa's socio-economic crisis and the escalating crisis of ethics. The fourth and final section of the chapter discusses practical ways of integrating ethics into the process of public policy formulation and management — that is, bearing in mind the underlying premise that the ethical challenge must be confronted before the purely economic issues are addressed.

1 The Nature and Significance of Ethics

Ethics is one field of enquiry in which lengthy treatises tend to be produced and heated discussions carried out without the possibility of intellectual curiosities being satisfied or a consensus on how to resolve practical problems reached. The major barriers to understanding in this

area lie in the goal and method of ethics. Like philosophy, ethics almost frequently embarks on the impossible mission of resolving paradoxes. In the process (of trying to reconcile the irreconcilable) ethics, in the view of sceptics, employs "the understanding in a field where it cannot profitably venture", and confounds the situation by disregarding all rules of language and grammar.[1] Since ethical propositions tend to be metaphysically and teleologically (rather than axiomatically and empirically) derived, they produce puzzles which could not be unravelled with the help of an automatic technique or a universally recognized expertise.[2]

While ethical questions generally prove to be intractable, we cannot evade them even for a short period. The central questions of contemporary politics and public administration tend to be ethical. Examples are the need for civil society and organized government; the nature of justice, fairness and equality; the scope and limits of law, power, authority and rules; and the place of the church *vis-a-vis* the State, or of God in relation to country. As long as these questions continue to produce conflicting answers,"the prospects of establishing a science in this field whether empirical or formal, seem remote".[3]

But then is the absence of a science of ethics such an insurmountable barrier to progress in the field? Judging by the recent advances in our knowledge of the universe — a knowledge made possible particularly by the combined contributions of theoretical and experimental physics — we cannot help bemoaning the fact that the simplest political or administrative problem still defies solution. The astrophycists can now plot the beginning of time up to the Big Bang, yet there is no political scientific method of nipping little disagreements among personalities or nations in the bud before they develop into big conflagrations. There is still no mathematically precise answer to questions such as Why should citizens accept to be ruled by their own kind? What criteria should be employed in distributing national wealth, or in fixing dividends on investments, interests on loans, and wages for services rendered? What are the socially acceptable methods of acquiring wealth and/or power?

As far as one can see, the barrier to progress in the study and application of ethics is not the lack of a scientific method of handling ethical problems. The enemy of understanding is to be found in man — particularly, the emotional part of man. It is the emotional side of man which most invariably overwhelms the rational, and by so doing, causes

man to incline from ethics to corruption — from truth to falsehood.

If the argument as the different religions make us believe, is that we need the "light of Heaven" to resolve ethical dilemmas, does that not then imply that there is a connection between ethics and religion? That leaves open the question whether man, in *relating* to other humans, needs a Super-Human Umpire to moderate debates over right (as against wrong) conduct, to support the "just" and expose the "wicked", and to exonerate the "innocent" and punish the "guilty". Is it not possible, within the framework of social organizations to establish a code of ethics to regulate individual behaviour? Even at the level of the family, there must be a set of unwritten rules which define individual members' duties and obligations. Deference to age and to position, condemnation of "indecent" acts or language, dissuasion of offsprings from eyeing the neighbours' food or luxuries — these and other child-rearing practices almost invariably form the basis of morality in all societies, and are not *necessarily* religious.

By the same token, one attribute of a modern society is the establishment of constitutional government in which rights, roles and obligations are defined with varying degrees of clarity. Also depending on the strength of the basic (political, administrative, judicial and social) institutions, the society might decide that it has reached a stage at which the religious institutions should hands off matters pertaining to the State. Secularization has been carried to its extreme limit in Marxist-oriented societies whose materialist conception of human development leaves no room for God.

But while the tendency towards "de-construction" frequently goes with advances in secular knowledge, it does not mean that the secular knowledge will suffice in settling ethical disputes. Whether we refer to a country with the longest-established tradition of representative government, or to the most highly industrialized, or further still, to the technologically less developed societies, man needs that Super-Human Umpire to unravel the mysteries surrounding interpersonal relations. Man may apply his rational faculties to the organization of societies and, in the process, come up with a system which appears to be self-regulating, self-reforming and self-sustaining. But no Human-engineered system is entirely autonomous. Sooner or later, the emotional part of man will gather forces which align with other forces to corrupt, and thereby undermine the autonomy of the system. In other words, each human system contains the seeds of its own corruption and the *raison*

d'etre for penultimate human, and ultimately divine, interventions.

Ethical violations will have an appeal where confidence in the fairness of earthly institutions is lacking and the hope of an after-life is dim.

Probably because of the feeling that the entire system's dice had been "loaded" from the beginning, some players frequently look for an opportunity to change the dice. When their faith in the rationality of the electorate and/or in representative government is shaken, they stuff ballot boxes, intimidate opponents, or participate in the military overthrow of a duly elected government. Where judges, policemen, customs inspectors, and immigration officials are known to value material comfort over loyalty to the state, they could be influenced by favour-seekers to temporarily forget their oath of allegiance and break the rules. Where honour rates far lower than material possessions, civil servants may be tempted to award dubious contracts to phony firms, inflate contract prices, and collude with outside parties to defraud the state. Where examination scandals are rampant, even bar examinations are not beyond suspicion. If the system devised by man does not distinguish between a crook and an honest citizen, gun-runners, armed robbers and drug barons would walk tall in the gathering of bona fide achievers.

It is, however, possible that pervasive corruption is being used by an individual to rationalize his abiding faithlessness— that is, lack of faith in one-self, in the external environment, and in one's Creator. Particularly where an individual has decided that the pleasures of the senses are to be preferred to the promises of a distant, unfathomable, and therefore, unbelievable, after-life, ethics has a very little role to play in day-to-day transactions. Says Allah in the Holy Qur'an,

> "And he who turns away from the remembrance of the Gracious God, We appoint for him a satan who becomes his (regular) companion". [Qur'an 43:35]

Such an individual's cynical attitude towards earthly institutions will tend to be reinforced by his rejection of divine guidance. His new comrade, satan, will frequently convince him that he is no longer *accountable* to anybody but himself — not to society, not to the government, and not to God. Once in a while, however, society may decide to claim its due, and the government may come under a new generation of people committed to decency, fairness and justice. If

neither the society nor the government proves capable of holding the satan-driven citizen to account, his Creator has at His command countless means of exacting a retribution. After all, as Lao Tzu admirably put it, "reversal is the movement of Tao" which is another way of saying, when an action exhausts its momentum, a process of its negation commences.

If the view is that God's intervention is necessary, and perhaps, inevitable, at a time when corruption has reached its limit—i.e. when the balance has to be restored in favour of justice, fairness, decency, and the maintenance of the natural order — are we then suggesting that society should place its destiny in the hands of psychics, soothsayers, spirit-mediums, and holy men? To so suggest is to take a retrogressive step in the study and practice of ethics. To start with, there is no guarantee that a system based on the traditional or charismatic authority of spiritual leaders would succeed where the legal-rational order failed. Secondly, religious leaders are notorious for being petulant and quarrelsome, especially, where political and economic issues interfere with the peace of the soul. Thirdly, holy men have been caught in unholy places thereby shaking the faith of the nominal members of their flock.

No, the argument is not that a spiritual oligarchy be entrusted with matters of state. Rather, the contention is that whoever is entrusted with the direction and administration of human affairs must be aware of their various and not necessarily conflicting obligations to man, to the environment, and to God.

2 Ethics and Human Progress: A Critical Review of Development Theory

Kwame Nkrumah's exhortation ("Seek ye first the political Kingdom, and everything else shall be added unto thee") encapsulates Africa's development strategy and dilemma over the past three decades. The search for the political kingdom was rewarded with the attainment of independence by many African countries in the 1960s. Yet, despite the time and effort devoted to economic planning, the political kingdom bequeathed to Africa has failed to add the "everything else" promised by the succeeding indigenous elites and eagerly awaited by their people. In many an African state, the kingdom has been shaken to its foundation as a result of military coups, economic adversity, social unrest, and the rapid decay of institutions.

Africa's development experience proved traumatic mainly because of the overwhelming attention paid by policy makers to material progress and the relegation of the ethical issues to a secondary position. At the dawn of independence, the dream of each country was to "catch up" with the technologically industrialized societies. Instead of looking inward, therefore, Africa's development planners looked up to the economically prosperous nations to supply the development model and the technology or "know-how" for operationalizing the model. Rather than focus on the needs of the generality of the people, the planners were content with macro-economic indicators (GDP, GNP, growth rate, rate of capital formation) which reflected how the new nations were doing in their effort to "catch up" with the industrialized ones.

The prevailing current of thought (particularly in the First Development Decade) actively supported the external orientation of the African economy. Economists and public administration scholars boosted their intellectual standing by pontificating on what the newly independent states had to do "to be like" the "advanced" economies.[4]

The prescriptions ranged from J. Schumpeter's advocacy of the development of entrepreneurial capacity, through the theory of Big Push or "balanced industrial growth" theory as espoused by R. Nurske and Rosenstein-Rodan (on the assumption that a diversified and capitalized industrial base was essential to rapid growth), to Albert O. Hirschman's "unbalanced growth" thesis.[5]

Even political scientists staked the future of democracy on rapid industrialization and economic "modernization". S.M. Lipset argues that the more well-to-do a nation was, the greater the chances that it would sustain democratic ideals and institutions.[6] He even goes to great lengths to "prove" this by producing tables which showed that:

> the average wealth, degree of industrialization and urbanization, and the level of education is much higher for the... democratic countries than for the non-democratic ones.[7]

It is interesting that in Lipset's classification scheme, Belgium and Ireland emerged as "stable democracies", while Spain, Portugal and France did not. Chile, Columbia and Costa Rica were among the "democracies and unstable dictatorships", while El Salvador, Haiti, Nicaragua and Panama were grouped with the "stable dictatorships."

Despite the serious empirical flaws in the Lipset study, Gabriel

Almond and Sidney Verba, in their own cross-cultural study of political cultures in different parts of the world, came to more or less the same conclusion—that there was a connection between industrial development and democratic government. Daniel Lerner not only equated development with modernization but went further to argue that if the Islamic societies of the Middle East wished to advance technologically, they had to rethink aspects of their faith inhibiting the application of "western technology."[8] A former US Presidential Adviser, Zbignier Brzezinski went on record as saying that the "passivity" and "fatalism" of Islam made it an inappropriate agent of economic development.

The same ethno-centric and unilinear view of human progress runs through the major studies carried out in the field of development administration. Monroe Berger might not have bluntly asked the Islamic societies of the Middle East to choose between their faith and "western technology", but he felt that this technology would be within their reach if they reformed the "static" values of Islam.

Fred W. Riggs' "prismatic model", based on his comparison of Asian societies with the West, was not an apologia for "western know-how", but it too suggested that socio-political and administrative institutions in non-western societies had a lot of "catching up" to do to match the "efficiency" and "effectiveness" of their western counterparts. It will be a worthy intellectual exercise to find out if the Four Tigers (Korea, Taiwan, Hong Kong and Singapore) got to where they are today *because* they heeded Riggs' advice to imbibe "western" values.

The Myth of Technology Transfer

One thing is clear: the term "western technology" or "western know-how" is spurious both in meta-physical logic and in experience.

Confucian metaphysics, as we noted earlier, traces all the existent conditions and forces in the universe to one source — *Ming*. Islamic metaphysics identifies this Ming as Allah. In Chapter 43, Verse 31 of the Holy Quran, this same Allah poses a question and answers it:

> "Is it they (human beings) who apportion the mercy of thy Lord? It is We (Allah) who apportion among them their livelihood in the present life, and we place some of them above others in degrees of rank...."

Does this then mean that the developing societies should accept their fate and do nothing about poverty and economic backwardness?

If human design is incapable of changing Allah's decree, what point is there in making deliberate efforts to plan economies and to improve the lot of the generality of the people? If the answer to these questions is that the developing societies should simply do nothing, the philosophy on which such a policy (of non-action) rests would have rightly earned the appellations of passivism and fatalism. However, neither Confucian nor Islamic thought endorses a rigid and deterministic view of the world order. Islam, in particular, enjoins the believers to take conscious steps to reform corrupt, chaotic, and improperly managed systems.

In case any adherent of Islam wishes to hide behind destiny for the rest of his life, Allah makes it clear to him that He (Allah) does

> not change what is in a people until they change what is in themselves.[9]

What then is in the African people which the *Africans* themselves have to change before they can expect the forces of the universe to work for them? First, they (the leaders and their followers) need to renew their faith in their God-given abilities. Indeed, it is about time that they erase from their mind the idea that technology is "owned" by a particular people or region, and that the only options available to those not in possession of the technology are to "copy", "steal" (through acts of piracy or espionage) or "buy" it.

Admittedly, there is a technology to which a particular set of people have, by virtue of their constant and ceaseless probing into the mysteries of the universe, gained access. Perhaps while on this, we may wish to ask which western school of aviation technology "trained" the birds to fly high in the sky, and which company now producing the most advanced submarines taught the shark and various species of fish the science of deep-sea swimming? Which firm of architects and structural engineers built for the tiny ants the ant-hill which is the precursor of our skyscrapers?

The simple fact is that the generality of the developing world embraced "technology transfer" because it was the soft option. It did not require that they explore their environment and appreciate the amount of resources their Creator has abundantly endowed them with. Technology transfer did not entail earmarking funds and developing manpower for research and development. However, just as the inherited political kingdom would not by itself solve all post-independence problems, a technology patented in other societies would not serve

Africa's needs. In any case, it is immoral for one society to live on the ideas and effort of another. It is also a counter-productive strategy of development.

Economic Down-Turn

Contrary to the then prevailing belief that economic growth and democracy would always go together, Africa's outward-oriented strategy of development was rewarded neither with economic growth nor with political stability. In contrast to a population growth rate of approximately 3.0 per cent, Africa's annual output growth between 1980 and 1990 rarely exceeded 2.8 per cent. As Table 1 indicates, the sharp decline in GDP in some countries adversely affected the outlays on services such as health and education.

The widening external deficits and the increasing external debt obligations compelled the majority of African countries to implement stringent structural adjustment reforms. The basic thrusts of the reforms are sharp reduction in public expenditure, reduction in the size of the government, privatization of public enterprises, devaluation of currency, abolition of subsidies, and elimination of price controls. The next section traces the impact of these measures on ethics in the public service.

Social Mobilization

In the meantime, we should note that despite the downturn in the economy, the rate of social mobilization tended to rise. The rising level of unemployment meant a widening circle of literate, able-bodied but disaffected citizens. The population explosion was confounded by the rapid growth of urban population (currently estimated at 5 per cent per annum). A combination of factors (natural calamities, political conflicts and civil disorder, ethnic hostilities and wars) accounted for the rapid increase in refugee population. In contrast to 1969 when the number of Africa's refugees stood at 800,000, by the end of the 1970s, the number had risen to 4 million. In 1986, it was reported that one out of every three refugees was from Africa.[10] The United Nations Secretary-General's 1991 Report on the implementation of UNPAAERD also indicates that the number in absolute poverty in Africa rose from 270 million people in 1986 to 335 million in 1990.

Table 1

African Countries with Most Severe Cuts in Per Capita GDP, and Health and Education Expenditure

(Annual per cent change)

Country	Health 1979–1983	Education 1979–1983	GPD 1980–1985
Ghana	-15.8 (a)	- 9.5 (a)	- 4.4
Malawi	- 9.8 (a)	+ 7.0 (a)	- 1.0
Sudan	- 9.5	-16.8 (a)	- 2.6
Togo	- 7.5	+ 3.3	- 3.7
Liberia	- 6.9	- 0.6	- 7.1
Mauritius	- 6.6	- 7.7	–
Tunisia	- 6.4	- 16.6 (a)	+ 1.4

NB (a) = 1979 – 82

Source: P. Pinstrup-Andersen, M. Jaramillo, and F. Stewart, "The Impact on Government Expenditure", in G. A. Corina, R. Jolly and F. Stewart (eds) *Adjustment with a Human Face,* vol. I, UNICEF, Oxford University Press, 1987.

Political and Institutional Decay

In effect therefore, the claim that the transfer of western political institutions would promote a peaceful transition to democracy was not borne out by the experience of Africa. In any case, as far back as 1968, S.P. Huntington had taken a position which seemed to be at odds with the then prevailing current in political thought. He warned that the capacity of the institutions inherited at independence would be sorely tested by a rapid rate of social mobilization. He was of the view that in much of Asia, Africa, and Latin America,

> equality of political participation is growing much more rapidly than the "art of associating together", that is, the institutions necessary for orderly political behaviour. Social and economic change — growth of cities, increases in (western) literacy and education, industrialization, expansion of mass communications — these broaden political awareness, increase political demands, and widen political participation. These changes weaken traditional sources of political authority and traditional political institutions....[11]

Unfortunately, the succeeding generation of leaders continued to behave as if nothing had changed. Might was equated with right. Power became an end in itself and competition for it tended to be fierce and bloody. In many African countries, military rulers stepped in ostensibly to correct previous wrong-doings and in the hope of stemming the rising tide of discontent. But no sooner a new regime exposes the failings of its predecessor than it too embarks on confidence-shattering measures — arrogant and brutal display of power, blatant violation of human rights, deliberate weakening of public service institutions (through politicization, summary dismissal of senior administrators etc.), and diversion of public funds to private (mostly overseas) accounts. Under such circumstances, it was difficult securing the loyalty of officials to, and enlisting the support of citizens for, public institutions. Indeed, as the numerous tribunals of inquiry published reports of malfeasance in public office, the people tended to become increasingly cynical about government. The next section shows that this cynicism combined with other factors to push a few otherwise dedicated civil servants and law-abiding citizens over the edge.

3 The Relationship Between Africa's Economic and Ethical Crisis

There is no doubt that Africa's socio-economic crisis and the rising frequency of ethical violations are in some ways related to each other. The popular view is that the former is the *cause* of the latter. For example, Mulokozi et al. attributed the rising incidence of smuggling, hoarding, profiteering, abuse of office, and moonlighting to the deteriorating economic situation in Tanzania.[12] The retrenchment of public service personnel in the wake of structural adjustment reforms also exposed many families in different parts of Africa to the dilemma of how to keep body and soul together. And by extending the frontiers of

private enterprise, the reform measures opened the "window of opportunities" to entrepreneurs and buccaneers in hitherto-forsaken areas. One such area is drug trafficking and abuse. In contrast to 1971 when the International Narcotics Board indicated that Africa was free of major drug abuse, in 1989, the same Board raised an alarm:

> Evidence of spreading drug abuse is mounting. Africa is attracting ever larger numbers of drug traffickers who take advantage of inadequate control arrangements....[13]

Equally disturbing is the increase in the volume and variety of narcotics distributed in, or transited through, Africa. Table 2 indicates that in 1971, the most dreaded substance was cannabis. Heroin and cocaine were unheard of. By 1982 and 1986, the situation had changed radically.

The drug trade is definitely injurious to the health and well-being of millions of people throughout the world. Its attraction lies in the huge profits it generates relative to the returns on legitimate economic transactions. As the UNDP points out,

> The enormous illegal profits in producing and using countries criminalizes society, corrupts law enforcers, and brings political violence to countries and military conflicts between them.[14]

The institutions which are liable to be corrupted by the drug trade include the judiciary, the police and armed services, the customs and immigration departments, the prisons, and the banks (the last being used for money laundering purposes).

Ethics as an Independent Variable

While there is a close parallel between Africa's economic crisis and criminal propensities in society, it will be difficult to sustain the hypothesis that the former triggers off the latter. In fact, it is the other way round. The negation of ethics preceded economic decline. The new patterns of crime (drug trafficking, possession of, and trafficking in, lethal weapons, Mafia-style executions and political assassinations) may raise eyebrows because they threaten the fabric of society, but the perpetrators of the crimes are only taking advantage of the long-established weakness of public institutions. Until these institutions are

rehabilitated and confidence in them restored, corruption will continue to be a thriving and expanding "business" with devastating consequences on economic recovery and development.

Meanwhile, legitimate undertakings are exposed to multiple risks. First, in an atmosphere where it is difficult to distinguish between "cops" and "robbers", nobody is above suspicion. Yet modern business operations thrive on mutual trust and confidence. Secondly, no honest businessman can compete effectively when the goods they produce can be purchased abroad with the "windfall" from illegitimate transactions and then dumped on the local market. Thirdly, illegitimate trade rarely add value to the economy or to the prosperity of legitimate activities. The drug trade, in particular, produces a "junkies generation" that is not known for pioneering or sustaining the take-off to self-sustained industrialization. Its effect on the health and productivity of a nation's workforce is in fact generally negative. In 1984, Yaba Psychiatric Hospital (in Nigeria) treated 8,234 patients. In 1987, the number rose to 12,587. Barely two years later (in 1989) the figure went up to 70,316.[15] The strain on the nation's medical facilities can be imagined.

So far, we have focused on the negative impact of the newly discovered avenues of illegal enrichment — impact on the integrity of institutions and on the socio-economic well-being of African countries. The traditional transgressions should not escape our attention. They range from wanton misallocation of resources and arrogant display of power, through over-invoicing, the inflation of contract prices, to conflict of interest, acceptance of bribes and gratifications, falsification of records, embezzlement, nepotism, abuse of office, abuse of due process, collusion with outside parties to defraud the state, acts of disloyalty to the state, and misuse of public property. The actual economic cost of each of these ethical violations is difficult to calculate since the individuals concerned seldom made public their deeds. Nonetheless, and in so far as the deeds undermined the integrity, impaired the performance, and detracted from the credibility, of public institutions, their overall effect will be to, at best, slow down, at worst, halt, the economic recovery process. Until the idea of "doing an honest day's job for an honest day's pay" is brought back, money will continue to change hands at incredible velocity but the economy will remain at a standstill. In the specific case of resource allocation, the UNDP 1991 Human Development Report has estimated that nearly $50 billion a year (about 2 per cent of the GNP of developing countries) could be released

for productive uses. It is indeed obscene that when many countries in Africa were groaning under the burden of debt, capital flight was equal to between 50% and 80% of the outstanding debt. In some countries, corruption is an "industry" accounting for up to 4 per cent of GNP. Large chunks of scarce resources are allocated to the military and the public enterprise sector while the health and educational services are left to rot. These are as much ethical as they are economic issues. The next section discusses measures aimed at re-establishing the ethos and ideals of public service as a step towards revitalizing the institutions.

4 Economic Recovery and Development and a New Ethical Orientation: A Summation

If Africa is to find a lasting solution to the on-going socio-economic crisis, the people of the continent must first agree on how to confront the more dangerous enemy — institutional corruption. It must be stated at the outset that the job of reforming the institutions is neither for a vote-seeking politician nor for a self-righteous military regime. Africa has listened to too many promises from sweet-talking politicians. The yawning gap between their promises and performance has lowered the profession of politics in the esteem of the public.

The disillusion with politics is only matched by the disgust with the sanctimonious postures adopted by military regimes. Even where a military regime begins with good intentions, it is liable to be distracted by forces from within and without. Its claim to professionalism may at first enable it to pursue policies which poll-guided politicians shy away from, but in time, the military, which insisted it owed no allegiance to any interest, becomes a vested interest — a constituency to be cultivated, if not a god to be appeased. Its monopoly of the power of violence sometimes leads it to the belief that it is accountable to no-one but itself.

If the task of reforming the society cannot be entrusted to career politicians and military interventionists, who else can we turn to? The academic community is not a vibrant body it used to be. The social critics that it used to harbour have either succumbed to materialist temptations or been otherwise contained by the authorities. The spiritual leaders have in some countries eroded their own influence by dabbling in earthly matters such as who is appointed to what office, who merits a (religious) title, and who owns what property.

Yet someone or a group of people have to kindle the fire of ethical regeneration. Allah, the All-knowing, exhorts mankind,

> "And let there be among you a group of people who invite (others) to goodness, enjoin equity and forbid evil. And it is they who shall prosper." (Quran 3:104)

This group of people are the true leaders. They should, however, entertain no illusion that they will be instantly accepted by their own people. They will, at first, be given various negative appellations (charlatans, hypocrites, crack-pots, and day-dreamers). Even the closest members of their families will find it difficult understanding their language. Nonetheless, if they are truly dedicated and are not deterred by the initial obstacles, their message will be transmitted far and wide. As they increase in number, they will constitute a new, unstoppable force known for upholding the rights of individuals — regardless of the individuals' earthly origins — and resisting corruption, no matter the attraction of its *outward* appearance.

The message which the group is expected to transmit is as important as the group itself. Proceeding from the premise that genuine power originates from, and belongs to, the Creator, and that the Creator gives the power to whom He pleases, the group is expected to be at the forefront of the struggle for:

i government based on the consent of the governed;

ii accountability of institutions and of the incumbents of public offices;

iii instant separation of incumbents from office who violate their oaths of office and hold their institutions to public ridicule;

iv justice and fairness in inter-personal relations, and

v the institutionalization of proper, decent, logical and *natural* ways of handling day-to-day problems.

The group should also pay attention to the education and training of career officials and the general public in the area of ethics and values.

This is a subject that is discussed further elsewhere. Suffice it to add that a programme of ethical education and training should be comprehensive in coverage, and rich in content. In addition to designing appropriate courses targeted to different levels of a country's educational system, the reformers should see to the preparation of materials and modules focusing on the education and training needs of the family, the peer groups, and voluntary associations among others. Wherever possible, formal training sessions should be supported with case studies — case studies of fallen despots, of honest and dedicated civil servants, of deliberate abuse of procedures, and of reform of institutions. Above all, the trainers should go beyond deductive reasoning and empirical analysis in trying to resolve ethical dilemmas. No matter how the conventional text-books on public administration attempt a comprehensive coverage of the subject of ethics, they cannot succeed in capturing the subtle and the grey areas. It is therefore necessary to supplement the existing body of literature with extensive research into religious tracts, and to acquaint oneself with the writings of those who have made the study of ethics their life's vocation. Apart from the well-known ones (like Plato, Spinoza and Kant) and the not-so-familiar eastern philosophers (Confucius, Chuang Tzu, Hui Shih, and Lao Tzu), Christian scholars such as Thomas Aquinas and Augustine as well as Islamic scholars such as Imam Al-Gazzali, Imam Razi, and Ibn Al-Arabi have produced lucid and enlightening works on ethics.

The reforming group referred to earlier should, in any case, be on the look out for "fifth columnists" — those who might wish to use the reform message as a front for nefarious activities or for the advancement of their political, administrative, or professional career. Satan's power lies in its mobility. However, if the group pursues its goal with dedication, the ubiquitous devil will not succeed in deflecting the noble ideals of the ethical revolution.

Notes

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3. *Ibid.*, p.7.
4. See A.B. Mountjoy (ed) *Developing the Underdeveloped Countries*,

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8

Ethical Violations in Nigeria's Public Services: Patterns, Explanations and Remedies

Dele Olowu

INTRODUCTION

Whereas it was possible to identify and isolate cases of ethical violations in Nigeria's public services in the years before and after political independence, developments in the political and economic spheres have reduced the Nigerian public sector into almost a pure form of institutionalized corruption.[1] The motivation for corruption in the public sector must be sought in the prevailing institutions and policies extent in the political and economic spheres. Administrative or institutional reform efforts aimed at curbing corruption are evaluated but together are at best cosmetic in this context. At worst they simply aggravate the situation. Nevertheless, the chapter indicates how the present adverse policies can be reversed such that the public sector can become moral, efficient and developed.

1 Evidence of Political and Bureaucratic Corruption

The Nigerian public service received a lot of praise for its high ethical and technical standards of performance up to the first few years after political independence. Compared to the political class, whose tendency for corrupt behaviour especially in diverting government resources to illegally finance their political parties, recruit members and line their own pockets was only surpassed by the bickering and violence among its members, permanent officials were perceived to have remained faithful to their professional ethics of objectivity, impartiality, anonymity and

high moral and pecuniary rectitude. Junior level officers might occasionally fall below these expectations and in particular, local government, especially in Southern Nigeria was described as the haven of corruption and venality but this had nothing to do with the rest of the public service.[2]

The advent of military rule in 1966 and the oil boom of the late 1960s increased the temptation for public officials. They not only began to serve in civil capacity (as political officers) but they also supervised the rapid expansion of the public service — both in terms of its scope of oversight and engaging in the direct production of goods and services. It was also the period when a major effort was made to indigenize the country's private sector.[3] When it became necessary to clear the augean stables with the overthrow of the Gowon administration in 1975, several of the 11,000 public servants removed from the service were retired for various offences ranging from "divided loyalty", "abuse of office", to "absenteeism", and "corruption".

More recent studies have confirmed that bureaucratic corruption is a phenomenon that is prevalent throughout the Nigerian public service system. At the local government level, Dele Ayo compiled over a dozen cases of bureaucratic corruption in three States (Ogun, Oyo and Kaduna) and all cadres of public functionaries were included (senior, middle, junior; political as well as administrative).[4] At the State level, I had also done three case studies of bureaucratic corruption involving politicians, senior civil servants and businessmen in Lagos State.[5] Other scholars have written about the bureaucratic corruption associated with military officials.[6] Periodic government reports and inquiries also provide ample evidence of bureaucratic corruption.[7] The largest haul of documented cases however were associated with the Second Republic politicians and top government (PTG) functionaries. An analysis of the various military tribunal judgements reveals that most of these offences dealt with currency or currency-related offences, use of government resources for political parties and corrupt enrichment.[8]

In spite of the long term sentences imposed on those convicted, these convictions were greeted with public cynicism for most people knew that military rulers were often more guilty of greater crimes than those for which civilian politicians and top government functionaries of the Second Republic were convicted.

Newspaper sample analysis shows that the incidence of corruption has increased with time rather than declined. Some of the most celebrated scandals include those surrounding the operations of local

governments, parastatals, and banks including the recently-created People's Bank. Incendiary has become a proven way of covering up public servants' financial improprieties. Several cases of collusion between Nigerians and foreign and local contractors have been uncovered. The acme of bureaucratic corruption would seem to be the police, the parastatals, the judiciary, the banks (the largest of the latter all have government controlling their majority shares and, of course, the civil service). The Report of the Political Bureau which was meant to chart the course of the country's political future notes that "corruption and indiscipline are two of the most serious problems which have confronted the Nigerian political process since independence". The Report then went on to paint a comprehensive picture of the dimensions of corrupt practices within and outside government:

> Corruption has become a household word in Nigerian society from the highest levels of the political and business elites to the ordinary person in the village. Its multifarious manifestations include the inflation of government contracts in return for kick-backs; frauds and falsification of accounts in the public service; examination malpractices in our educational institutions including universities; the taking of bribes and perversion of justice among the police, the judiciary and other organs for administering justice; and the various hideous crimes against the state in the business and industrial sectors of our economy, in collusion with multinational companies such as over-invoicing of goods, foreign exchange swindling, hoarding, and smuggling. At the village level, corruption manifests itself in such forms as adulteration of market goods, or denting of measures to reduce their contents with a view to giving advantage to the seller.[9]

The upshot of all the above is to underscore two important points. First, corruption is not only pervasive through the Nigerian public service including the political and permanent officials but is also endemic, manifesting under both military and civilian administrations. Indeed, corrupt practices have become noticeable even in the large and small scale private enterprises. Second, the Nigerian public service is locked into a vicious cycle of corruption — poor performance — low image and more corruption. The Study Team appointed by the Buhari/Idiagbon regime to study and make recommendations on the Federal Civil Service in 1984 noted that the civil service had by then become "a battered institution which has virtually lost its vital attributes."[10]

2 Explanations of Public Sector Corruption in Nigeria

To the extent that the correct diagnosis of a disease is necessary to its cure, an explanation of the incidence of institutionalized corruption in the Nigerian public service merits attention. Four major explanations have been offered and each of these will be reviewed briefly.

The first explanation focuses on African traditional practices and behaviours — and how some of these conflict with the behavioral expectations of a modern democracy. Several aspects of this conflict between the traditional and modern have been discussed and we can examine a few of them. Some point to the different values obtaining between the modern state as an institution and the rest of society. Peter Ekeh in his theory of two publics uses mainly Nigerian material to establish that there are two publics which constitute the African public sector — the primordial public and the civic public. In explaining the dialectics of these two publics (one moral, the other amoral), Ekeh sums up as follows:

> The unwritten law of the dialectics is that it is legitimate to rob the civic public in order to strengthen the primordial public ... There are two forms of corruption that are associated with the dialectics. The first is what is regarded as embezzlement of funds from the civic public, from the government to be specific. The second is the solicitation and acceptance of bribes from individuals seeking services provided by the civic public by those who provide the services. Both carry little moral sanction and may well receive great moral approbation from members of one's primordial public. But contrariwise, these forms are completely absent in the primordial public.[11]

When these two conflicting values coexist in the same organization as Fred Riggs argues, then what obtains are situations of administrative normlessness, formalism, overlapping structures and nepotism.[12] Another aspect of African tradition which some scholars have noted is the tradition of gift-giving before rendering services. This is different from "tips" which are a token and which are usually given *after* the service has been rendered.[13]

A second major explanation of corruption in the Nigerian public sector takes the political party as its focus. The ruling party brusques of no opposition and thus seeks not simply to perpetuate its rule through election malpractices, attempts at extermination of the opposition and

all other autonomous agencies but in politicising the service. Public servants who resist corrupt practices have little protection. On the other hand those who collaborate are rewarded with juicy appointments. In such a circumstance, standards of professionalism and civic morality become expendable especially since no alternative body of ethical principles are articulated by the champions of politicization.[14]

A third explanation for public sector corruption is the size of the public sector. Given the fledgling nature of the organized private sector and in the absence of strong institutions of accountability, public officers function without any sense of accounting to anyone. This type of situation reaches its apogee under military regime whose members perceive themselves as a revolutionary group above the constitution and all other social institutions.[15] That public sector institutions fail to perform under such a circumstance should surprise no one. Rather what should surprise anybody is that they function at all.

Finally, some commentators point to the nature of the African State. Epithets such as "comprador", "entreport", "state capitalism" have all been used to describe a situation in which the African State combines "the financial centralization of state collectivist systems with the extensive interventionist powers of the liberal welfare state".[16] Officials in government not only interact constantly with a highly dependent private sector but they come under intense pressure in terms of advancing public interest against their own private, often pecuniary interests. One variant of this line of reasoning is the one that regards capitalism as the source of materialistic craze for wealth with little regard on how this wealth was acquired in the first place. The facile remedy to the problem once defined this way is the adoption of socialism. The global failure of socialism in recent years besides the peculiar forms corruption associated with these regimes has made such facile solutions less attractive in recent times.[17]

Each of these perspectives offers important insights to understanding the processes and dynamics of corruption in the Nigerian public sector. However, it is significant to note that none of the measures devised to deal with the problem based on conventional understandings has succeeded in tackling either the traditional or modern activators of public sector corruption. It is necessary at this juncture to highlight some of the major measures that have been devised to date to deal with p.s.c. in Nigeria.

3 Review of Efforts to Combat Corruption in the Public Service

The major measures that have been taken in Nigeria to deal with p.s.c. include the following:

i Media Campaigns by Individuals and Governments

This approach changes with varying administrations. Under the Gowon administration, media campaigns were championed by individuals who perceive themselves as anti-corruption crusaders. Their activities led to the establishment of the ill-fated Corrupt Practices Bureau (see below). There are still a few anti-corruption crusaders but such crusades, as exist, are now carried on by media-houses. Since these media houses are all government controlled and also lack police powers, their effectiveness is limited.

In recent years, governments have begun to sponsor media campaigns either as part of the "War Against Indiscipline" (especially during the Buhari/Idiagbon regime, 1984/85) or the programme for mobilization for Social and Economic Recovery by the Directorate for Social Mobilization during the Babangida regime (1986–Present).

A slightly different version of this form of p.s.c. control are the occasional declarations by the heads of governments. For instance, starting with General Obasanjo, it is now customary for heads of government to make occasional or annual statements at a Defence Training College in Jaji, Kaduna condemning various forms of corruption manifest in the nation. But even the Second Republic Civilian President had a programme of "ethical revolution" which he hoped will deal a death blow on the "mountain of corruption" existing within the country.

But for the fact that the media gives prominence to these activities of the successive administrations, it would not have been necessary to even mention some of these forms of p.s.c. control, simply because they are so ineffective. The Shagari regime which launched an ethical revolution was dismissed from office because of the widespread p.s.c. in his time.

ii Specialized and Ad hoc Bodies to Fight Corruption

The following institutional strategies have been used to fight p.s.c. in Nigeria:

- Tribunals with wide powers to speedily mete out punishment to corrupt public officers, such tribunals replace the normal courts which are regarded as too slow or tardy. These tribunals are usually established by military decrees.

- Specialized bodies such as the Public Complaints Commission (PCC) established in 1975 and the Corrupt Practices Bureau which was abolished in 1978 and which re-emerged later as a Code of Conduct Bureau.[18]

The Code of Conduct itself evolved from the administrative reform effort of 1975 (popularly called the Udoji Reform) and was incorporated into the 1979 Constitution in a more elaborated form. The 1989 Constitution contains the same Code with only some minor accretions. The Code of Conduct among others requires that public officers do not allow their personal interests to conflict with their official responsibilities, are not engaged in secondary pecuniary engagements, live above their legitimate income, be members of secret societies, operate foreign accounts, acquire or sell state property while in office nor take loans. Public officers must not ask for gifts from banks or recognized financial institutions bribes nor take them if offered neither can they take up more than one public sector job after retirement. Most importantly, public officers must declare their assets immediately after taking office, at the end of every four years and at the end of their terms of office. These written declarations of assets must include those of spouses and all unnamed children under 18 years.

It is the responsibility of the Code of Conduct Bureau to examine and scrutinize these declarations and receive any complaints against any public officer. The Code of Conduct Tribunal is responsible for adjudicating on cases emanating from the Bureau with the possibility of appeal to the Federal High Courts.

Only the President, the Vice-President and one Minister declared their assets throughout the life of the Second Republic. The president claimed that it was because the National Assembly did not pass the bill to effect the Code of Conduct Bureau (CCB). Neither was the Code of Conduct Tribunal (CCT) appointed throughout the life of the Second Republic [19]

The Public Complaints Commission, also a constitutional body is charged with investigating all complaints in respect of administrative

actions by officials of public or private agencies considered by the citizens as contrary to law or regulation, arbitrary, unfair or oppressive, improper in motivation. The PCC which has offices at federal, state and local levels, has functioned since 1975 and some appraisals of its work now exists. It has tended to be more successful at dealing with matters relating to routine administration rather than major cases of corruption. This is due in part to the several exemptions to its scope (the list of exemptions include: any matter pending before the Council of State, Federal or State Cabinets, any court of law or tribunal, matters involving members of the armed forces or the police or other security agencies, or those which have not exhausted all available administrative procedures or in which the complainant has no personal interest). Other problems are that the PCC has no police powers of its own, is underfunded and is over bureaucratized, that is, it is dominated by civil service staff and a civil service outlook. It resolves 40% of all cases reported to it annually.[20]

Public Accounts Committee

This is one institution which is expected to assist the legislature in carrying out its oversight functions over all executive offices with respect to the expenditure of public funds. The auditor-general is expected to render annual reports and comments on annual accounts of the government to the legislature. The PAC is the legislative committee which helps to scrutinize these reports.

Since the military has dominated the political landscape, the legislature has not really been able to exercise the type of restraint which the constitution expects of it, even under civilian governments for the simple reason that it is the least developed among the three branches of government.

It is the first to be suspended by military rulers when they seize power. When they are not in power, the civilian executives continue to dominate the activities of the fledgling legislature either in terms of staffing, preparation of bills etc. either directly or through the party system. Also, there is the tendency for parties to field their best candidates for executive rather than legislative positions. Moreover, the constitutions have tended to treat the legislatures as inferior institutions as is evident from the relatively short days of meeting or the manner of their remuneration. During the Third Republic legislators will only be

paid on part-time basis. The legislature will meet also for a maximum of 181 days; the Second Republic Constitution fixed this as the minimum period of meeting.

Nevertheless, the PAC does operate under military rule. It usually comprises members who are selected by the ruling military elite. But PAC was convened only a few times throughout the 13 years of the first military rule (1966–1979). PAC was reconstituted by the Obasanjo administration when it had only 4 months left to leave office in 1979. This PAC within one and half months considered audit reports of over 18 ministries, Departments and parastatals spanning the last 13 years. To make matters worse, Permanent Secretaries who were the Accounting Officers persistently refused to appear before the Committee, audit queries were disregarded, PAC decisions flouted and indeed audit staff were assaulted in course of their work without any sanctions.

During the Second Republic, matters grew worse. In spite of broad powers given to PAC under the 1979 Constitution (repeated in the 1989 Constitution), to prevent and expose corruption inefficiency or waste in the execution or administration of laws or in the disbursement or administration of funds disbursed by the legislature, PACs were moribund throughout the period of recent review notes. "No single" report was presented to the National Assembly throughout the life-span of that administration. In fact the PACs, at the State legislatures were non-existent.[21]

It is no wonder then that at the end of the Second Republic in 1984, a meeting of the Auditor-General of the Federation with State Directors of Audit disclosed that the latest financial statement submitted to the Auditor-General for auditing was for 1980, only State Government, submitted theirs for 1966/67 fiscal year and that five of the states created in 1976 (Benue, Niger, Plateau, Oyo and Kaduna) had never submitted audited reports since they were created![22]

To rectify this situation, the present (military) administration promulgated Decree 7 of 1987 to give teeth to PAC under the military administration. The new PAC then started to examine federal government accounts and those of its parastatals from 1978. By 1991, PAC was still working on the 1988 report. Some of the findings from these reports include: General apathy on the part of Ministries and Departments resulting in responding to audit queries; the prevalence of fraudulent practices in virtually many Ministries and Departments resulting in loss of public funds; deliberate destruction of relevant documents by fire to

conceal information that would lead to the arrest and prosecution of culprits; and the general desire to spend or dispose of large sums of money towards the end of every year. The chances are that such sums of money are never efficiently deployed. There were also evidences of deliberate circumvention of tender procedure in the award of contracts and some contractors being paid for jobs either not fully executed at all.

Having reviewed all these remedial measures and their general ineffectiveness, we would therefore need to probe further to examine why they have been ineffective and what would constitute real remedies for tackling p.s.c.

I intend to argue, drawing on the above - mentioned attempts, that explanation for the incidence of institutionalized bureaucratic corruption must be sought not necessarily in past cultures and traditions or even the nature of politics but in the past and contemporary policies and institutional weaknesses and how these two impact on the country's political culture. The significance of this line of argument is that it makes the problem less intractable, as it will lead to the identification of the harmful policies/institutions and their possible replacement by new ones. The Nigerian experience demonstrates clearly how policies and institutions could promote p.s.c. These policies in particular affect the polity and the economy.

The four policies which I have identified are: overcentralization, excessive bureaucratization, anti-democratization, and de-motivation to perform efficiently and honestly in the public service.

4 Policies and Institutional Weaknesses Promoting Bureaucratic Corruption in Nigeria

Most close students of the bureaucracy are quick to point out that the modern public bureaucracy is a relatively recent phenomenon. In fact, the modern bureaucracy is a 19th century development. It arose out of three complementary conditions: (a) an economy that was able to generate a sustained surplus to provide for a very well paid army of military and non-military officials; (b) the pressures towards social and economic equality and (c) the existence of an ethic of service. Modern public services became necessary to provide the legal framework for industrial growth and also to mediate between powerful groups and protect the weakest groups within the society.

At the heart of the problem confronting African public services is

the fact that none of these three conditions seems to hold in many African countries today.[23] The economy of many African nations are not only stagnant, they are in deep crisis of declining productivity. Secondly, until the most recent times (1990s) there was really no commitment to either economic or political equality/democracy. Finally, the ethics of service while well accepted as a norm in informal sector operations remains an alien concept in the formal sector. Unfortunately, the non-official sector has been treated as completely unrelated to the modern public administration system. As a result, a political culture is sustained which alienates the mass of the people from their government, the government being perceived as an institution to be pillaged by those who happen to find themselves engaged in exercising power in public institutions.

I will argue in what follows that the absence of the above mentioned conditions is responsible for the situation of institutionalized p.s.c. in Africa, using the Nigerian example as a case. Furthermore, I shall develop the argument that in fact the absence of these conditions have been brought about by the pursuit of economic and social policies by African leaders which do not fit to the realities of the environment in which the African public service is situated. Among these polices, I will comment on four in particular: over-centralization, excessive bureaucratization, non-democratization and the pauperization of the public service. All of these feed into a political culture of graft, fraud and corruption in the public service.

Overcentralization

African countries entered their respective post-independence eras with a lot of confidence in the power and potency of the central state. A colleague of mine and myself recently made an assessment of the impact of this centralized strategy of Africa's social, political and economic development in the last thirty odd years. We have argued that in spite of the achievements of that period, the centralized strategy was a flawed one. Centralization was defined in terms of civic capacity, constitutional concentration of powers, relative resource and expenditure levels of central and sub-national units, the level of resource concentration between headquarters and the field and the relative importance of government in the national economy. The core presuppositions which supported this excessive drive towards centralization leading to the

adoption of half-baked socialist state ideologies, one-party rule, personal dictatorships and military rule included: the doctrine of elite superiority as found either in the modernization or socialist manifestos; the promise into modern states within a short period, the legacy of colonial administration which emphasized executive powers at the expense of the other initial political institutions and certain unfortunate interpretations of the notion of the state as superior to the society in the "state-society" nexus.

Almost everywhere on the continent the results were the same in terms of the policy:

> great blunders in policy and management; inefficient but expanding bureaucracies, extermination or repression of the opposition, forced or voluntary exile of key leaders: mass cynicism and alienation of the people from government; the capturing of "monopoly rents" by bureaucratic classes which these small economies could not tolerate; and in several cases to civil war or breakdown of social orders. The overall effect has been counter productive for development: resources have been wasted, lives have been destroyed and often, existing institutions have decayed.[24]

The Nigerian example represents a dramatic illustration of how political and economic values which were widely shared by the people and their leaders on the need for relatively decentralized (or indeed non-centralized) political and economic structures which existed in the pre- and immediate post-independence years were transformed into highly centralized values and institutions by another leadership group, the military in collaboration with intellectual elements by the oil boom. It would not do good to repeat these details here but within the first thirteen years of military rule the federal system had become a "unitary system in federal disguise", resources had become highly centralized in the federal executive, all institutions for making the central government accountable such as the legislature or the judiciary were either decreed out of existence (together with the constitution) or effectively circumscribed (e.g. with ouster clauses on decrees and key government personnel).

Administratively, all institutions were subjugated by virtue of the major public service reform of 1975 to the federal civil service whose key officers were now regarded as super-permanent secretaries. Every other institution within the public sector (and indeed in the private) were

regarded as relatively inferior to the federal civil service — and these included state, civil services and their agencies, public enterprises, universities etc. Local governments were reformed but in the process brought more effectively under state tutelage. Whereas the state/regional governments expenditures put together constituted 199% of federal expenditures in 1960, some thirty years later, state governments (even though they had increased from only 3 units to 21) spent only 20.5% while the federal government was responsible for 70.6%, local governments being responsible for the balance.

Military rule bequeathed constitutions in the post-military era that gave all the major legislative, administrative powers as well as the financially buoyant revenue sources to the federal government (it presently collects over 75% of the total public resources which it then doles out to all 30 states and 589 Local Governments as statutory allocations). In addition, the strategic sectors of the economy, popularly referred to as "the commanding heights" of the economy (a large sector of the economy even after SAP in 1986) remains under the exclusive control and management of the federal government constitutionally.

This unabated trend toward centralization has had some positive gains as I have argued elsewhere, however, the balance sheet of military rule and its concomitant centralization has been a negative one for Nigeria. First, centralization, especially since it was also fuelled by windfall gains from oil which were all captured by the public sector led to economic decline because of the adoption of policies which repressed agriculture, induced reckless and unquestionable spending in various sectors and the phenomenal increase in defence expenditures. Second, centralization brought about a dangerous dependency not only of other public sector institutions (states, public enterprises, corporations, universities, trade union but also the private sector) on the central government — the public sector institutions in terms of direct financing, the private sector institutions in terms of capital projects. Private enterprise contracting led to several abuses: over-invoicing, cost inflation and top-level corruption especially in the oil industry. Most importantly, centralization and the dependency on oil revenues undermined the polity in two critical respects. First, it weakened the need for internal revenue generation, accountability even as it made any consistent planning of government expenditures impossible. Oil was the key revenue generator responsible for 75%–85% of total public resources and was heavily dependent on the international market forces.

Increasingly, state and local government revenue generating efforts declined. With the decline in revenue generation is also the decline in the people's interest in public accountability, a feeling that government resources are no one's resources and only the busy bodies will raise alarm concerning wasteful spending. Generally, African governments are not known to derive much money from direct tax revenue sources and oil dependency made this even less so in Nigeria. Jane Guyer (1990) has argued and, I think rightly, so, that the fiduciary contract between the government and the governed is one of the key but neglected issues in African governance.

The second critical impact of centralization was that it generated a powerful pressure towards sharing the nation's resources rather than developing new or additional resources. The popular phraseology for this in Nigeria is sharing of the "national cake" and it extends not just to revenues but those expenditure items which result from central government resources — admissions into federal secondary schools, polytechnics, universities, employment opportunities in the federal civil and public services and the armed forces and the same struggle among primordial groupings has been replicated at state and even local government levels. Indeed, this factor alone is mostly responsible for continuing agitation for the creation of more states and local governments. Both of these institutions are generating less and less of own expenditure needs and until recently (only at the state level) these sub-national units do not need to make any effort to qualify for federal revenue allocation. The Babangida administration which created two additional states in 1987 created nine new states and 146 new local governments in August 1991.

One major device which the military foisted on Nigeria for accommodating the problem of ethnicity which several years military review up is popularly referred to as "the federal character clause". The constitution provides that federal agencies will be operated and composed in such a way as to reflect federal character; the state governments must also reflect their regional/ethnic diversities. This loose and over-generalized concept of "spoils" has not only fuelled more ethnicity, within the policy, it has led to inefficiency, and greater levels of corruption and indiscipline in the public service.[25]

A sixth impact which he had earlier alluded to is that this approach to governance fuels political instability as the struggle to control the centre (by the various tribal groups) and with it the apparatus of decision-

making, has become ever-more pressing. It is important to reiterate the point that this high level political centralization was not the only form, there are also high levels of *administrative* centralization, represented in the very poor levels of field administrations (40%) when the reverse is the case in the developed or industrialized nation which have the preponderance of their civil services in the field e.g. USA (90%), France (70%), Britain (75%) etc. The proximity of civil officials to the people they serve reduces opportunities for p.s.c.

Due to limitations of space, I shall only summarize the three other policies that are promoting in my view p.s.c. — in Nigeria.

Excessive Bureaucratization

This has three important manifestations. First, the imposition of civil service rules and standards on public enterprises, corporations, local governments, trade unions and even voluntary organizations, thus defeating their original *raison-d'etre*. This provides greater opportunities for corruption by those who control the levers of the central civil service. A second manifestation is the increasing takeover of responsibilities which used to be performed by the private sector or voluntary agencies by the public sector. The result again is not only inefficiency but corrupt behaviour. In the hey-days of military rule, a large number of activities in the economic (e.g. agriculture, industries, banks, insurance, mining etc.) and social services (e.g. primary and secondary schools, hospitals etc.) which had been run with fairly high levels of efficiency by private or voluntary agencies were taken over by the government. Other African countries went beyond such selective takeover to undertake complete nationalization.

The central problem here is that these central bureaucracies are being pressurized to take on more tasks than they are either capable or qualified to undertake given severe resource levels— the quantity and quality of civil officials, essential equipments and tools etc. Such pressures lead to opportunities for p.s.c. A recent review of the Nigerian federal civil service shows that the years when that institution was expected to give direction to a wider number of agencies were also the years when its resources levels (budgetary capital grants) declined precipitously (from 4.3% of capital expenditure in 1974 to 2.4% in 1984).[26]

A third manifestation of overbureaucratization is the secrecy with

which almost all public sector activity is shrouded. More important, is the great difficulty encountered in bringing about even a minimal change in set ways of getting things done.

It is apparent that the type of bureaucratization that I am referring to here is the pathological not the functional type — the absence of a sense of cost in terms of money or time, the delays or poor performance. The sole explanation of these patterns of behaviour was the absence or inadequate attention to the ethical concerns in constituting an institution such as the bureaucracy or indeed in determining its scope. Rules that can ensure efficient and moral performance are often not properly articulated, the average official is not trained in them and most importantly the institutions which can enforce and detect non-observance are either non-existent, poorly resourced or simply weak.

Anti-Democratizatic Attitudes

Military rule is the opposite of democratic governance. Not even a "populist" military administration such as the ones that Nigeria enjoys presently can be regarded as promotive of democracy and occasionally military rulers actually come forward to state that while they are interested in ensuring successful transition to democracy in the future they do not have any pretensions to being democratic. Only a democratic regime or at least one that is aspiring towards it can make genuine efforts towards putting in place institutions for ensuring that it is accountable. Citizens can also demand it from such an administration. Military rulers claim to be revolutionaries and therefore above the law or any accounting. The fetish for announcing annual budgets are never matched with the practice of appraising achievements in concrete terms. Indeed, the fourth development plan was never publicly appraised. The federal account contains two stabilization funds none of which is adequately accounted for.

Absolute power, according to the Actonian dictum, corrupts absolutely and the Nigerian military have been no exception. However, what is particularly damning is that the misguided attempt by the military to "correct" the political climate and regime further aggravates the difficulties of democratic governance by *distorting* social forces (e.g. banning and unbanning all old politicians in favour of unknown, inexperienced "new breed" politicians, the sponsoring of political parties, imposing election modes such as open balloting even if it was clearly

unpopular etc.) besides *repressing* society (via ouster decrees and the unlawful arrest, detention of journalists, harassment of civil organizations such as human rights groups, association of university teachers, students' organization, censorship of the press etc.).

Two other legacies of military rule which I must mention without discussing it are (a) the militarization of society (greater incidence of armed robbery, assassinations, coups and counter-coups resulting in social and political instability) and (b) the politicization of the military (with substantial loss of fighting men, morale, ethos and a large number of retired but not tried generals).

All these have unmistakable impact on social discipline and the post-military political order which the military often complains about and uses as an excuse to bring itself back. One central worry on Nigeria's political future is what can be done to stop the military misadventure into politics?

Pauperization of the Civil and Public Services

To ensure that public officials devote all their energies to the service of the state, and also to ensure personnel stability, civil service pay must strive to set a standard for other social institutions and at least to be comparable with what obtains in the private sector.

Yet, even before the advent of Structural Adjustment Programme (SAP) Nigerian public officials had suffered seriously both from wage erosion as well as from salary compression. Research on another African country which has suffered severe wage erosion of this nature indicates that the adjustment behaviour patterns include: fraudulent practices, such as the improper use of allowances, reduction of actual working hours (because of the need to keep multiple jobs to sustain minimum living standards), and outright corruption arising from payments to ghost workers, promotion through patronage all of which have had their toll on bureaucratic efficiency. The author concluded his findings noting that: "dismally low salaries can impel government employees into corruption through need rather than greed".[27]

Derek Robinson came to the same conclusion in his study of some African countries (Nigeria inclusive): the real value of civil salary scales have fallen over the decade 1975 – 85, (Nigerian public officials were regarded as earning one-third of their 1975 salaries). In all countries, declining pay has set off a brain drain from the public service

to the private sector and to the wealthier countries of the north and of the Saudi Arabian desert. In addition, more not less people have been recruited either illegally or because governments were constrained by the unprecedented high levels of secondary school and university graduate unemployment which they faced. Robinson concludes the study by noting as follows:

> If salaries, both recruitment salaries and salaries paid to those already employed, fall too far behind the expected levels, in other employment, or the levels consistent with the standards of living that civil servants either have or expect to have on the basis of past trends, there is a great danger not only that performance will suffer because individuals lose their motivation, and because they will be tempted to spend official working time and perhaps resources on private interest. Corruption will be encouraged because if civil servants cannot maintain their living standards from the formal provisions of public service employment they will be tempted to seek to do so from the opportunities for unofficial and illegal activities provided by their official employment. It is, of course, extremely difficult to obtain reliable information on the existence or extent of private business activities, moonlighting (the holding of second jobs), or corruption. Yet it is widely believed that all these practices are present in many civil services.[28]

Most of the points raised above were found in a recent examination of one of the largest state civil services in Nigeria. There were so many incidence of absenteeism, loitering and "ghost workers" a phenomenon which has now become ubiquitous in the Nigerian public service.[29]

The result of this has been a sporadic activity on the part of government to respond to the pressures from public officials or labour unions. Hence an elongated salary structure was put in place in 1988 but it was badly bungled. In 1991, the President announced another measure — that raised the minimum wage to N250.00. Besides the fact that several agencies outside the federal government (states, local governments, universities etc.) have not been able to pay this new salary structure because of fund scarcity, the measure was not in keeping with the reality of the forces operating on the public and civil services. First, the civil services have been experiencing an exodus of the brightest and best (popularly known as brain drain), leaving those who do not have options in the system. So the important thing ought to be to attract and retain the best at the top rather than aggravate the problem of wage compression. Second, the rate of devaluation of the

Naira has been phenomenal. The one US dollar exchanged for N0.80 in 1985 currently it exchanges for N25.00–N35.00. The full value of devaluation has been impacted on costs in an economy that is as export-dependent as Nigeria's. The sharp consequent reduction in spending power leaves virtually all officials with no other options than seeking *alternative* or *multiple* jobs or seeking legal and illegal ways of augmenting their incomes. Most officials no longer feel that any of these strategies is immoral. The problem is compounded by the reduction of resource inputs: work space, equipments, even stationery in several offices.[30]

5 Directions for the Future

In conclusion, I will indicate the type of policies which if pursued may begin to address the four problems I have identified above. Again, I shall be very brief because of space considerations. All of the strategies point in the opposite directions of the present policies which have undermined the civil services and their agencies.

Decentralization

This would include not just *political decentralization* but a return to the principle of *non-centralization* of resources and powers among a multiplicity of competing and collaborating self governing and self-regulating social institutions. These will include not just state and local governments, but public enterprises, universities, trade unions etc. It will also incorporate administrative decentralization at all levels of government. The field administrations must be strengthened in terms of the quantity, quality of personnel, finance and discretionary authority. Finally, there must be economic decentralization. Each unit of governance must be allowed resources to give it integrity as a social self-governing organization. Emphasis will have to shift from revenue or cake sharing to revenue mobilization. One way to begin is giving a greater weight to the revenue generating efforts of all institutions (federal, state, local and public agencies) in making financial grants to them.

Given the increasing size of the national debt, I have suggested the placement of moratorium on all external indebtedness and the use of a sizeable proportion (50–70%) of the nation's oil earnings to pay off the nation's debts within a seven-year period when all governments will

be forced to rely on own revenue sources.

Debureaucratization

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Notes

1. A situation in which corruption has become "a way of life... is officially sanctioned and the normal way of conducting business". Caiden 1983:164.
2. Nicolson's 1969:278 comment on the role of civil servants in the rampant corruption by politicians in the First Republic includes the fact that: "some bold civil servants stuck to their guns with remarkable fortitude in the face of circumstances of a trying order". For other favourable assessments of the Civil Service during this period see Murray 1980; Adebo 1983: 302–305; Adamolekun 1986:73. For the study of corruption in Southern Nigeria Local governments see Wraith and Simpskins 1963:61.
3. Adamolekun 1986: 177. See also Dudley 1982: 116–117, cited in Olowu 1990: 214. For other assessments along the same lines see A. Adedeji 1968:144. The Public was coming to the view just before the January 1966 coup, that some civil servants were just as culpable (of corruption) as the politicians.
4. Ayo, 1986.
5. Olowu, 1985.
6. Turner, 1978; Eker, 1981. See also Adamolekun, 1986 and Dudley, 1983 already cited above.
7. For a sample, see Nigeria 1975: 10 of 12 military governors of the states under the Gowon administration were found to have corruptly enriched themselves. Their assets were confiscated and the 10 were dismissed from the armed forces. The Babangida administration reinstated them in 1991. For others see Nigeria 1985a, 1985b on the abuses perpetrated in the Federal Housing Authority and the Federal Mortgage Bank respectively between 1974 and 1984.
8. Nigeria, 1986.
9. Nigeria 1987: 213.
10. Nigeria, 1985c: 19.

11. Ekeh, 1975: 108,110–111.
12. Riggs, 1964.
13. Brownsberger, 1983.
14. Murray 1968, Adamolekun 1986: 99–137.
15. Olowu, 1988. This paper also contains a review of these various explanations for public sector corruption in African countries.
16. Joseph, 1987.
17. For forms of corruption in a socialist economy see Katsenelinboigen 1983 and Mars and Altman.
18. For a full list and review, see, Dele Olowu, 1983, 1985.
19. See Nwabueze 1985: 298–302.
20. Adamolekun, 1985; Ayeni, 1987.
21. Shehu, 1991.
22. Cited in Inanga, 1985:5.
23. Clarke, 1983: xi.
24. Olowu and Wunsch, 1990.
25. Ekeh, 1988: 35–39.
26. Nigeria, 1985c: 57.
27. Chew, 1990: 1010.
28. Robinson, 1991: 150.
29. Lagos State Government, 1991.
30. Olowu et al., 1991.

9

Organizations for Upholding Administrative Ethics in Africa: The Case of Ethiopia

Girma W. Selassie

INTRODUCTION

This chapter treats post-revolution Ethiopia. For that reason, many of the causes of corruption that are discussed in this chapter relate to the problem of transition from one system to a radically different system of government. Revolution, whatever its brand, is a recurrent phenomenon in our continent so that its impact on corruption deserves a close examination.

One of the declared objectives of the 1974 Ethiopian Revolution was to stamp out corruption, which was roundly condemned as "the hangover of the defunct feudo-bourgeois regime."[1] To that end, new institutions such as the Working People's Control Committee and the Special court were created and a special penal code, with a retroactive effect, was enacted. Later on, the old attorney-general's office was re-established with considerably increased power and responsibilities. Other institutions such as the auditor-general's office and the regular courts were also revamped and maintained.

For the sake of convenience, the chapter is divided into two sections. In the first section, some of the salient factors that induce corrupt practices are examined, while in the second, the effectiveness of some of the agencies that were intended to combat corruption is explored.

1 Some Factors that Induce Corruption

The Influence of Tradition

A modern government structure in Ethiopia is a recent development even by the standard of most African countries. The country was not colonized for any appreciable period so that it did not inherit even the semblance of European administrative system, as did most countries on the continent. Instead, the classical feudal rule prevailed for centuries. For the most part, the Emperor reigned nominally but regional lords ruled their respective areas with full authority.

Since officials were not salaried, they remunerated themselves by imposing taxes or dues or by receiving tributes or gifts from lesser officials, who in turn received the same from the people. Hence, it was an accepted practice that governors at all levels should receive gifts and tributes from the public. Even judges lived on the fine they imposed on the parties who came before them.

It was Emperor Menelik II, who early this century, for the first time instituted a modicum of a modern government structure. He appointed ministers and made regional rulers accountable directly to himself and the office of the governor-general was made appointive. He also prohibited regional governors from maintaining their own armies and decreed that all civil servants should be paid from the state treasury. This was certainly a radical departure from tradition. But the actual realization of these noble goals should be credited to Emperor Haile Selassie, who effectively completed the centralization process and built up a fairly modern administrative machinery. Even so, he had to issue the following decree as recently as in 1942:

> In accordance with the new administrative regulations, Governor-Generals, Directors, Governors, Judges, mislenies, soldiers, police officers and the police and all other government employees are paid monthly salaries according to the rates fixed by the Imperial government. They are forbidden to receive any money from the people other than what has been fixed for them by the government.[2]

In the same decree it was enacted that:

> A Governor-General is strictly forbidden to receive *"metin, metaya, mestengido, ljmensha"* and similar kinds of gifts which may be brought to him in the course of his tour (in his province).[3]

It was further decreed that:

> The Governor-General shall be responsible for the supervision of the due payment into the government treasury of all taxes and dues legally fixed by the Imperial Government. As it is forbidden to collect taxes and dues not legally fixed by the government all such offenders, officials and government employees shall be prosecuted before the criminal courts.[4]

Nevertheless, customs that prevailed for centuries do not simply die out in a generation or two. Despite the numerous imperial decrees that forbade accepting tributes or gifts from the public, traditional officials were said to have largely continued the old practice.

It is also to be noted that the decrees cited above, later strengthened by the penal code, are barely half a century old. It is no wonder, therefore, that accepting "gifts" — which now qualify as "bribe" — does not intensely shock the society compared to many other crimes which the law treats as less serious. That said, one should immediately add that this attitude is rapidly changing as economic relations have radically changed.

Poverty

Poverty has long been identified as a major contributory factor to corrupt behaviour. Ethiopia shares this sad plight with the rest of Africa, if only in its most acute form. In the last decade, drought and civil war have combined to reduce the country to one of the poorest in the world. The people's per capita income is under US $ 100 and is declining.[5]

The Agricultural sector, which employs over 80% of the working population, is said to grow by 1% per annum while the population growth rate is 2.95%. No wonder, therefore, that millions of Ethiopians are at present on the verge of starvation. Accurate figures are hard to come by, but full and hidden unemployment is believed to be extremely high. Drought and civil war constantly feed the unemployment market with displaced people.

The income of the public servant necessarily mirrors the larger economic picture. The lowest salary for a civil servant is an equivalent of US$ 25 (at the official rate) per month. The country cannot afford a regular cost of living adjustment so that inflation — reported to be 8% in 1990 — keeps eating away at the already very low income of the public servant. It is evident, therefore, that most public servants cannot make

ends meet and, for many, corruption may be the only source of relief. The duty to support the extended family makes the temptation all the more difficult to resist.

It is believed that the tendency to get corrupted is accentuated as the public servant approaches retirement age. The present pension benefit for a public servant is a fraction of the average salary earned during the last three years of the individual's public service. That obviously means a considerable decline in the already very low living standard. Hence, for many a public servant the last few years are time for "stocking up" for the rainy days.

Civil War

The Civil war that is raging in the country has led to the breakdown of law and order in many regions. Normal administrative procedures are replaced by emergency measures and discretionary powers are readily given or assumed. This, in turn, has created a conducive environment for the corrupt.

Even honest individuals face a dilemma in a war situation. Whereas the mobilization of enormous resources is required to execute the war, one has also to dispense with strict accounting and administrative procedures. It should be nearly impossible to attempt to audit the number of bullets the largest army in Africa expended or the amount of gasoline it consumed in one year. And yet, nearly 50% of the country's annual budget goes for defence. The loosening of control mechanisms in a conflict situation may have to be accepted as one of the ill effects of war. But equal harm is done by corrupt officials who use the conflict as an excuse and refuse to submit to regular control mechanisms even where this is possible.

War situations also necessitate the granting of broad discretionary powers to administrative agencies. A recently enacted law which empowers administrative tribunals of tens of thousands of mass organizations to impose a sentence of up to one year in jail and/or Birr 100 in fine is a good example.[6] Such discretionary powers could be used most effectively by those who wish to enrich themselves by merely flexing their legal muscle.

Political Instability

Political instability is another sorry feature of African life. The frequent change of governments brings into the system a new team of political leaders and, with them, a large number of new civil servants. Most of these are people who used to envy the relatively good life politicians and bureaucrats led. The newcomers, quite naturally, step into the shoes of their predecessors and there is no time to lose. One simply cannot go about his new officialdom in his cheap suits. Where does all the money come from to satisfy the new demands for literally hundreds of new officials? State coffers, bribery and other forms of corruption are at least possible sources.

No sooner does the new team get rich and comfortable than it is overthrown. The story of the leper sitting by the way side, his wounds covered with a multitude of flies, comes to mind. A good samaritan approaches the leper and drives away the flies. To the samaritan's surprise, the leper bitterly protested: "What did I do to deserve this unkindness? The flies you just drove away had their fill and were no longer doing much harm to me. Now that they are gone, a new horde of starved flies will invade my wounds." That is the story of Africa. Change of governments is, more often than not, by violent means so that African politicians — which term includes very many of the civil servants who in the first place came to office through nepotism and other corrupt practices — live in a constant state of political insecurity. The danger of being overthrown is ever present, and often results in those who were in power being exiled. Hence, very many people in power prepare for a life abroad with their families which venture requires a large sum of money. For most salaried politicians and civil servants the only source for such wealth is corruption.

The Mushrooming of Bureaucracy

Under socialism a state seeks to control most aspects of life in a country. To that end, it nationalizes the major means of production and brings under its control social and economic groupings, the existence of which it approves of or merely tolerates. To carry out the enormous responsibility it thus assumes, the state creates a huge bureaucracy, indeed, it converts the whole nation into one colossal bureaucracy.

Socialist Ethiopia accomplished this task in several ways:

Creation of New Institutions

A host of new institutions were created. One such example is the Worker's Party of Ethiopia, a body that was superimposed on the regular administrative bureaucracy and gradually usurped all the day-to-day decision-making power. Its branches were created not only at all administrative levels but also in most government agencies, public enterprises and mass organizations.

The Working People's Control Committee is another body that falls in the same category, it also seeks to establish itself at all administrative strata and in every government agency, public enterprise and mass and professional associations. Dozens of commissions, authorities, corporations, etc. have also been created over the last few years.

Bureaucratization of Mass Organizations

Tens of thousands of mass organizations are established and granted state authority. Each peasants' association, for instance, has an average of twenty officers who overnight turned themselves into full-fledged bureaucrats. Their authority included allocating and re-allocating plots of land to members, adjudicating disputes and performing a variety of other administrative tasks.

Enlargement of Existing Bureaucracy

The existing bureaucracy was also enlarged by increasing the number and size of government agencies. The poorest country in the world has two ministries for trade (internal and external) and a country that cannot even feed its population has three agriculture related ministries (ministries of agriculture, state farm and tea and coffee).

Since the private sector was weakened due to the socialist-oriented economic policy, the state became the major employer. In fact, it assumed sole responsibility for hiring the tens of thousands of young people who graduated every year from universities, junior colleges and training institutes. As a result of this policy, many a government agency is forced to maintain a manpower much in excess of its actual

requirements. It is no wonder, therefore, that the national revenue does not even cover the recurrent expenditure of the government.

The Proliferation of Regulations

Socialism as practised to-date is notorious for its prolific breeding of regulations that govern economic, political and social activities of the people. On the other hand, it should be admitted today more than ever before that human beings are by nature averse to anything that unduly limits their free will. They would, therefore, devise every means to evade or circumvent such undue restrictions.

Since Ethiopia declared socialism a multitude of laws, regulations and directives have been issued to control many sectors of societal activity —especially the economic sector. Quite a number of these were motivated by noble ideals such as preventing the exploitation of man by man.

The regulation that prohibits individuals from leasing their houses is one of many such examples. But the limited capacity of the state to provide housing for the fast growing urban population made the policy totally unworkable. The acute demand that ensued necessarily made housing a new and lucrative field for corruption. The same is true of the regulations that sought to control the movement of people and of commodities within and outside the country. Both moved despite the regulations. But at what cost?

Laxity of Control Mechanisms

It has been noted that socialist Ethiopia created a host of new bureaucracies and converted many others into semibureaucratic institutions. In the latter category fall the tens of thousands of mass organizations. Peasants' Associations in particular exercise state power as well as cater for their members. In both capacities, they manage a great deal of wealth. Yet, there is next to no control mechanism to ensure the propriety of their financial and property management. Their accounts were supposed to be examined by the Auditor-General's Office but it is inconceivable for such a small office to regularly audit the accounts of nearly 30,000 associations.

Even where some malfeasance is detected, nobody seems to know who should take the culprits to court to retrieve the misappropriated

money, especially where the officers of the associations are implicated, as is usually the case.

Hence, it is widely believed that embezzlement has long been rampant among officials of mass organizations. A recent spot-checking of the accounts of farmers' cooperatives in one province alone revealed that over 5 million Birr could not be accounted for. It should be difficult to imagine what the situation could be in the thousands of Peasants' associations, cooperatives, professional and other associations throughout the country.

Lack of Coordination among Control Agencies

The success of the efforts of one agency in combating corruption very much depends on the effective participation of a number of other agencies. The crime of embezzlement, for instance, should be discovered by officials of the affected agency and reported to the Workers' Control Committee, which, in turn, should be assisted by the Auditor-General's Office; then the case should be passed on to the police who carry out the investigation with a view to having the individual prosecuted; the latter responsibility is that of the procurator's office. Finally, the case goes to the courts. If the chain breaks at any one point, as it often does, the case is bound to fail. A good example is a case where an officer of a public enterprise was arrested for embezzling 1.5 million birr.[7] The Working People's Committee did its own investigation and was convinced of the guilt of the suspect. But the police were not so certain. The latter insisted that the account in question be examined by expert accountants. The Auditor-General's Office declined to participate on the ground that it could not spare any of its experts. Nor could the services of private accountants be secured because nobody would foot the bill. In the meantime, the suspect was languishing in jail for more than a year until he was released on bail.

2 Effectiveness of Agencies in Combating Corruption

The Working People's Control Committee

Existing political and administrative structures are prime targets of most revolutions. This is particularly true in a situation where a socialist revolution overturns a capitalist system. Existing political and major administrative superstructures are dismantled almost by the stroke of a

pen. But one always finds that replacing the defunct institutions with new ones is a much more daunting task. Moreover, a breakdown of law and order often accompanies such a radical transfer of power.

In the midst of all these, a socialist state undertakes a massive nationalization of private property which tremendously increases its responsibility. As a result, the need for effective management and control system is felt before long. In the Soviet Union, the response was to create a network of mass-based control committees, which had the power to oversee the activities of all government institutions, economic entities and mass organizations.

The same need was felt soon after Ethiopia decided to nationalize the so-called commanding heights of the economy. Nor was it surprising that Ethiopia—which had declared a socialist oriented development policy— adopted the same solution as the Soviet Union. The Working People's Control Committee was established November 5, 1981.[8]

Organization of the Committee

Initially, the committee had a five-tier structure, four of which were based on the administrative divisions of the country. The national committee, accountable to the head of state, had 11 members' coopted from among the people from the forums of mass organizations and professional associations organized at the national level.[9]

The same process was applied in establishing provincial, *Awraja* and *Woreda* Committees. Each committee was accountable to the next higher committee and exercised the powers of the institution within the administrative region. The Basic Committee was the lowest organ in the hierarchy of the control Committee and was to be established in every government institution, organization and cooperative society. Each basic committee was accountable to the *Woreda* Committee and exercised similar powers in the entity in which it was established.

Whereas members of the executive committee (each committee has a three-man executive committee), except for those of basic committees, worked on a full-time basis, all the rest remained at their regular jobs and served on the committees on a part-time basis for a period of two years.

The Re-Establishment of the Committee

In September of 1987, Ethiopia enacted a new constitution and declared herself a republic. Consequently, some of the features of the People's Control Committee had to be trimmed to bring it into line with the provisions of the constitution and to reconcile some of its powers and duties with those of other newly created state organs. To that end, the Committee was re-established in 1987.[10]

The National Committee became elected by and accountable to the National Assembly. When the Assembly is not in session, the Committee is accountable to the Council of State and the President. The major changes in its powers are the following:

- it cannot publicize through the mass media cases of wastage and misuse of public property or abuse of power before such acts are established by a court decision.

- it can suspend the use, sale, exchange or transfer of property only for a period of 72 hours.

- it can impound property for only 48 hours and detain people for no longer than 24 hours (a substantial reduction from the previous three months.)

- If these periods need to be extended, the Committee should, in each case, secure the authorization of the procurator's office.

Effectiveness of the Committee

It is clear that enormous powers are vested in the committee — including the powers to supervise the implementation of proclamations, regulations and directives; investigate any malpractice in any government agency, public enterprise or mass organizations; seize property and order the detention of suspects. It can also call for the services of any public agency and their professionals. Such agencies and all members of the public are required to cooperate, failure thereof constituting a criminal act.

Armed with all these powers, the National Committee opened its

doors to the public and before long it was inundated with accusations, reports and information on people who allegedly misappropriated public funds or otherwise committed a variety of acts of maladministration. Names of several people and their alleged crimes were released to the press almost on a daily basis.

Very soon, the committee acquired a reputation for hasty and ill-considered measures and a propensity for dramatizing its activities. The Special court dismissed several cases which the committee had already publicized in the mass media.

The difficulties of the National committee were further compounded because it could not adequately organize itself. In 1989, eight years after it was established, it had committees only in nine out of 30 provinces. Out of 365 *Awrajas,* it had committees only in 8 of them, and had 1087 basic committees in government agencies, public enterprises and mass organizations whose number should run into tens of thousands (Peasants' Associations alone number more than 20,000). In terms of manpower, it had only a miniscule 333 full-time employees, the majority of whom are low-level personnel.[11]

In 1990, the Ethiopian Government declared that it was abandoning its socialist road to development replacing it with a mixed economic policy. Since the Working People's Control Committee is closely associated with socialism, people, including those who volunteered to give their services to the committee, assumed that the end of socialism in Ethiopia also augured certain death for the Committee. At present, therefore, the Committee is in the doldrums, not being certain as to its future.

Why hasn't the control Committee been as effective as desired in fighting corruption and other forms of illegality? The committee itself points to the following shortcomings:[12]

- lack of adequate staff and financial support;

- the fact that 99.7% of its personnel are not fulltime employees and take their responsibility to the Committee as secondary;

- inadequate support from agencies that should cooperate with the Committee if its efforts are to bear fruit. Since the Committee itself had neither the facility nor the expert staff

to conduct investigations, it relies on the assistance of the police, the auditor-general's office, the procuracy and dozens of other agencies. Lack of enthusiasm on the part of the latter has a crippling effect on the activities of the Committee. Some agencies are reluctant to supply vital information because doing so would reveal their own inadequacies. Others complain that they do not have enough staff to spare. Yet, others consider the activities of the Committee as unnecessary intrusion in their own territories.

the application of undue influence against the Committee. The primary objective of the Committee is to combat corruption in official circles. Hence, it is to be expected that officials who are directly or indirectly targeted would bring maximum pressure against the committee. Most agencies in which basic committees operate also apply a variety of techniques to undermine their activities. These include denying basic facilities such as offices, telephone, stationery and staff support. Some have also discouraged employees from participating in the activities of the committee.

conflict between the Committee and the management of enterprises.

The conflict between heads of agencies or the management of public enterprises and the committee established therein, has been a menacing problem from the time the People's Control Committee was established. It should come as no surprise, therefore, that many heads of agencies and management of enterprises are reluctant to cooperate with the Committee. And without their cooperation, the committee could achieve very little.

But, the unfortunate wrangling that ensues often results in splitting and confusing the employees, which, in turn, reflects on the productivity of the affected agency.

Even so, the committee has registered a few successes. According to its 1989 report, during a six year period it received 41,961 accusations from the public and acted upon 24,471 (58.3%) of them, while the balance are still pending. The accusations involved the misappropriation

of public funds amounting to Birr 150,763,000 out of which Birr 91,054,000 (60.4%) was retrieved.[13]

There is good reason to question whether this modest achievement should be attributed solely to the efforts of the Committee. Even the National Committee did not have a single lawyer, accountant or any other expert until recently. Upon receiving accusations, it ordered the seizure of property and often the arrest and detention of the persons involved. It then referred the case to other state organs including the police, the public prosecutor and judiciary. Hence, one cannot help but wonder if the regular state organs, with perhaps a little more reinforcement, could not have achieved the same or better results.

The Special Court

The establishment of the Special Court in 1981 was motivated by the intense desire to stamp out corruption from socialist Ethiopia and the conviction that the existing judicial system could not be used to attain that goal. It was deemed necessary to create an "efficient judicial machinery" free of the ills it is hoped to cure.

The objectives of the Special Court include:

1. to provide for an efficient judicial machinery to try offenses against the unity, independence and Revolution of Ethiopia and the peace and order of the people: and

2. to bring under control offenses such as exploitation, wastefulness, improper official influence, abuse of authority, judicial misfeasance, corrupt practices and favouritism.[14]

Structure of the Court:

The Special Court was independent of the Ministry of Justice, the Supreme Court or any other government agency. Once its judges were appointed by the head of state, the law declared that they "shall be completely independent in the exercise of their functions and that in the administration of justice, they shall submit to no other authority than that of the law." The Court's Prosecutors and Registrars were also appointed by the head of state.

The Court had only two levels: the Special First Instance Court had jurisdiction over all criminal and civil suits arising under the Special Penal Code.[15] The Special Appellate court heard appeals against the decision of the special First Instance Court.

The decision of the Special Court was final except that decisions involving life imprisonment or death sentence had to be reviewed by the head of state.

Powers and Duties of the Court

The following powers were vested in the court:[16]

1. to summon any person to give evidence, testimony or opinion on a case under its consideration;

2. to order and compel the production of any document or evidence material for any case pending before it, which is in the hands of or under the control of any person or organization;

3. to order government and mass organizations to execute its orders and directives;

4. to decide in accordance with the penal provisions of the appropriate Penal Code or other criminal laws any cases charged under the Special Penal Code Proclamation when it deems it necessary for the proper dispensation of justice;

5. to prohibit, for such period of time as it may determine or until judgement is given, the sale or transfer of any property where the case it is considering is related to such property;

6. to impound any property or document for such period of time as it may determine or until judgement if given where it has reason to believe that to do so is in the interest of justice.

The Special Penal Code:

The Special Penal Code was enacted because it was felt that the provisions of the 1957 Penal Code either did not cover certain crimes (such as crimes against the Revolution) or were not harsh enough to punish or deter crimes which were considered very serious. Thus the special penal code

- Created new crimes, notably crimes against the Revolution;
- Provided for harsher penalties for offenses against the government and the head of state, breach of trust, offences against the interest of the government, abuse of authority and offences against official duties, national progress and public safety and security.
- Was made retroactively applicable to offences committed before the law was published in the official gazette.

The second chapter of the code entitled "Breach of Trust and Offences against the Interest of the Government or the Public" is of direct relevance to the subject at hand. It covered provisions which governed:

- Breach of trust, malversation and receipt of ill-gotten gains (rigorous imprisonment from 5 years to life)
- Misuse or waste of government or public property (rigorous imprisonment up to 5 years)
- Forgery of government or public documents (rigorous imprisonment from 10–25 years or where the offender is a government official or an official elected by the people, life imprisonment or death.).
- Offences against the economy (hoarding vital commodities, destroying public property etc.) (rigorous imprisonment 5 to 25 years or where the offence is exceptionally grave, life imprisonment or death).

Corrupt practices, acceptance of undue advantage and traffic in official influence (rigorous imprisonment from one to 25 years or where the offence is exceptionally grave, life imprisonment or death).

These penalties were extremely harsh compared to those under the 1957 Penal Code. The perennial question, of course, is whether harsh penalties deter people from corrupt practices.

The Effectiveness of the Special Court

The Special Court turned out to be a small institution. The maximum manpower it had consisted of 13 judges, 14 prosecutors and 99 support personnel. It had offices only in Addis Ababa and Asmara.

Another feature of the Court was that judges, prosecutors and the registrar were carefully selected and appointed by the head of state himself. The individuals lived up to expectation as regards ability, conscientiousness and integrity so that, in a very short while, the court gained enormous public confidence which it maintained until it ceased to exist upon the coming into force of the new Constitution in 1987.

Three factors may have operated in unison to make the special court a success story:

The human factor: individuals whose reputation was above board were carefully selected to man the court.

Size: That the size of the institution was kept at the minimum made it easier to be selective in recruiting staff and to supervise and control every aspect of its activity.

Independence: As the court was accountable only to the head of state, it could withstand influences from other authorities or officials. One should also credit the individuals who resisted whatever undue pressure was from time to time directed against them from various quarters.

Can the Special Court serve as a model institution? To the extent it goes, the answer should be yes. But one should immediately add that corruption is a highly infectious disease and an institution is merely a link in the complex chain of government anatomy. If other sectors in the government are corrupt they wouldn't rest until they smear all other sectors by their evil ways, cripple them permanently to drive them out of existence. For that reason, one would wonder how the Special Court

would have fared if it had a longer life span.

A court decides cases that are brought before it based on evidence produced by the parties. Hence, the stage of detecting, investigating and gathering sufficient evidence to convict a person is a crucial pre-condition. If organs that carry out this task are corrupt or inefficient for other reasons, many a case would remain unexposed and there is little a court can do about it.

Furthermore, given the growing number of cases of corruption, there is no way a small court like the Special court can handle all of them. During the five years, 10,400 cases were presented to the Special Court's Public prosecutor. Out of these, the court handled only 590 cases, i.e. under 6%. Nearly 80% of the rest of the cases were delegated to the regular courts — the very institutions the legislature sought to avoid.[17] To that extent, the objective behind the establishment of the special Court was not attained. This fact leads one to conclude that a country cannot effectively combat corruption by creating isolated institutions. It takes a complete overhaul of the system.

Agencies of Crime Investigation

By agencies of crime investigation it is intended to cover essentially the police and security agencies. Whereas the police are responsible for the prevention, investigation and discovery of crimes of all types, the security agencies are usually better suited to handle cases of corruption because of the secretive nature of the crime.

Both agencies are known to be understaffed and underfinanced especially in light of the political dissensions rampant in many parts of the country. Furthermore, political and other crimes that immediately threaten the security and well-being of the public — such as theft and crimes of violence — are given high priority so that corruption is not known to be high on the agenda of the investigative agencies.

The agencies also complain about their backward methods of investigation. Since they are not equipped with modern technology and the requisite skill, they have little choice but to resort to the crudest methods, including torture. For that reason, the major evidence often produced against a person suspected of corrupt behaviour is his own confession. In crimes of corruption finding material evidence to corroborate the confession is next to impossible. On the other hand, confession as a mode of evidence is highly suspect. The current

Ethiopian Constitution provides that:

> No violence or pressure may be applied to compel a person to testify. Any testimony obtained by violence or pressure shall be null and void.[18]

In the same vein, the Ethiopian Criminal Procedure Code provides that:

> No police officer or person in authority shall offer or use or make or cause to be offered, made or used any inducement, threat, promise or any other improper method to any person examined by police.[19]

Consequently, it has become commonplace for people to disown their confession to the police as soon as they appear before a judge alleging that it was extracted from them through violence or other pressure. More often than not, they get away scot-free on that ground alone.

Another technique employed by crime investigators is to register the numbers on bills and have the money delivered to the official suspected of corruption. As soon as the money is handed over, security officers arrest the individual red-handed. But the propriety of this method is also very dubious. Courts in the United States, for instance, do not approve of this practice on the ground that it amounts to inducing a person to commit a crime.

In Ethiopia, quite a few people have landed in jail through this method. But not many similar cases have come to light recently and one should suspect that corrupt public servants are getting smarter and more alert against such trickery.

It is known that corruption is a transaction that generally takes place between two persons — the corrupt public servant and the one who needs his services or a middle man. All parties are guilty of a crime. For that reason, the criminal is the witness and the witness is the criminal. Hence, all collude to cover up than reveal the crime. This is one of the reasons why the police find corruption a hard nut to crack.

It has often been suggested that the only way to overcome this problem is to grant immunity to the "corrupter" in order to get the corrupt. But there is also a school of thought of legal scholars who condemn this proposition as outright immoral. Even so, it is not unusual for legal systems to negotiate with one or more persons in a group crime and

grant them immunity against prosecution if they agree to testify against the main actor.

Finally, the eternal question: "who guards the guardians?" Are agencies of crime investigation themselves free of corrupt practices?

In the Ethiopian police force, a private is paid Birr 146 per month (equivalent to US $ 73 at the official rate). A quintal of teff (a staple crop) which is believed to be just enough for the consumption of an average family for a month, now costs Birr 200 in Addis Ababa, and that is just one item.

Even beyond the economic factor, one would wonder if a large institution like the police force can maintain total integrity in an environment which is itself not free of corruption. If that is the case, as it is widely held to be, the scenario would be extremely grim and disheartening: the corrupt using the fruits of corruption to corrupt the guardians of the law.

The Procuracy

The present Procuracy is an off-shoot of the socialist structure of government which Ethiopia adopted in 1987. On the other hand, one can view the Procuracy as an expanded version of the Public Prosecutor's Office which was established in 1942 and carried out the conventional responsibility of prosecuting criminals. The Public Prosecutor's Office was only a department in the then Ministry of Law and Justice. It was so understaffed that in most district courts, the police were delegated to double as prosecutors, an objectionable practice which is only now coming to an end.

Objective of the Procuracy:

The Proclamation which established the office states that the objectives of the Procuracy are:[20]

1. ensuring that the laws, regulations, orders and directives of the (PDRE) are correctly and uniformally applied in all places;

2. protecting the rights and freedoms of citizens guaranteed by the Constitution and other laws;

3. educating organs of state, mass organizations, other bodies, officials thereof and individuals to contribute to the strengthening of socialist legality by ensuring the observances and uniform application of the laws of the Republic.

Structure of the Procuracy:

The Procuracy is headed by the Procurator-General, who is elected by and accountable to the National Assembly. When the National Assembly is not in session, the Procurator-General is accountable to the council of State and to the President. The office itself consists of five offices—those of the Procurator-General; the Military Procurator; offices of Regional Procurators; the offices of the Provincial Procurators; and other offices of procurators to be established by law, as may be necessary.

The fact that the Procurator-General is accountable to the highest organs of state is indicative of the intention to make the institution as independent as possible. To further strengthen his independence, the Procurator-General is vested with the power of selecting and appointing all subordinate procurators, who remain accountable only to himself. The Constitution itself stressed this principle of strict centralization of authority and independence by providing:

> Procurators at all levels shall be appointed by the Procurator-General and they shall be accountable to him. In the discharge of their duties, procurators shall be subordinate to the Procurator-General, and not to local state organs.[21]

Quite evidently, the rationale behind this principle is that the procuracy can execute its supervisory responsibility most effectively only if it is independent of all organs that fall within the purview of its authority.

Powers and Duties

The law splits the powers and duties of the office into "general" and "special". The former category consists of powers and duties that apply across the board to activities of all agencies and persons that are subject to the supervisory authority of the office. The special powers and duties

relate to specific agencies whose activities the legislature thought require the special attention of the Procuracy: the organs of investigation, prisons and places of detention and the judiciary. Apparently, the legislature was concerned that these are places where the possibility for abuse of authority is highest.

The following are among the measures which the office can take to that end:

- Compel any agency or individual to produce any document or other piece of evidence;

- Summon any official or other individual to appear and give evidence;

- It determines that the action or inaction which is the object of the complaint is contrary to law or government directives, notify the fact to the concerned organ and ask it or its superior agency to rectify the fault and report back within 20 days.

- Where the fault is likely to cause injury to the rights of people, suspend the objectionable decision or directive while awaiting the action of the concerned agency.

- If the concerned agency fails to take the necessary measure to correct the fault, the procurator's office can refer the case to the Council of Ministers or to the Council of state as the case may be.

- Where its investigation reveals a criminal conduct the office does prosecute the individual in question. In the alternative, it may recommend that disciplinary measures be taken by the appropriate organ.

- It can also order the detention of a suspect, release a person illegally detained, or seize any property.

It should be noted that the power of the Procurator's office over the judiciary are very cautiously circumscribed. Care had to be taken so

that the power of the procuracy should not impinge upon the independence of the judiciary, as guaranteed by the Constitution. Hence, the word, "supervision" is avoided. The Procuracy merely "oversees" the decisions of courts. It can examine court cases only after judgement has been rendered and if it determined that the judgement is erroneous, it can only move the court or its superior to correct the error. Where the decision in question is a final one and where he deems the error basic, the Procurator-General can have the case reviewed by the cassation division of the Supreme court.

Effectiveness of the Procuracy

Three years may not be adequate to assess the performance of an institution, especially where much of that time is spent organizing the office itself. Even so, the Procuracy, during its short life, has experienced both successes and frustration.

The powers and duties of the Procurator's office can be divided into two broad categories: Prosecution and supervision. The Prosecution aspect follows a conventional process, whereby the investigation procedures are initiated by the crime being reported to the police. This is, probably the most crucial stage in the long process of bringing a criminal to justice. The vigour and enthusiasm with which the investigation is carried out, the integrity of the individuals involved, the manpower and technical support available for the task determine the outcome of the investigation. If this effort fails to uncover the crime or produce sufficient evidence, there is little the Procuracy or the Judiciary can do about it.

True, the Procurator's office has supervisory powers over organs of investigation and per that power it can instruct the organs, as it often does, to conduct a particular investigation with speed and vigour. But, this seldom produced much effect since the common response is that they are doing their level best and that they, at any rate, suffer from chronic shortage of manpower.

Where the Procurator's office believes that one organ of investigation is deliberately dragging its feet or is biased as regards a particular case, it can transfer the investigation from that organ to another or takeover the investigation itself. The office rarely resorts to the first measure because all organs of investigation are under the same ministry and transferring a case from one organ to another seldom makes little or no difference where the bias is institution wide. Where,

however, the bias is localized, the case could be transferred from one locality to another. Nor could the Procurator's office conduct any investigation on its own since it still lacks an investigation department.

Consequently, the organs of investigation play a pivotal role in exposing a criminal act and the procurator's office is very much dependent on the efficiency and integrity of these organs. This dependency has certainly proved to be a source of some frustration. For that and a number of other reasons, the Procurator's office may not have faired any better than what public prosecutor's offices traditionally perform in any country in the field of identifying corrupt public servants and bringing them to justice.

The supervisory powers vested in the Procurator's office are not only extensive but are also a radical departure from past practices. Every government agency except for the National Assembly, the Council of State, the President's office, and the Council of Ministers as a body — is subject to the supervisory authority of the procuracy.

Not long after its establishment, the office was overwhelmed with petitions from the public complaining mainly about abuse of authority by one government agency or another. The office, with its limited manpower and financial capacity exerted considerable effort in an attempt to meet the public demand. Not unexpectedly, this brought it in direct confrontation with many government agencies that considered the acts of the procuracy as an intrusion in their domain. Many, therefore, developed a negative attitude which expressed itself mainly in denying the office their co-operation. This took the crudest form in the case of one prison that openly denied procurators any access contrary to the express language of the law. Many other agencies employed all kinds of dilatory tactics in responding to the inquiries or instructions of the office.

The other major handicap of the office is that it was extremely difficult and often impossible to have its decisions executed, here again, the procuracy is dependent on the investigation organs and other agencies, including the various ministries to enforce its decisions. Hence, considerable effort and time is wasted wrangling with these agencies and in the end, quite a few of the decisions are frustrated because this effort fails to bear fruit.

That some of its responsibilities are not clearly delineated and hence overlaps with those of other government agencies is another source of frustration. This is especially true in matters justiciable. Shouldn't, for instance, a person illegally deprived of his house take his

case to court? Experience shows that most people prefer the less formal and much less expensive procedures of the procuracy. This, in turn, may portend the danger of the procuracy unwittingly taking over the activities of other government agencies, thereby choking itself into a state of total paralysis.

Quite evidently, the prosecution of criminals is an interminable task of any state. Criminals, including corrupt public servants, should account for their misdeeds before the law. On that count alone, the Procurator's office should be supported and strengthened. Beyond that, however, it should also be admitted that thousands of people have, in the last few years, found the justice that eluded them for long through the actions of the Procurator's offices spread throughout the country.

The Auditor-General's Office

The Auditor-General's Office was first established in Ethiopia, in 1944. It was modelled upon its Western counterparts with the primary responsibility of overseeing the financial management of government agencies. With a view to ensuring maximum independence, it was made accountable to the parliament of the day.

The formation of the Republic in 1987 did not significantly affect the structure of the office. If anything, an attempt was made to raise it to the standard attained by its counterparts in other countries. This was effected essentially by increasing the scope of its responsibilities. Previously, it only ensured that government agencies follow proper accounting procedures in collecting revenue and disbursing state funds and other property. After the office was re-established, the scope of its responsibility was extended to cover state enterprises and mass organizations. Furthermore, it assumed the task of ascertaining, that all agencies, enterprises or mass organizations "carry out their programmes efficiently and economically with a view to attaining their objectives."[22]

Since corruption does include the transfer of state funds to private use, the Auditor-General's office could play a significant role in at least minimizing such abuse of trust. The question that will be explored hereunder is the extent to which the office has been effective in this regard.

Structure

The Auditor-General is elected to office by and is accountable to the

National Assembly. He reports to the State Council and the President during the times when the National Assembly is not in session. Thus, the Auditor-General enjoys a degree of independence in carrying out his responsibility. Quite evidently, this is as it should be since he could not conceivably be accountable to any organ whose financial integrity it supervises.

Effectiveness of the Auditor-General's Office

The responsibility entrusted to the Auditor-General' Office is vast. Its jurisdiction encompasses not only government agencies, but also state enterprises, (all major enterprises are state owned), mass organizations (peasants' associations alone number more than 20,000) and cooperatives. Besides, the office is frequently called upon by courts and other agencies to audit complex financial relationships outside its regular programmes.

Hence, the office requires a large number of professional and support staff and adequate facilities to accomplish this enormous task, but it was only recently that its professional manpower was raised to 288 out of which only 97 are decreed. The support staff also numbers a minuscule 109. For this reason, the office has been able to regularly audit only a fraction of all government agencies. It cannot even consider auditing the thousands of state enterprises, mass organizations and cooperatives on a regular basis. In a case recently decided by the Supreme Court, it was stated that the accounts of one public enterprise was not audited for the past 34 years. On this ground alone, the court found it impossible to hold the accused liable.[23]

Even where the office audits a given agency and finds fault, all it can do is notify this fact to the head of the agency itself and to the National Assembly through the State Council. Unless the latter takes corrective measures, the situation would remain the same or get worse. The Auditor-General's annual reports are full of complaints that neither higher authorities nor the immediately affected agencies take corrective measures so that past mistakes keep recurring from year to year.

It should be added that soon after the revolution several foreign audit companies left the country. It was realized immediately that the Auditor-General's office neither had the capacity nor, as a state agency, the trust of private or international organizations, to be able to cover the huge gap left behind by the private auditing agencies. Hence, it was

necessary to establish a semi independent audit service Corporation — loosely accountable to the Auditor-General, otherwise functioning strictly as a business enterprise.

The primary targets of the Corporation are state enterprises and it should be admitted that it has considerably reduced the burden of the Auditor-General's office in this area. Yet, its effectiveness is limited by the same shortcomings as its supervising authority.

Conclusion

Corruption has probably been with us since the beginning of human society. Unfortunately, all indications point to the possibility that it will be with us for a long time to come, since a country or a political system has yet to declare total victory in its fight against this social malaise. But the fight should continue with ever increasing intensity lest total decadence befalls the human race.

Corruption was certainly not unknown in Ethiopia before the Revolution of 1974. Yet, it is common knowledge that it has become much more pervasive during the past decade. The main cause for this development is the manifold expansion of the bureaucracy following the country's adoption of a socialist policy. The institutions designed to regulate the huge bureaucracy proved to be of little effect in stemming corruption because the task was simply too big for any one of them. Some found it impossible to swim in a lake and not to get wet at the same time.

In the fight against corruption, Ethiopia should set herself modest targets. In the short term she would do well shearing herself of the excess bureaucracy that was built up during the past seventeen years. She may have to dismantle some agencies (the Working People's Control Committee), confine others to their proper task (the Worker's Party), denationalize many an enterprise or property (small industries, the tens of thousands of dwellings), debureaucratize peasant's and urban dwellers' associations and deregulate a large number of economic activities, including the movement of people and goods.

The country should also make extra effort to bring to a conclusion the civil war that is not only draining away scarce resources that could otherwise be utilized to ameliorate the living condition of the people, but is also providing impenetrable cover for many a corrupt official.

In the longer term, the Ethiopian people should endeavour

towards establishing a democratic society, which essentially means a government based on the consent of the people, the rule of law and a free press. Ultimately, it is only the people who can effectively combat corruption.

This, in turn, requires an open society where corrupt practices are exposed through a free press, corrupt officials held accountable under the law, and corrupt governments ousted from office through the ballot box. A closed society is the ideal breeding ground for corruption.

Notes

1. Proclamation No. 213 of 1981, Preamble.
2. Decree No. 1/1942, art. 7.
3. *Ibid*, art. 19.
4. *Ibid*, art. 6.
5. Development Plan of Ethiopia, December 1992 (General).
6. Decree establishing the Centre for national Campaign (unpublished), p. 2.
7. Report, Sidamo Administrative Region, Megabit 21, 1983 (Internal document, Procurator-General's office).
8. Proclamation No. 213/1981.
9. *Ibid.*, preamble.
10. Proclamation No. 12/1987.
11. Report, Working People's Committee, 1983–89, p.4.
12. *Ibid.*, p.24.
13. *Ibid.*, p.8.
14. Proclamation No. 215/1981.
15. Proclamation No. 214/1981.
16. *Op. cit.* at 15, art. 3.
17. Report, The Special Court (unpublished), Procurator-General's Office.
18. The Constitution of the PDRE, Art. 45 (3).
19. The Ethiopian Criminal Procedure Code of 1961, art. 31 (1).
20. Proclamation No. 11/1987.
21. *Op. cit.* at 19, art. 110.
22. Proclamation No. 13/1987.
23. Public Prosecutor v. Mersha Ashagre.

10

Promotion of Good Ethical Standards and Behaviour in Public Services in Africa: The Case of Zimbabwe

S.T. Agere

BACKGROUND HISTORY

On achieving independence in April 1980 Zimbabwe inherited a public service whose key elements of state machinery were those of the former white settler colonial government. The structure, authority and autonomy or independence of the present public service are derived from the currently designed Lancaster House Constitution of 1979. In essence the constitution safeguarded the interests of the whites or white settlers who had the economic and political power before independence.

Given these constitutional guarantees within the public service, the new Zimbabwe Government, on assuming independence, found that it had to rely on predominantly white officers who had been in the previous white government and whose interests were in direct contradiction with those of the new government. At independence, for example, there was a total of 10,570 established posts in the public service of which only 3,368 (31.86%) were occupied by blacks most of whom occupied posts of a rank not higher than senior administrative officer. The blacks were not in policy decision-making positions. The continued presence of whites in the public service was considered a guarantee for continuity stability and maintenance of high standards, experience and good governance by the West and in particular the British.

The new African Ministers too, discovered that they had to rely heavily on white Permanent Secretaries (heads of Ministries) for advice

and information. These heads of ministries, who again were the instruments of the previous government, were now responsible for the conceptualization, formulation and implementation of new policies for the new government in order to benefit the majority of the people who in the first place voted them into power. One of the contradictions which emerged was the fact that the state or political power was controlled and dominated by the blacks with a socialist philosophy while the public service was dominated by whites with a capitalist orientation. To resolve this problem many strategies were designed which ensured that the public service reflected the character of the majority of the population. In such a situation reforms and not fundamentally radical changes were introduced. The public service, through these measures, changed colour but not the philosophy and essence or value of the civil service. This conflict has been experienced since independence and in some cases it is characterized by the politicians who complain that Civil servants have not changed their outlook and in some cases not able to implement government policies and programmes.

1 Sources of Demands for Good Ethical Standards

The ethical standards and behavioural expectations of the public servants are usually spelt out in a Code of Ethics normally well documented in the form of rules and regulations.

They are also implicit in the behaviour that may constitute an act of misconduct which may manifest itself in various forms and at different times in the history of the state. In some other ways expected behaviour of a civil servant emanates from court interpretations of cases that are referred to it by many agencies. Ethical standards may be formally written but it should be realized that there are others which are not written but which are implicitly recognized and enforced by the authorities. It is therefore possible to discuss ethical standards whether they are written or not. To the extent that there is some behaviour pattern which may be characterized as good or bad is a matter of value judgement. Value judgements vary from time to time and may depend upon the individual or machinery which is interpreting and at what point in time in history. Tax evasion or tax avoidance for example, may not be interpreted as morally wrong in some sections of the community while it may be regarded as serious by other social groups in society. Equally tax evasion during the time of plenty or prosperity may not be regarded

as serious as during the time of poverty in which there are scarce resources. In a society in which such behaviour is regarded as a norm it may not constitute an unethical behaviour. The social institutions that enforce such regulations and interpret them are also affected by their own class or value judgements and finally by the expectations of the general society. The interpretation of good ethical standards may therefore be affected by a number of subjective factors in society of which we are a small part. The penalties meted out for such behaviour patterns also vary in the same way as the interpretation of them. Despite all these difficulties, it is still possible to pass value judgements on what is good ethical standard and behaviour. It would appear that the demand for good ethical standards emanates from about five sources:

First the demands by consumers for better or improved services can be used as a barometer to measure the extent to which services are being delivered. The consumers may be patients, school children, farmers, investors etc. depending with the nature and type of service that is delivered. It seems self-evident that if administrators and policy makers are to deploy existing resources effectively, they would need to know at least something about the responses and reactions of those they are trying to help, specifically the manner in which the services offered are appraised.

In principle the consumers or client's opinion can be systematically studied without necessarily assuming that the client is sovereign or an "economic man" who should be encouraged to "shop around" in a market of services: Perhaps clients may desire certain forms of services that the profession or occupation considers therapeutically unsocial, detrimental to the client's social functioning or unethical. In addition, matters unrelated to clients will inevitably enter into the decision-making process, e.g. the organizational demands of the agency offering the services, the demands of the profession as a whole, the expectations of the relevant "publics" or social groups especially those who provide moral and financial support.[1]

The consumers have been complaining about the quality of services they receive through the press, political party and their associations. Corruption practices and tendencies have usually been identified through consumers. Investigations have often been made in areas where unethical behaviour may have been exhibited.

Some consumers may bring to the notice of the public about unethical standards of professionals in very clear and self-evident ways.

A school teacher for example, who makes a school girl pregnant can easily be identified and charged with improper association, which is unethical in our society.

Good ethical standards can equally be measured by the absence or reduction of such incidences as quoted above.

Secondly, politicians from different political parties, city councillors and other politically organized groups have often complained about the conduct of public servants in the execution of their duties. The Public Accounts Committee[2] in the course of their investigations into the performance of ministries have often revealed both poor and good ethical standards exhibited by civil servants. However, the press has in the majority of cases revealed and emphasized the negative aspects of behaviour patterns. It is this negative reporting which often makes the public believe that the civil servants are not delivering their services efficiently and in a manner expected of a public servant. The negative reporting may further outweigh any of the good ethical standards of the civil service.

The patients who have often been mistreated by nurses and the negligence of doctors have informed politicians who represent their constituencies. The unethical standards of doctors have been instigated by politicians while the medical profession investigates and imposes a penalty in terms of the professional rules and regulations and Code of Ethics.

Various forms of malpractices within both the production and distribution of goods and services to the public are watched closely by the politicians who have an interest in ensuring that their constituencies are adequately served. The farmers particularly the poor peasant farmers have often identified unethical behaviour of civil servants in the distribution of fertilizer, farming implements etc. to the farmers. During the period of shortage of certain essential commodities such as drought, the standards of civil servants have been unearthed and action swiftly taken against those responsible for malpractices such as favouritism, misuse of government properties, misuse of their positions and other improper practices which are contrary to the Code of Ethics.

The promotion of good ethical standards is also realized through constant and consistent criticism of the public servants by public figures. When penalties are seen to be imposed on those civil servants who are guilty of malpractices these generally result in compliance with rules and regulations. To the extent that ethical standards are maintained and

improved following the demands by consumers and politicians, a degree of accountability is achieved. Such accountability enables public servants to realize that they were created by the state which in turn is also accountable to society. The values of society and expectations of the citizens have a direct bearing on the moulding of a public service culture from which it forms its image and credibility. This relationship reinforces the view already expressed that the public service is an instrument of the state from which it derives its authority and remunerations.

The third source from which ethical standards emanate is the state bureaucracy itself. The civil servants who also are consumers of state services at home and in their private capacities also experience or can become victims of malpractices and unethical behaviour of their colleges. Like any individual in society the civil servants have multiple roles. They may be parents of children at school, they may become patients or consumers of a certain commodity provided by the state. Such experiences gained as a result of playing different roles in society facilitate the identification of management problems and indeed the organizational deficiencies.

The public service itself has many mechanisms of identifying unethical behaviour and of imposing penalty in order to obtain compliance with the Code of Ethics. The Public Service Commission is empowered by the constitution to oversee the efficient administration and management of the whole civil service. The performance of the civil servants is monitored through a set of rules and regulations which it formulates. It is structured in such a way that efficiency and effectiveness can be achieved, service can be delivered and evaluation of the delivery of the services can be made. It maintains records which it uses in maintaining discipline and imposing penalties such as demotion, dismissal, imposition of fines etc. These self-regulatory mechanisms coupled with supervision by Ministers, Parliament and other state instruments such as the judiciary, the police etc. play a part in maintaining and reinforcing good ethical standards and behaviour. The internal checks and balances in the state bureaucracy are a mechanism of ensuring that the machinery can cope with different kinds of situations and crises.

While the public service has mechanisms of self-maintaining ethical behaviour patterns it can also suffer negatively from strict adherence to rules which may hinder development. Such behaviour,

though correct in terms of formal rules, may not positively respond to changes in society and the state itself. This behaviour exaggerates dependence upon regulations, impersonality in relations, insists on the petty rights and privileges of office and resists change. The economic structural adjustment programme for example, implies changes in certain regulations and behaviour patterns of officials. A customs officer or immigration officer has to change his standard of behaviour in interpreting the rules in order to allow more investors rather than discourage them. This adherence to rules which resists change or which are not compatible with attitudinal changes results in bureaupathological behaviour on the part of civil servants.

There have been a few examples where one ministry recruited an expatriate from abroad who was returned home by the immigration officer on arrival at the airport mainly because he had a previous conviction in his country. The previous conviction turned out to be a driving offence (crossing at a stop sign). It is this rigid adherence to rules which does not take into account the changes that are taking place, which may be characterized as bureaupathology. It is the extreme end of compliance which may become dysfunctional and inefficient.

Fourthly, international organizations, non-government and voluntary organizations who supply aid, directly to the people or indirectly through government agencies, would want to know whether their resources are utilized efficiently. If aid is not reaching the people, it is assumed that there is something wrong with the officials who deliver the services. The investigations which have been conducted when such allegations are received have often shown malpractices, misuse of resources for personal gain. Drought relief or aid to refugees are typical examples in which assistance is diverted by officials for their use. In some cases aid has been used not only to amass wealth but to seek and strengthen their political positions either in the party or community. Where such cases have been identified criminal prosecutions have been conducted. In still other cases the corrupt officials have not been caught perhaps because the organization is far removed from its clients. In such a case the degree of accountability is distant and far removed from the immediate environment to which services are being rendered.

Because of the increased potential in unethical behaviour which may be interpreted either as corruption or misuse of public funds for personal gains, many watchdog organizations have been set up. The organizations are not peculiar to African civil services but have been and

are being used in other developing and industrialized countries.

The Offices of the Ombudsman, the Comptroller and Auditor-General, the Anti-Corruption Commission (in some other countries) etc. are organizations designed to identify corrupt practices in addition to ensuring that social justice is administered. The Ombudsman institution is firmly rooted in the principles of equity and justice, the belief in the importance of the individual in a democratic government, faith in the basic integrity of government officials and the pursuit of fairness.[3]

Investigations by the Ombudsman into ministries or individual cases of alleged miscarriage of justice have sometimes revealed the corrupt behaviour of public servants. Sexual harassment at work places, though difficult to prove, has been found to be fairly common as alleged by women who have since become highly sensitized.

Corrupt practices which are rewarded substantially are generally found in the areas of procurement of large and expensive items such as purchase of aeroplanes, large computers and certain equipment of security nature. At an international level it is known that the purchase of aircraft is riddled with big "hand shake" (greasing the palm) often given out clandestinely in the name of a commission. If this observation is correct then the international organizations situated in developed countries have adversely influenced officials from Third World countries. To that extent corrupt practices, on a large scale, are spread to poor countries and have therefore an impact on the ethical behaviour of the civil servants who purchase such items on behalf of the state. The corrupt behaviour is exhibited amidst the rules and procedures of procurement. While it is true that public servants are prone to unethical behaviour because of the unique situation in which they find themselves, it will be a misconception to assume that there is absence of similar behaviour in the private sector. The presence of market forces in the private sector and the seemingly competitive nature of operations do not by themselves result in non-corrupt practices. In fact the opposite might as well be true, that is, corruption increases when there is increased competition.

If corruption is a behaviour pattern or a function of a set of influential forces, then it is difficult to talk about unethical behaviour exhibited by public officials. It is a social problem in society for which solution should be found within the immediate environment.

2 Factors Promoting Unethical Practices in the Public Service

In analysing the types and nature of misconduct cases committed by public servants during the course of their duties, it is possible, at a very general level, to identify some major factors which have contributed to the reduction of work ethics or increased incidence of unethical behaviour. In Zimbabwe, the following factors would appear to have played a part in the increase of the misconduct cases:

Increase in the Size of the Public Sector

Immediately after independence there appeared to be a serious commitment on the part of the civil servants to execute government programmes with zeal. The basis for commitment was twofold: The first was the keenness to build a socialist society which the liberation movements had exposed during the struggle. There was enthusiasm in reconstruction of the country following years of white and minority domination. Many people wanted to play a part in building a new social order with new ethics and apply a new social theory in management and administration of both human and material resources. The second was based on excitement that blacks can now rule themselves. The majority of people wanted to show the world that they were efficient in managing of resources even if they had little experience.

In these circumstances commitment to work and the maintenance of discipline were very high. As a result misconduct cases were very few and discipline could be achieved either through the self-realization of the individual or through group pressure to conform for the greater good.

The excombatants who fought during the war without any remuneration were emulated hence self-discipline was easy to enforce on the newly recruited public servants. The exodus of many whites from the service soon after independence only strengthened the commitment and dedication of many of the public servants.

Coupled with commitment to service was the new political environment with new leaders who had just won the war of liberation. The political environment enunciated major reforms in the state bureaucracy and increased the delivery of services to those people who had hitherto been denied the services by the previous regime. The political leadership, then, showed selflessness in their outlook and commitment to serve the majority of the people. The appeal by the party

and politicians to sacrifice their time and efforts in order to build a new nation was taken seriously.

The political environment created an atmosphere which attracted many people to participate in the formulation and implementation of policies from whom the majority would benefit. There was a desire to maintain the gain that has been made and this became a unifying force against external aggression such as threats, acts of destabilization from white dominated South Africa. External factors therefore contributed to the internal cohesion in the process of development.

The size of the civil service grew from 45,000 at independence to about 190,000 as at June 1991. The increase in size is closely associated with the increase in the number of misconduct committed. As a result of the creation of new ministries many more public servants had to be hired in order to meet the set objectives of government. The more civil servants there were the more it was easy to observe misuse of government property and other acts of misdemeanour. Many of the newly recruited had never been in employment before and consequently found adjustment and compliance with rules and regulations difficult. Social integration into society, was not easy let alone organizational rules some of which they were trying to change during the war.

Illegal Acquisition of Wealth by the Political Leadership

After a decade of independence the commitment and enthusiasm of self-rule gradually faded away. Many people have left the public service for the private sector where conditions of service and remuneration are much higher than those obtaining in the civil service. Many professionals have even left the country in large numbers in search of better material resources elsewhere. One factor which, in a way, contributed to the reduction of commitment and enthusiasm was the distribution of material resources. Some leaders started amassing wealth in a greedy manner. The Sandura enquiry set up by the President to look into the distribution of motor vehicles which were in short supply in the country, revealed that some leaders were using their positions in order to enrich themselves. Some Ministers and Senior Government officials were found to have taken advantage of their position in government by acquiring cars and selling them at exorbitant prices which were far above the going market prices.

The corrupt practices at high level in government in the distribution

of scarce commodities such as cars etc. discouraged many people including those potential investors and consumers. The unethical behaviour of some leaders not only reduced the morale of many committed people but also negatively influenced others in engaging themselves in similar malpractices. The values and norms which had been widely respected disintegrate quickly particularly in a society which respects leaders and elders in their communities. The moral fabric of the nation can easily be destroyed by such ethical violations.

Some of the leaders were using their positions to secure materials for their relatives and friends. Nepotism of this nature has a negative effect particularly on those people without relatives occupying senior government positions. It leads to a belief commonly referred to in some countries as "it is a question of who you know" if you want services to be offered.

3 Typology of Unethical Behaviour

The misconduct cases which constitute unethical behaviour vary by type, status of the public servant and by Ministry's unique functions and activities.

Certain patterns of behaviour of officials occupying certain positions emerge. However, it should be mentioned that misconduct figures were not correctly recorded until about 1983. The comments which will be made only concern the period 1983–1990.

The following observations are made:

> There is an increase in the number of misconduct cases. The sharp rise in the number of cases from 1986 to 1988 is a result of the absorption of teachers into the public service. Previously teachers were not civil servants as they belonged to the now defunct Unified African Teaching Service. This is how the African teachers used to be distinguished from other teachers during the previous racist regime.
>
> In general the employees (office orderlies, general hands, casual workers, clerks, aides etc.) form a large concentration of government workers and appear to be committing more acts of misconduct than the officers. The most common

Even the fondling of a school girl's breasts by a teacher results in instant dismissal.

The Commission has been consistent in such matters and this has had a deterrent effect in that there is an assurance that similar offences will be met with similar penalties. In other words predictability and consistency require repetitive applications of the same discipline procedures and actions to identical behaviour. Such qualities of a disciplinary system encourage a more productive relationship between employees and their supervisors and help match employee goals with those of the organization.[5]

In imposing its penalties the Public Service Commission is guided by the principle of equity. All public servants should perceive the disciplinary procedures and sanctions to be fair. Written procedures have been prescribed equally for all similar offences and circumstances. Equity also demands that supervisors have the flexibility to take into account mitigating factors surrounding the case, such as frequency of the offence and length of past service.

The courts have also imposed penalties for those cases referred to them. Like the Public Service Commission the Courts have been fairly objective consistent and predictable in their judgements. Many civil servants have taken cases to court with the hope that they will get a fair judgement and they have not been disappointed. The credibility of the court is widely accepted in the country. On balance the Public Service Commission has maintained a high ethical standard and behaviour of the public servants through the instruments described above. The service did not collapse following the sudden exodus of experienced whites from the public service shortly after independence.

6 Strengthening Ethics and Accountability Capacity

The growth and size of the public service, the increased demands for improved services and accountability of the public servants to the public, pressures and moves to increase the responsiveness and accountability of public officials and the organizations they manage have made it more necessary than ever before to strengthen and improve the civil service work ethics and their accountability to the public in general.

The youthfulness of the Civil Service, the depoliticization moves by the state on the already politicized Civil Service (through armed struggle for independence), the inexperience of many public servants at

independence and the acknowledged ideological shift from Marxist Leninist philosophy to market economy, further call for the need to maintain, strengthen and improve the ethical performance of the public servants in the delivery of public service and accountability to the public.

The administrative reforms currently in progress require either new techniques and strategies or updating knowledge, skills and management capacities of those who formulated and manage policy implementation. For the above reasons it is necessary to strengthen the modalities of improving the performance and consequently the trust people have in the service and more importantly to formulate further techniques which are responsive to the inevitable changes taking place in society. The following are some of the methods suggested:

Training: The process of the behavioural change and the inculcation and acquisitions of skills at work places should be increased in the public service which is continuously changing in order to suit the dynamics of the environment. Tailor-made courses should be conducted and offered to officials who deal with personnel matters and accounts or finances. The frontline workers should be equipped with a variety of skills so that they can improve their performance and their understanding of the trust bestowed upon them by the public.

Training courses should be increased and made relevant to lower, middle and top management positions. There is always an erroneous view held sometimes in high places that management training for University degree holders and technical and professional staff is not necessary. Such a view is contradicted by the dynamic complexities in management of human and financial resources and more importantly the already established management profession or professional management backed by theory and practice.

Training for senior managers could range from in-service training, seminars, exposure to management of theoretical and practical considerations to two to three weeks or months in relevant areas. This category should include Permanent Secretaries, Heads of Parastatals and even to some extent Ministers who are partners in policy formulation and implementation as well as accountability to the people who voted them into power. For training to be effective and relevant there should be a person in each Ministry whose role it is to identify training needs and to coordinate the training institutions and government agencies.

Personnel Management: The organization and management of personnel in each Ministry or Department should be structured in such

a way that the code of ethics is understood and that the public servants realize the institution to which they are accountable through the execution of their functions. There is a tendency among civil servants to assume that they are accountable only to either the head of the Ministry or to the Minister. The Minister being a politician might expect public servants to toe a particular political line. On the other hand, the public which expects the public servants to exhibit higher morality demands objectivity, impartiality, and morality of its civil servants.

The role of personnel management is to ensure that the public servants are aware of the values or ethics which they apply in the performance of their functions. They equally should be aware that they utilize public funds in the execution of their duties and that the public expects a certain amount of discipline, ethical behaviour and fairness from the public servants.

One area which often has inherent conflicts for which personnel need to know and devise ways of handling is the seeming contradiction between personal and cultural values on one hand and bureaucratic culture on the other. In some cultures it is not unethical to receive a gift after delivery of service while it is not acceptable in the code of ethics for the public bureaucracy. AAPAM in this regard has accurately summarized such conflicts by asserting that "the ethos of African societies tends to encourage corruption, particularly with obligations to the extended family when salaries are generally inadequate, the breakdown of social controls which have come with rapid social change, and in a few cases the absence of a political atmosphere that would draw out witnesses to testify against corruption."[6]

Such conflicts can, in some ways, be resolved by the professionalization of the civil service, through self criticism, and emphasis on individual sense of responsibility and management ethics. The professionalization of the service assists in the inculcation of bureaucratic values and standards into the public servants. This is done through formulation of procedures, rules, regulations and disciplinary conduct. The improvement in the conditions of service and remuneration also strengthen and enforce the proper conduct of the public servants.

Each Ministry would therefore need to have a person designated as personnel officer who coordinates all personnel functions with the Ministry of Public Service or Public Service Commission.

Involvement of Staff Associations: These are organizations run by the public servants for the good of their members. They can be used

as instruments in transmitting public issues and expectations of the public to their members. They also are a vehicle through which the morale, feelings and attitudes of the public servants can be communicated and maintained. The informal support of the staff associations for the formal system sustains the value and ethics of the public service. The standards of the service can therefore be reinforced by the staff associations irrespective of a new governing party which may assume power especially after a general election. The state will use the same machinery to manage its policies and implement its programmes.

The staff associations are closely linked to staff relations sections of the Division of Discipline and Conditions of Service of the Ministry of Public Service. The two help to promote good relations between the government employees and the state. The policy environment and the management systems are therefore strengthened through cooperation and coordination of policy programmes by the staff associations. The criticisms of the state are made and contained in the staff associations.

The staff associations are sometimes used by the Ministry of Public Service in assisting a member who may not understand his contract and conditions of service. In majority of cases they help a member to answer the charge of misconduct imposed upon him.

They may even represent him at an enquiry if he is not able to understand the legal and administrative complexities of his response and the nature of the charge and possible disciplinary measures.

Each category of employee of the state is represented on the staff associations, for example, the clerical and executive group, the low level employees, the administrative group and the professional and technical group. Within these groups, there are professional groups with particular interest in a particular field such as teachers, nurses, etc.

The maintenance of good ethics of the public service and the inculcation of values and standards of accountability to the public are strengthened and maintained through the systems described above. There are many other forms which could be utilized but it is not necessary to go through each one of them.

Notes

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11

Civil Service Ethics and Corruption in Côte d'Ivoire

Sarasoro H. Cabogo

In this chapter, I shall use expressions like "corruption", "illegal acquisition of wealth" or "lack of integrity" to describe this criminal phenomenon still dogging all African States including Côte d'Ivoire after three decades of independence. I shall limit the discussion to Côte d'Ivoire, not as a prototype of a corrupt State, but simply as an illustration.

I wish to reiterate here what I said in an exclusive interview with *Ivoire Dimanche*, an Ivorian magazine, entitled "I denounce corruption". I said, in substance, that there is a danger worse than civil war threatening Côte d'Ivoire, viz the cancer of corruption.[1] This assertion is still valid for this country as for all African countries, whose public property management is disastrous due to the corruption of civil servants. Corruption is more than a social scourge: it is a national disaster. It is the real cause, the root cause of the economic crisis as well as the social and political troubles besetting Côte d'Ivoire.

What needs to be done in the face of such a situation? From the answer to this question depends the survival or demise of the Ivorian State. The latter must kill corruption or corruption will kill her. This implies therefore that the country must be saved by getting rid of corruption. To do this, it will be necessary to know the cause of the problem, analyse it carefully and recommend an effective solution.

1 The Corruption Syndrome

Corruption is an evil that spreads terror among the citizens who are the victims thereof, and "comforts" those who use it as a means to acquire wealth.[2]

Indeed, if, as has been said, "corruption claims more lives than did the plague yesterday and AIDS is doing today,"[3] it has nonetheless given birth in Africa, Côte d'Ivoire included, after three decades of independence, to colossal fortunes, to multimillionaires (a very small minority though) while it plunged close to 500 million human beings in misery.[4] This is a crime against humanity! Concerning Côte d'Ivoire much as we do not give credence to the list circulated in Abidjan in April 1990 on 41 Ivorian multimillionaires described as dishonest citizens, we disagree with those who deny the existence of multimillionaires in this country. By misappropriating public funds, many civil servants today must be held responsible, at least partially, for the serious crisis and chronic unemployment irredeemably besetting Côte d'Ivoire, despite the stabilization and economic recovery plan of Prime Minister Alassane Dramane Ouattara.

The media generally speaks of corruption under the "varieties" item or does not make mention of it at all. We, however, feel that it should rather be discussed under the heading "crimes against humanity". It is universally acknowledged today that corruption has become one of the major factors of underdevelopment. It seriously affects the sound management of public services. Dishonesty on the part of government officials often undermines the effectiveness of exchange, credit and import control, more particularly public expenditure and income, as has been the case in the past two years, resulting in the dismissal of the Director-General of Customs and the Director-General of Income Tax who for more than thirty years reigned supreme over these two key sectors of public finance, the revenue of which was going into private instead of State coffers.

On a wider scale, especially in high circles, corruption constitutes an impediment to foreign aid and investment. On the one hand, we find ordinary citizens who are robbed by small civil servants without anybody coming to their rescue. On the other, we see donors who refuse to denounce "corrupt high - ranking officials" for fear of causing diplomatic incidents.

Thus, the corruption syndrome crystallizes around two poles constituted by petty corruption on the one hand, and big corruption, on the other.

A Petty Corruption

Petty corruption is the one which is visible, which is common among the citizens and detectable by law. It is the type of corruption that is common among small civil-servants, among junior officers who constitute the passive subjects, i.e. the corrupt; users of public services are the active subjects, i.e. the corrupters.

It is not possible to enumerate here all the civil servants who allow themselves to be corrupted, or the users of public services who are compelled to corrupt agents of these services before being served. Suffice it to indicate the areas (a) where petty corruption is rampant and (b) the victims of this corruption.

Areas Where, Petty Corruption is Rampant

There are generally four categories of civil servants, namely finance officers, customs officers, the police and the gendarmerie whose integrity is put to the test daily.

There are two groups of finance officers: those who are responsible for the execution of the budget, that is to say those who authorize expenditures, and those who collect taxes, i.e. various incomes other than customs duties: The former are the custodians of all payment documents of government workers. They do not hesitate to toss you up and down until you pay them some money. It is only after satisfying them that they process your papers and you get paid.[5]

Customs officers are the grave diggers of the import/export trade. You find them at the ports, at airports, on national roads, at entry and exit points of cities, at state borders. They rummage through hand luggage, just as they do for accompanied and unaccompanied luggage. They often turn a blind eye to breaches of customs regulations in exchange for a bribe, like those Malian customs officers who preferred to pocket ten million instead of eight hundred million francs into the coffers of the state.[6]

The police and the gendarmes deal mostly with road users. The former are found in towns and the latter in the countryside. They are responsible for ensuring compliance with road traffic regulations and checking identity papers. In both cases, they extort monies from drivers, motor riders, bicycle riders and pedestrians in order to get enough for their livelihood at the end of the month.

Such are the major sectors of petty corruption. What about its main victims?

B Big Corruption

This is the corruption that takes place behind the scenes, as opposed to open corruption, i.e. petty corruption discussed earlier. The behind the scenes or veiled corruption that we are now going to discuss has more serious consequences. It thrives in unsuspected, imperceptible circles. In these circles the people are more educated and conduct their affairs[7] more discretely. It is the type of corruption practised, not by the governed, but by the leaders, not only by individuals but also by corporate bodies. It is no longer a national but an international affair, and can only be understood when viewed from the dual angle of the big corrupters who are generally the countries of the North and the big corrupt who are mainly high-ranking officials of the countries of the South such as Côte d'Ivoire.

The Big Corrupters

The countries of the North, especially the former colonial powers like France, use corruption as a means of facilitating the sale of manufactured goods. She uses it as a secret weapon, as a vital instrument for winning the economic war being waged by the industrialized countries to conquer the markets of the third world. Development projects quickly become, with the blessing of the corrupter states, industries for the manufacture of commissions for middlemen who are none other than the governments of the third world, particularly those of Africa, and debts for under-developed countries which are today insolvent.[8]

According to Pierre Pean, France sometimes decorates a national of a third world country with the "Legion d'Honneur" for his ability to distribute bribes and to encourage him to continue to promote France's foreign trade through the corrupt machinery known as COFACE, whereby France provides guarantees for French companies that export French products and technology to the third world.[9] Those companies sometimes use the method of over-invoicing to directly distribute, outside the official channel, bribes to African middlemen. The mechanism is simple: the parent company based in France has for example a branch in Côte d'Ivoire. It sells say a fully established industry for 90 million

French francs to its branch. The latter in turn sells it to an Ivorian buyer (usually the state) for 100 million francs and refunds to the middleman (a minister for example) 10 million French francs which will be deposited in the latter's private account, in Switzerland for instance. Woe unto the civil servant of a corrupt country who may wish to play the saint. He will be quickly silenced or simply isolated.[10] But the question to be asked is: is the culpability of the corrupter countries greater than that of the corrupt countries?

The Big Corrupt

There can be no corrupter without the corrupt, and vice versa,[11] says Palice. Corruption is a living reality in Côte d'Ivoire, a country that belongs to the corrupt countries. Is it not often portrayed as a country of "hundred multi-millionaires?[12] However, unlike Zaire, Côte d'Ivoire is led by a Head of State who was rich before becoming a President. As has recently been stated:" to compare the 'Supreme Leader' with the 'Old Man' would be an unfair assessment and an insult to the 'Old Man'." A big gap separates Mobutu from Houphouet Boigny, the founder of Côte d'Ivoire. The "Old Man" has an indisputable sense of statesmanship. He has the aura of a father-figure. Ivorians were yesterday his children. Today they are his grand children. And Côte d'Ivoire is his "thing".

The origin of corruption in Côte d'Ivoire is ascribed to the munificence of the "Old Man" towards his entourage and those who solicit his favour. According to Pierre Pean, the "Old Man" doled out money to all those who solicit his favour, from the messenger to those relatively well off. A factory head who could no longer pay his workers and who, after seeing the "Old Man", went back with plastic bags full of bank notes.[13] Thus, the "Old Man" used "gift" as a system of government and mode of development. However, the generalization of this practice, described as "mild corruption", quickly gave rise to the well known evils. Yesterday as a driving force, it is today an impediment to progress, especially as the barons put in place by the "Old Man" neither had his sense of proportion nor his concern for the common good. Scandals follow one another. Some were sanctioned, others were left unpunished. For instance in 1977, three ministers were dismissed from the government because of corruption. In 1963, one of the close associates of the "Old Man" who took a large sum of money from the Stabilization Fund was pardoned with a mere shrug. In 1985, the Dioulo affair ended in a fiasco,

much to the satisfaction of the "Old Man" and the utter displeasure of the political enemies of the former Mayor of Abidjan: Affairs involving moral standards, huge sums of money, close relatives, one can go on with this litany of scandals in Côte d'Ivoire and talk of the 3000 ghost civil servants who, according to the 8th Congress of the Party in 1985, did not exist but were on the government pay roll, of smuggling and tax evasion which make the government lose close to 200 billion CFA francs every year. However, what purpose would all this serve if the world is corrupt and the corrupter hides himself or is sheltered by the magnanimity of the "Old Man" himself? Didn't the "Old Man", in explaining this magnanimity, say that to bring charges against a corrupter, the latter must be present?

How then can the country get rid of this canker which is fast becoming a chronic disease? To ask this question is to pose the problem of the therapeutics of corruption.

2 Therapeutics of Corruption

In reply to the above question, it can be said that the radical solution lies in prevention. However, given the present circumstances, it seems the prevention stage is passed. Corruption is a reality today. As stated earlier, it is well embedded in all the sectors of the national economy.

Corruption is like those sicknesses which it will be better to prevent than to cure. Once it infests an administration or society, it becomes difficult, if not impossible, to eradicate it.

And to be able to cure a sickness, one needs to know the causes. Only a thorough clinical examination will make it possible to know the nature of the sickness and the idiosyncrasies of the patient.

Sometimes, however, the results of the clinical examination do not give the clue as to what cure to administer to the patient. Given the progress made in the science of medicine or pharmacopoeia, is there a medicine that corresponds to the sickness? Regarding corruption, it seems that the conventional methods of treatment are inadequate and that it is necessary to find, as in the case of AIDS, the cure that will rid mankind in general, and our country in particular, of this canker.

The anti-crime policy currently in force in Côte d'Ivoire to fight corruption is, on the whole, ineffective because it is based on repression. This means that efforts should rather be made towards finding a cure that corresponds to the nature of the evil, such as prevention.

A Repression: An Unsuitable Cure for Corruption

After independence, African countries have used various methods of repression to fight corruption, in line with their socio-economic options. Indeed, if it is true that the repression is generally severe in all these countries, it is equally true that the method used differs from one country to another. For instance a capitalist regime makes a distinction between prejudice to public property and prejudice to private property. While it takes repressive measures to protect the former, it lessens those of the latter. However, in a socialist country where theoretically there is no private property, corruption is classified among economic offences, i.e. among prejudice to socialist property.[14]

In the wake of its independence, Côte d'Ivoire adopted a system of state capitalism. In capitalist countries there are two categories of measures for the protection of state property against corruption. The first category includes severe repressive sanctions while the second tends to limit the discretionary powers of the judge.

The new texts on prejudice to public property prepared after independence contain more severe repressive measures. These texts seem to run counter to the colonial texts considered rightly or wrongly to be too lenient towards the offenders. As a matter of fact, the colonial texts contained certain legal principles which protected any individual charged with or accused of an offence. African legislators today feel that some of these principles are an impediment to the corruption repression policy. Consequently, they simply deleted some of them such as reprieve, extenuating circumstances and rehabilitation, and restricted others such as "innocent until proved guilty".

The judge is restricted in his powers in the sense that he is not allowed to let the accused enjoy extenuating circumstances. This constitutes not only an attempt to deprive the accused of his rights but also a violation of the discretionary powers of the judge. The judge cannot determine the extenuating circumstances of the offence with a view to granting a reprieve, neither is he able to take that into account when deciding on the sentence. Simply put, it is impossible for him to descend below the legal minimum. The result is that he always pronounces this minimum judgement, even if it is too high in relation to the gravity of the offence. Furthermore, it is rare that the sentence given is above this minimum, precisely because in pronouncing the minimum despite the extreme gravity of the facts, the judge has the feeling that he

is still using his sovereign discretionary powers which he is more or less deprived of with the abolition of extenuating circumstances and reprieve. As can be observed, therefore, the anti-crime policy currently in force in Côte d'Ivoire is, all said and done, ineffective. No doubt, it is either ill applied or not applied at all because of its severity and ineffectiveness. It is necessary, therefore, to find other ways and means of eradicating the evil. It is increasingly believed that the solution lies in the prevention.

B Prevention: An Antidote for Corruption

"It is better to prevent crimes than to punish them". This assertion which earned Beccaria (1764) the title: Precursor of Criminology is particularly valid in terms of prevention control. Only prevention, rather than repression, can bring down to an appreciable level breaches of integrity in Côte d'Ivoire. This prevention will be truly effective only if two unrelenting parallel actions are carried out. The first will aim at ridding the society in general, and the civil service in particular, of the causes of this criminality. The second will be geared towards influencing the actual behaviour of government workers through a strict control of the interaction with the users of public services. The system of control currently existing in Côte d'Ivoire is decidedly ineffective, to say the least. In this connection, it will not be out of place to try to adopt to our country's systems that have proven their mettle elsewhere.

i Current Systems of Prevention in Côte d'Ivoire

In order to prevent corruption, the government mounts anti-corruption campaigns or awards clearance certificates against corruption.

Anti-Corruption Campaign System

The anti-corruption campaign consists in appealing to the people, workers, judges and law enforcement agencies to fight corruption in the civil service. This presupposes a merciless and decisive struggle, devoid of any extenuating circumstances; in short a relentless and unremitting struggle.

Now, the longest anti-corruption campaign in Côte d'Ivoire, the one mounted in 1975, lasted only five months (from January to May). This is indeed a difficult system to apply over a long period of time on

account of the many political and administrative interferences in favour of the accused who often have connections with certain public personalities in one way or another (friendship, alliance, relation, nepotism, corrupt practice, etc...).

Finally, it is a system which only affects the "small" and not the "big". Simply put, any anti-corruption campaign is a flash in the pan, or a thrust which leaves no impact no matter the force exerted.

It is therefore a cure that is ineffective, even though it aims more directly at corruption than does the system of clearance certificate against corruption.

ii Clearance Certificate Against Corruption

This title derives from an Ivorian decree promulgated on 5 April 1977, as a supplement to the regulation governing payments made from public funds.

Article one of this decree stipulates that " any payment to be made from public funds to a beneficiary of a contract concluded with a state body or company should be effected only upon presentation or delivery of a written statement made under oath by the said beneficiary. Sub-paragraph 2 of the same decree explains the purpose of the declaration: to prevent and avoid bribes when making payments from public funds.

The same subparagraph 2 further stipulates: "the statement must mention that the beneficiary has paid no compensation, either directly or indirectly, and in any form whatsoever, to any person in the service of the state or state company, with the aim of seeking the latter's cooperation in obtaining the contract referred to in this article".

As a matter of fact, this text came into being in the year when the then Ministers of Finance, Planning and Agriculture were suspected to have embezzled public funds. The rumours of corruption did not spare even the Office of the President which was compelled to issue a communiqué in *Fraternité Matin* to exonerate itself of any blame. In the said communiqué, the President reiterated what he said earlier, namely that no one had insulted him by proposing any commission of any kind to him in order to win his favours, and that he could never imagine himself losing his dignity, his entire dignity before a people that had placed their confidence in him since 1944, by accepting the best of commissions.[15]

However, the Ivorian Head of State does not deny the fact that the

practice whereby civil servants or government officials ask for commissions or make illicit gains from contracts involving the state does exist within the Public Administration in Côte d'Ivoire. Proof of this is the decree of 5 April 1977 establishing the "clearance certificate against corruption". The anti-corruption law of 22 June 1977 was also promulgated with a view to fighting an epidemic that was ruining the society and the economy, i.e. widespread corruption.

Unfortunately, this decree or certificate or clearance against corruption does not seem to have been applied as people continue to receive commissions and make illicit gains. Consequently, it cannot be advocated as an antidote for corruption.

The question to be asked at this juncture is whether it will not be advisable to try preventive measures put in place in other countries, and which seem more effective than the anti-corruption campaign or the clearance certificate against corruption.

iii Other Possible Preventive Systems

In view of the fact that the preventive measures so far applied in Côte d'Ivoire have failed, it will not be out of place to try other preventive systems in use in other countries, such as the Ombudsman system, the property and assets inventory system, the illegal wealth suspicion investigation system, the anti-corruption league system and the international cooperation system.

The Ombudsman System

The Ombudsman system consists in entrusting to a person invested with considerable powers under the common, the protection of individuals or users of public freedom or property form which they may suffer on the part of civil servants. It is a system which was first introduced in the Scandinavian countries. It is currently being experimented by several African countries, particularly the English-speaking countries like Tanzania (1966), Ghana (1969), Zambia (1974), Sudan (1974), Nigeria (1975), Zimbabwe (1982) and Namibia (1990). However, for the Ombudsman to fully play his role of promoter of democracy, it is necessary that his action be extended to cover all the sectors of national life and that the institution (i.e. the Ombudsman system) should not be drained of its substance as is presently the case.[16]

System of Inventory of Property and Assets on Taking and Leaving Office

This system consists in making civil servants declare their property and assets on taking and leaving office. It is a system which is in use in Anglo-Saxon countries, especially in England. In 1981 Senegal made provision for it in its law dealing with the repression of corruption and illegal acquisition of wealth.

Within the context of multi-partism, one of the new Ivorian parties advocated this system in its manifesto as a means of raising the moral standards of the state and the Administration. However, it limited this action to high officials of the state and the administration: candidates for presidential elections, the president elect, members of the government, people's representatives and directors. On leaving office, an inventory is made. This is compared with the one made on taking office. If it is established that wealth has been acquired illegally, steps are taken to recover that wealth and sanctions are applied.

It is, however, a method which is easy to manipulate on account of the possibility of the false declaration, deceit and putting forward of a third party. This is why some countries prefer to resort to investigation in the event of suspicion of illegal acquisition of wealth.

Illegal Wealth Suspicion Investigation System

It is an *a posteriori* control method which presumes that the constitutive facts of illegal wealth have already been accomplished. It is a method used by new leaders against those they have deposed: one remembers the widely publicized cases which led to investigations against former officials of the deposed regimes of Presidents Kwame N'krumah (1966), Modibo Keita (1968), Hamani Diori (1974), Snagoule Lamizana (1964) etc. Those investigations made it possible for Sankara to cause the trial and sentencing of almost 200 people of the previous regimes in Burkina Faso, and for Flight Lieutenant Rawlings to order the execution of 700 corrupt people in Ghana.

The disadvantage of this method lies in the fact that it only attacks an evil act that is presumed to have been already accomplished. Besides, it is only applied during a period of crises. Lastly, it spares those very people who are responsible for its implementation and their entourage. It is this discrimination that led to the failure of the 1981 law

on illicit acquisition of wealth in Senegal as well as that of the "Cour de Sûreté de l'Etat" (a special court) in Mali (despite the eleven death sentences pronounced by the above court in 1987).

Corruption control mechanisms that do not affect the "big fish" are doomed to failure. The illegal wealth suspicion investigation system forms part of those mechanisms. What about the anti-corruption leagues?

The Anti-Corruption League System

The anti-corruption league was first introduced in England in 1906. Its establishment was based on the premise that only the public opinion can make the criminal law effective. The method consists in arousing and organizing this public opinion against corruption practices, secret payment of commissions and bribes both in businesses and public administrations.[17]

The anti-corruption league aims at promoting respect for criminal law and ensuring that it does not become a dead letter. It aims more at educating the public opinion and providing counselling and warning than setting the legal apparatus into motion to try the corrupt or corrupters. It can be consulted by people of all walks of life who have various grievances. It may organize meetings in both urban and rural areas, disseminate corruption laws, publish information bulletins. It can lodge complaints or advise those who have grievances to do so. It can make inquiries about dubious cases and take legal action in the event of violation of law with greater authority than can an ordinary citizen. The very fact that an organization of this nature is working towards the application of the law, it should be able to exercise greater pre-emptive influence in business and public administration circles, once its existence is widely known.

In Africa, we believe that such a system would make it possible to fight more effectively all forms of corruption, particularly those that elude the authorities responsible for their repression, either because their proofs are difficult to establish, such as the form of corruption that is rampant among the junior officers of the public and private sectors and veiled by such passwords noticed here and there in Africa like " le cabri broute l'herbe lá où il se trouve" (in Congo), "Sac y a ciment" (in Zaire), "fais-nous-fait" (in Côte d'Ivoire, or because the perpetrators enjoy some kind of *de facto* immunity, particularly with regard to corruption

involving "the big men", the white collars, or, to be more precise, "ten per cent for Ministers",[18] in short, the corruption that takes place in unsuspected, imperceptible circles.[19]

However, the question to be asked is whether these anti-corruption associations which are so effective in England and Germany can be transposed to Africa. In countries with Anglo-Saxon influence like Ghana and Nigeria, the transposition does not pose any problem because the system allows an individual or corporate body to initiate "private legal action" even if he is not the direct victim of the offence, and to pursue it to its logical conclusion once he has initiated it. In countries with Romano-Germanic influence, however, only the Director of Public Prosecutions can initiate legal action. Moreover, with regard to civil cum criminal case, legal action cannot be initiated by an altruistic association or corporate body because the interest it will be seeking to protect is a general interest and this falls within the jurisdiction of the Director of Public Prosecutions.

However, we believe that in matters of corruption, African countries including those with Romano-Germanic influence should, if they want to quickly get rid of this general phenomenon of dishonesty, open widely the court room for associations like anti-corruption leagues, as is the case in Germany and England. To pre-empt possible abuses, it will be necessary to make the taking of legal action conditional upon a prior recognition of public utility and the consent of the administrative and legal authority.

There should be at least one league in every African country. These national leagues could come together to form an international African federation affiliated to other leagues abroad. Such a federation could be useful. It would help eliminate from the public and private life a particularly abhorrent and demoralizing aspect of the corruption syndrome which, from the business point of view, is described by the British as "treacherous competition".[20] With the establishment of the international anti-corruption league federation, we shall be moving towards an internationalization of the fight against one of the greatest scourges of our time an internationalization we strongly advocate.

System of Internationalization of Anti-Corruption Control

Corruption in under-developed countries in general, and African countries in particular, embraces not only the daily behaviours of civil servants and

workers in the private sector, but also customs frauds, tax invasion... perpetrated by multinationals. The detection of the corruption and its control took an international dimension with the Lockheed Aircraft Corp affair.[21] Now, it is at this level that lies the danger that corruption and illegal acquisition of wealth constitute for the survival of under-developed countries: the perpetrators of this danger are the "corrupting countries" and "corrupt multinationals".

Indeed, it will be necessary to not only improve the effectiveness of national legislations but also bring the various states to take anti-corruption measures that transcend their respective borders, or sign international conventions in this regard.

Some countries have adopted or are planning to adopt special criminal provisions to deal with corrupt practices perpetrated by their national companies abroad. Such is the case of the United States with the Foreign Corrupt Practices Act of 19 September 1977, and of Iran and Sweden whose laws are at a drafting stage. What is certain is that measures taken by most countries of the world to repress active and passive corruption are inadequate from the international point of view. Moreover, the definition of offence and establishment of proof are difficult to harmonize. This explains why suggestions have been made at different times to adopt new measures to be included in national legislations, from the dual point of view of definition of offence and establishment of proof.

Regarding the definition of offence, some have suggested "convergent measures in several countries in line with legal standards" and, more importantly, the adoption by the countries of origin of multinational companies of "strict measures including compulsory declaration of payment of sums of money and commissions".[22]

Others have suggested that the establishment of a company in a host country should be made conditional upon the compliance with the rules of conduct laid down by the said host country, and that the violation of these rules should lead to economic sanctions against the company and a ban on its operation. Lastly, the international draft agreement prepared by the United Nations[23] recommends the inclusion in national legislations of criminal offences specific to the area of corruption of "government officials" committed during an "international trade transaction".

With regard to establishment of proof it appears that trials are often hampered by the secrecy surrounding the acts of corruption

because of the connivance between the corrupter and the corrupt, and also because of the position of certain officials who may be involved. Against this background, it is necessary but at the same time dangerous to extend the arms of the special procedures obtaining in some countries: commissions of enquiry to ascertain facts[24] or declaration by officials of their assets whose source,[25] if they are able to establish, could change the onus of proof and allegation of corruption.

We believe that it is possible to reflect over the need for a world market that takes into account African countries raw materials, instead of the present national or inter-regional market, and, more generally for an international criminal law on business practices.[26] That would make it possible to formulate codes of good conduct to be imposed on multinationals and corrupting countries, since for the time being there is no proper international criminal law which is mandatorily applied by repressive jurisdictions. Such non-coercive regulations willingly observed by multinationals would infuse certain amount of moral standards into international trade and thereby strengthen market economy and restore public confidence.

The first code of good conduct was prepared by OECD in June 1976. It is applied more or less. A universal code was being prepared according to the 1974 UN report. We do not know what became of that noble project. Even if the effectiveness of such codes is not guaranteed, one can see in them an effort to infuse moral standards in international business practices. There is no denying the fact that this will be of great benefit to Africa.

This is why we recommend that these codes should be supplemented within the framework of the UN by an international convention which will define what constitutes international malpractices within the business world. The current method of resolving legal conflicts indeed appear inadequate for the resolution of problems emanating from some groups of multinational companies. Only an international convention would make it possible, in criminal law as in commercial, to regularize the operations of these groups of multinationals, by "reconciling their interests with those of the countries in which they operate.[27]

Conclusion

In conclusion, it should be emphasized that a triple action is required from the United Nations to deliver Africa from the grip of corruption which

is threatening the very existence of the people of this continent.

The first action relates to the preparation by the world body of an international moral convention on international business practices to be imposed on all member states.

The second action will be the launching by the UN of an "international anti-corruption year" to be followed by anti-corruption activities to be organized every year.

The third action will involve a UN declaration against corruption to alert member states to the obnoxious, inhuman and criminal nature of corruption, especially for countries of the Third World. As a matter of fact, corruption is worse than genocide. It is a crime against humanity and must be denounced, prosecuted and punished accordingly by all possible means.[28] Among these is the adoption of sanctions by the international community against states which condone or practice corruption, either as corrupting states or corrupt states, or both. Corruption is a serious violation of human rights and is responsible for the exacerbation of the public debt of African states and the current gap existing between industrialized and underdeveloped countries. It must be fought in the same way as apartheid in South Africa through the imposition of economic sanctions against corrupting countries and the leaders of corrupt countries, and the establishment of democracy in these countries. The words of the Ugandan Head of State, who was then Chairman of the Organization of African Unity on 9 July 1990, that "the establishment of democracy is the only means of liberating Africa from corruption and, consequently, from under-developments[29] is significant as it is prophetic.

Notes

1. *Ivoire Dimanche*, No. 698 of 24 June 1984, p.8.
2. Cf. Pierre Pean "L'argent Noir" (Corruption and Underdevelopment) p. 9, Fayard, Paris, 1988.
3. *Ibidem*, p. 9.
4. Assuming inhabitants of the African continent are estimated at 500 million.
5. Cf. *Ivoire Dimanche* No. 698 pf 24 June 1984, "Je denonce la corruption", by Professor Hyacinthe C. Sarassoro, p. 6.
6. Cf. H. Sarassoro, *La corruption des fonctionnaires en Afrique* Editions Economica, Paris 1980, p. 80, paper 4.

7. *Ibidem*, p.10.
8. Cf. Pierre Pean, *op. cit.*, pp. 15 and 16.
9. Cf. *Ibidem*, pp. 41–43.
10. Cf. *Ibidem*, pp. 41–43.
11. Pierre Pean, *op. cit.*, p.112.
12. Cf. Pierre Pean, *op. cit.*, p.147.
13. Cf. Pierre Pean, *op. cit.*, p.167.
14. Cf. H. Sarassoro, *La corruption des functionnaires*, *op. cit.*, p.176.
15. *Fraternité Matin* of 29 July 1977.
16. Cf. Aicardi de Saint-Paul. "L'Ombudsman en Afrique" in a special edition of the *Revue Afrique Contemporaire* (la Justice en Afrique) No. 156 (special) 4th quarter 1990, pp. 226–230.
17. Cf. H. Sarassoro: La corruption des functionaires en Afrique pages 56 to 60 for more detail on anti-corruption leagues in England and Germany.
18. We are here referring to Ministers who demand 10% commission before granting say an export or import licence.
19. Cf. *Ivoire Dimanche*, 9 March, 1975, p. 5.
20. Cf. H. Sarassoro, *La corruption des functionnaires publics en Afrique*, *op. cit.*, p. 59.
21. Cf. Deliberations of OECD, particularly the guidelines of 21 June 1976; deliberations of a commission of the International Chamber of Commerce and, more particularly recommendation 3514 of the 30th United Nations General Assembly (1975) and a proposal made by the 5th United Nations Congress regarding crime prevention and treatment of offenders. Deliberations of the Multinational Enterprise Commission set up by the Economic and Social Council (ECOSOC), first report of the Secretary-General (1976) and report of the Transnational Commission (1978).
22. Cf. United Nations, DOC E/5838, 11 June 1976.
23. Cf. United Nations, DOC, E/1978/39,24/4/78 (draft international agreement on the prevention and elimination of illicit payments made during international transactions).
24. Republic of Ghana: United Nations, above mentioned DOC, 11 June 1976.
25. United Republic of Tanzania, *Ibidem.*
26. Not to be confused with the International Criminal Law which

concerns the relationships between National Criminal Laws and which deals with criminal collaboration and conflicts of criminal laws, whereas the International Criminal Law is the International Criminal Law on business practices which will be applicable to corporate bodies through international repressive jurisdictions.

27. Cf. Mme. Mirelle Delmas-Marty: "La criminalite, le droit penal et les multinationales, JCP 1979-I-293J, No. 47, quoting Oppotit and Sayag, Methodology d'un droit des groupes de sociétés, *Reveu Social*, page 577.
28. Cf. A draft declaration proposed jointly by Professors Georges Heuse and Hyacinthe Sarassoro, respectively Chairman and member of the World De Ontology Council, published in *Revue Africaine de droit international et compare* Volume 2 No. 3 London 1990, p. 420.
29. Addis Ababa, OAU, 9 July 1990.

12

Watch-Dog Organizations for Upholding Administrative Ethics in Africa: The Case of Tanzania

Muhammed Aboud

Besides the checks and balances operating through Executive and Legislative control, as in most other countries, there are three watch-dog organizations in Tanzania specifically entrusted with tasks intended to ensure administrative ethics and accountability in public services. These organizations established either under the constitution or by special legislation are:

1. Anti-Corruption Squad (in the President's Office)
2. Commission for Enforcement of the Leadership Code
3. Permanent Commission of Enquiry

Besides these three, the institution of the Controller and Auditor-General operating from pre-independence days, has, by virtue of its constitutional position and responsibility, an important role to play in ensuring and improving public accountability. In the context of the unprecedented expansion of government activities in the economic and social sector and the consequent generation and expenditure of vast amounts of public funds, the Controller and Auditor-General is considered the guardian of the public purse. The Auditor-General has to make an independent evaluation of the burgeoning volume and complexity of the financial transactions of the far-flung government establishments to ensure that public funds are properly managed and utilized. In view of this vastly enhanced role of the Auditor-General, his institution — the Office of the Controller and Auditor-General has come to be regarded,

along with the Executive, the Legislature and the Judiciary, as one of the pillars of the society.

The three watch-dog organizations mentioned earlier are discussed below.

1 The Anti-Corruption Squad

The Anti-Corruption Squad was formed in 1975 and was given three specific functions by the law establishing it. These functions are:

A To take necessary measures for preventing corruption in the public service and parastatals and other offences involving corrupt transactions;

B To investigate and subject to the direction of the Director of Public Prosecutions to prosecute offences under this Act and other offences involving corrupt transactions; and

C To advise the government, the parastatal organizations on ways and means to prevent corruption.

Before the formation of the Squad, all corruption complaints were investigated by the Police force. The growth and proliferation of corruption in the late 1960s and early 1970s underlined the need to establish a specialized unit which could deal not only with the infractions against the law but also prevent corrupt practices.

The Anti-Corruption Squad was, therefore, formed as a public body under the President's Office. It is headed by a Director-General who is appointed by the President. It is composed of officers with legal and police background. It has also in its employment officers who have majored in economics and sociology.

The Squad's main functions can be divided into two categories — the operational function which involves the investigation, arrest and prosecution of suspects and the prevention and community education function.

In performing the first function, the Squad plays the role of the police with the difference that its role is limited to corrupt practices. Being a specialized unit the Squad carries out detailed investigations of

allegations and reports received. It is only after the allegations or reports are substantiated that the matter can be taken to Court.

The second function is a novel approach in the war against crime. It has been necessitated by the realization that the application of penal statutes alone cannot effectively fight crimes like corruption which have socio-economic and political dimensions. Laws become effective where there is certainty of detection and conviction. Detection can be facilitated by the cooperation of members of the public, conviction by the unearthing of all the ingredients of the offence. Where these are wanting the existing penal statutes become ineffective.

Another consideration which has made us try the novel approach as a complement to the traditional function of fighting crime through investigation and prosecution is the fact that the investigation machine gets set in motion after an alleged commission of an offence. Punishments are handed out ex *post facto* and are not geared towards prevention. Corruption is a product of the socio-economic environment. To effectively fight it, it must of necessity involve rearranging that environment by re-examining our values, ethics, principles and cultures.

The Squad in carrying out its task of corruption prevention, has adopted a two-pronged approach. First, by carrying out studies of public organizations and government departments prone to corruption complaints. The studies are focused on procedures, regulations, chain of command, supervision, accountability and levels of efficiency. What these studies aim at is the possibility of discovering or highlighting corruption opportunities arising due to any deficiency in any or all of the areas of study. Protracted procedures, widespread inefficiencies and delays have been found to offer fertile grounds for corruption growth in the public sector. Recommendations to eliminate these will go a long way in preventing corruption opportunities.

A war against corruption cannot succeed if the community has come to accept corruption as a way of life, however draconian the anti-corruption laws. To foster public support the public awareness of the evils of corruption and its implications on the economic and social structures of society must be aroused. Hence, to reach the public, the Squad conducts radio programmes and produces education pamphlets and posters designed to enlist the support of the public in the war against corruption. It also participates in seminars, workshops and symposia.

2 Commission for Enforcement of the Leadership Code

Establishment and Composition of the Commission

The Commission was established under Chapter 6 Part 2 article 132 of the Constitution of the United Republic of Tanzania which, together with the Committee for the Enforcement of the Leadership Code Act, 1973 Act No. 6 of 1973, as amended by Act No. 5 of 1987, stipulates that the Commission shall have power to inquire into any alleged or suspected breach of the leadership code by all members and persons in the service of the Party (CCM), the government of the United Republic and of the Revolutionary Government of Zanzibar, leaders and persons in the service of the cooperate bodies, institutions, local authorities and public organizations established by or under the government of the United Republic or the Revolutionary government of Zanzibar.

Presently, the Commission has a Chairman, a Vice-Chairman, two Commissioners and a Secretary who are all appointed by the President of the United Republic of Tanzania as per article 132 (3) of the constitution of the United Republic of Tanzania and sections 3 and 4 (7) of Act No. 6 of 1973. The Commission has other supporting officers and staff who are civil servants.

Duties of the Commission

The primary duty of the Commission, as a statutory organ, is to promote, guard and superintend the compliance of the policy of socialism and self-reliance with regard to leadership conditions, qualifications and prohibitions. In the course of fulfilling this duty the commission has two roles to play.

Firstly it is to educate the public at large through public rallies, seminars and conferences. The Commission meets leaders and non-leaders for the purposes of explaining and stressing the need to have the conditions laid down in the leadership code adhered to.

The second role is to pose as a watch-dog. In this respect, leaders who violate the conditions are pursued and investigated and if found to have breached them, they are eventually either warned, in case of trivial matters (depending largely on the nature and gravity of the situation), reported to the President who may take action as he thinks fit, and this depends by and large upon the proceedings of every enquiry

and its conclusions and recommendations thereon presented to the President. However, it must be emphasized that the President is not obliged to accept the Commission's recommendations.

Investigation procedures are in many cases similar to those of any established Ombudsman. This Commission has also other similarities with other Ombudsman like the Permanent Commission of Enquiry e.g. immunity of the members against court action for what they do as Commissioners or officials of the commission i.e. members of the Commission and officials cannot be called upon in any Court of Law to give evidence in respect of matters they know in the course of their duties.

But certainly the work of this Commission is different from that of other Ombudsmen. First of all, one must expect some reluctance or at least less initiative on the part of the public, to bring to the attention of the Commission any leader whose conduct or behaviour contravenes the code. Through mass education and public rallies, this barrier has been broken. Nowadays the public at large do respond positively in disclosing various ills by their leaders. However, the leadership code is not just like a code of justice, violation of which will necessarily involve some injustice to an obvious victim. Violation of the Leadership Code can, and in many cases be done discreetly so that even a person who sees it, may still be uncertain about the need to report the evils. There is also an obvious worry of false reports to the Commission. This bottle-neck presents itself during the investigations where people with the necessary information may be reluctant to cooperate fully, especially when they happen to be relatives or rather beneficiaries, in one way or another of the alleged violators of the code. With proper political education however, the general public may come forward without fear or hesitation to disclose such evils.

At the same time, the leadership code enforcement commission deals with a subject which is full of problems of interpretation. One being the interpretation of a leader. Too many people before the law was amended, may find themselves covered by the definition of a leader. Thus many people will not readily assist the Commission, fearing that they may themselves become "the hunted" one day.

Over the years, the scope of the Leadership code has been widening and now it may even include more abstract behavior like pure moral conduct and attitudes which might trigger the conscience of the public, especially those leaders who behave in a manner contrary to the

their status, thus causing uncalled for complaints against them. Finally the commission has been making significant contributions to the peace and tranquility of the nation, because, poor leadership especially of leaders of uncalled for behavior which is what the Commission for the Enforcement of the Leadership Code is to fight against, does in many cases lead to injustices of various kinds to those who are led.

Achievements

At the moment many people are aware of the existence of the Commission, which was specifically established to protect the political ideology of this country. The number of cases investigated during the period of ten years (1974 – 1984) and thereafter during another period of seven years to-date are true indications of successful achievements by the Commission.

Between 1974 and 1984, a period of ten years, the Commission had received a total of 2,125 cases in general. Out of these 1,365 had no bearing with the work of the Commission and they were referred to other relevant institutions like the Party Disciplinary Committee, Permanent Commission of Enquiry, Anti-Corruption Squad, and relevant Ministries and Regions.

During this period of ten years, the Commission had an opportunity of investigating 760 cases of which 78 were heard, completed, and forwarded to the President. 626 reported cases could not be proved and therefore they were shelved. Other 56 cases were still being investigated. One may be surprised as to why these few cases take so long a period to be concluded. The investigation process of such cases is technical, cumbersome and tedious.

The investigation team we have, is very small and has to travel throughout the country to verify information before a real verdict is reached. Also the funds allocated to the Commission by the Treasury do not meet real needs. However, it may be understood that the credibility of any Ombudsman has its roots in the personal thoroughness of the investigations for which he or she is responsible. The acceptance by the public and administration in general of decisions and recommendations made by an Ombudsman must be supported by well-argued, accurate, reliable material that will withstand close scrutiny. It, therefore, means that for the Commission to complete one case it needs patience and time at its disposal and hence such a delay.

Up to 1986, 83 cases had been successfully forwarded to the President and the President had directed as follows:

i 41 leaders were sternly warned by the President.

ii 14 leaders were summarily dismissed from leadership by Presidential Orders.

iii 16 leaders were affected by various decisions such as warnings and transfers.

iv 2 leaders were demoted with reduction in ranks and others in salaries.

v 10 leaders were referred to the Party Disciplinary Committee for necessary action.

In the period 1988/89 the Commission received 179 cases of which 146 were referred to other institutions. 33 cases were being investigated upon. In the financial year 1989/90 i.e. from July 1989 – March 1990, the Commission was still investigating the 33 cases of 1988/89 and at the same time 130 cases were reported and received making a total of 163 cases. For those cases received in the financial year 1989/90, 92 were referred to other institutions. In this period three cases were successfully completed and forwarded to the President.

Bottle-necks

The geographical vastness of the Republic, meagre budgetary constraints, poor communication systems and lack of modern working facilities, have played major roles as bottle-necks and inhibitions to the efficient and smooth implementations of vital activities, findings, investigations and follow ups by the Commission.

However, notwithstanding all these, public confidence in the Commission has also contributed a great deal to its success as already proved statistically. Also some good citizens and the understanding public know that they can send their complaints to the Commission in secret and that their secrets will not be disclosed.

All the problems, bottle-necks etc. identified above cannot be solved overnight. However, it is very well known in such a young institution that many officers of the commission have got limited training in investigation and management. Efforts are being made to get them the appropriate training, both locally and where possible outside the country.

In view of rapid political and socio-economic changes some leaders have tended to evolve tricks to evade the leadership codes. Some of the tricks used are such as using the name of others e.g. his or her son or daughter of tender age in their business transactions while retaining his name in operating bank account for the same business. Another vivid trick is allowing relatives to use a house in his name for the business under the name of relatives and claims that he does not benefit anything from the transacted business.

Appendix "A"

Statistics — Since November, 1985 to March, 1990

Year	No. of cases received	Cases which were referred to other organizations	Cases verified and closed	Cases still in progress	Proved cases and reported to the President
1985–1986	102	87	7	8	–
1986–1987	168	132	6	26	4
1987–1988	348	247	2	99	–
1988–1989	179	146	–	33	–
1989–1990	130	92	–	35	3
TOTAL	927	704	15	201	7

Source: UONGOZI DSM

In recent times, there have been some changes. Leaders can now farm so as to supplement their meagre income arising from their

salaries. Also, leaders who have built houses through Bank (THB) loans and thereafter move to their houses, they may rent part of their houses for the purpose of paying loans so obtained to erect the houses. Can this be taken literally to be contrary to these leadership ethics? So how can the Commission go about resolving such an issue?

1 The Permanent Commission of Enquiry (PCE) (The Tanzania Ombudsman)

The Permanent Commission of Enquiry which is internationally known as the Office of the Ombudsman in Tanzania was the first of its kind to be established in Africa in 1966. It was entrenched in the then Interim Constitution in 1965 and started to operate in 1966 after the passing of an act of Parliament which spelt out its powers, procedure and immunities.

Objectives:

The PCE is a safeguard against the abuse of power by public officials whose decisions can have serious consequences for the individual. The establishment of the PCE provided an effective safeguard for the ordinary citizen in dealing with allegations of misconduct and abuse of power by public officials. It was then established by law and allowed to enjoy certain powers and protection with a wide jurisdiction, to enquire into allegations of abuse of power.

Structure:

The Constitution provides for the Permanent Commission of Enquiry to have five members — a Chairman and four Commissioners. All five members are in full time appointment. The members split up in groups to tour the regions and one Commissioner is permanently placed in Zanzibar where the PCE has a small office.

The Chairman and the Commissioners are not eligible to hold office for longer than six years. They enter into contract for three years which can be renewed only once and an ex-member can be reappointed after a lapse of a period of at least 3 years. The members are appointed by the President himself and normally they are people of high integrity and of high and good standing in the government and the CCM (Ruling Party).

Besides, the Commission has employees who are civil servants under the leadership of the Secretary who is the Chief Administrator and a Presidential Appointee.

Normally appointed Secretaries are experienced civil servants and also people of high and good standing in the Government and CCM.

Effectiveness:

The Permanent Commission of Enquiry since its establishment has involved itself in regional tour programmes where peasants and workers are met in public meetings to raise their awareness and make them conscious of their rights. It is also a way of publicizing the Commission; hence ordinary citizens and public officials are made aware of the existence of the Commission and its jurisdiction. The Commission receives an average of 3,000 cases each year. Out of these, 50% of all complainants are advised on what to do or referred to other appealing authorities or bodies. 20% of the complaints are found justified whereby remedies are provided, 20% are found not justified after investigations and 10% are either withdrawn or declined for various reasons.

The Permanent Commission of Enquiry is an effective way of showing the commitment of the government to democracy and is one of the fundamental aspects in society. The Commission is a step further than formal guarantees in the law, for example, the Bill of Rights and confirms that many times the rights of the individual depend more on the ethical sense of principles which bind together, leaders and the people. The PCE sometimes is referred to as the "poor man's lawyer" because it is a place where the ordinary, poor and aggrieved persons can turn to without following formal procedures, bureaucratic red tape and without paying fees. The PCE is not bound by the rule of evidence or follow a wide procedure. The effectiveness of the PCE indicates a strong commitment from the citizens of the United Republic to these ethical principles.

The rising wave of mismanagement, corruption, embezzlement of government funds and mishandling of government properties show that the laws and regulations enacted to enforce them in practice are not honoured. Over the years, the complaints brought before the commission do not necessarily mention individual sufferings but also community suffering — in other words citizens are becoming more and more concerned with public as well as with individual rights.

Often the Commission has dwelt on the rights of the public or groups of people by suggesting changes or amendments to be made on various laws and regulations. The Commission too refers matters to other appealing authorities or bodies sometimes with the aim of indicating that there is an even concern on matters of legal and ethical offences.

2 Institution of the Controller and Auditor-General

In Tanzania, as in most other countries, the Exchequer and Audit Department with the Controller and Auditor-General as its head has been established as an autonomous watch-dog organization for ensuring administrative ethics and financial accountability in public services. The institution of the Auditor-General is not new, it was there in the olden days also, but it was then the office of an obscure functionary in government, when Governments confined themselves to playing a limited role, such as the maintenance of law and order. With the activities of the present day governments expanding on a vast scale into the social and economic sectors, the need for keeping under continual scrutiny the spending habits of the far flung Government establishments entrusted with large public funds, becomes vitally important — especially in the developing countries. The Auditor-General has to make an independent and objective scrutiny of the burgeoning volume and complexity of the financial transactions of public bodies to provide an assurance to the public through the Legislature that pubic funds are being properly managed and utilized and the nation's resources effectively used for the well being of the people.

It is recognized in all countries, whatever be the form of their Government, that for the scrutiny and appraisal of the activities of public bodies to be objective, unbiased and useful as well as for providing assurance for the credibility of its results, the Auditor-General should be independent of the Executive. In Tanzania, such independence is secured through suitable provisions in the Constitution itself.

In following the Constitutional mandate, the Auditor-General's functions have mainly centered around the following:

A Audit of accounts and appropriations.

B Audit of expenditure to ensure compliance with rules and regulations.

This compliance and financial audit is essential and continues to be so, but is by itself inadequate in the context of the vast amounts of public funds generated and expended and the complexity of the expenditure incurred by Government for socio-economic development. It becomes necessary to make an objective scrutiny and an overall evaluation to ascertain whether public monies have been expended not only in conformity with the prescribed laws, rules and regulations but also with due regard to economy and efficiency. It would also be necessary to examine whether the revenues due to Government in accordance with the relevant laws adopted by the Legislature have been properly assessed and promptly collected. As a further development in the evolution of the Auditor-General's mandate, the concept of the three Es as indicated below have come to be acknowledged as the essential elements of a comprehensive audit that should be carried out by the Supreme Audit Institution (SAI).

Economy: Whether the activities undertaken and completed are executed at the lowest possible cost

Efficiency: Whether an activity is completed on a set programme at a predetermined input-output ratio in accordance with an agreed time-table.

Effectiveness: Whether the objectives for which the activities being undertaken are being achieved.

In Tanzania we have not been able to advance to these areas of "comprehensive audit" mainly because of the severe shortage of qualified and trained staff, particularly at senior professional levels. We hope to make a beginning when the staff position in SAI improves in the near future.

Public Enterprises:

As in several other African countries, commercial and industrial enterprises have been established in the public sector, either by creation of new public corporations or by nationalization of existing entities, with a view to hastening the process of economic independence concurrent with the public enterprises. The public enterprises have a

vital role to play in the socio-economic development of the country. In terms of the vast amount of public funds they use, the resources they apply, the areas they cover in the social and economic sectors and the contribution they make or should make, the performance of the public enterprises is of strategic importance to the nation.

In most cases, however, their performance has not come up to expectations. Some of them have almost been bottomless pits gobbling up scarce national resources and possibly contributing to the increasing debt burden of the country. Since the public enterprises use public funds, they are accountable to the people through the Legislature, and this accountability necessitates an objective evaluation of their performance from the point of view of the three E's mentioned above — economy, efficiency and effectiveness. The Supreme Audit Institution has an important role to play in making such an evaluation and for ensuring this accountability.

In Tanzania, the Supreme Audit Institution has not been able to directly undertake the audit of the public enterprises because of the severe staff shortages and lack of resources. A separate organization (Tanzania Audit Corporation) conducts the audit of the parastatal organizations every year. The audit conducted by the Tanzania Audit Corporation operates like private auditors. The TAC issues, besides the normal auditor's report on the accounts of each parastatal, a management audit report for the benefit of the management of the enterprises.

Under the law establishing the Tanzania Audit Corporation, the Controller and Auditor-General is empowered to issue such directions and instructions to the TAC as he may deem necessary for it to perform its duties; but otherwise it carries out its functions independently. The annual reports of the Tanzania Audit Corporation on the accounts of the parastatal organizations are submitted to the National Assembly and are examined by another committee of the Assembly.

The Tanzania Audit Corporation is managed by a Board of Directors composed mostly of officials drawn from the civil service on ex-officio basis. This arrangement is not conducive to adhering to the basic tenet of public accountability: that audit should be free from any control by the Executive. But continuing staff shortages coupled with high turnover, makes it very difficult for the Supreme Audit Institution to play an active role in the audit of public enterprises at present.

Revenue Audit

There is another important area of public finance that has necessarily to be brought within the scope and functions of the Supreme Audit Institution. This is in respect of the revenue receipts of the Government. With the Governments in the developing countries taking on more and more socio-economic activities in the development process, the need for finding adequate monetary resources is perennially felt. Part of these massive out-lays has to be necessarily met out of the revenue receipts of the Government, most of which come in through taxation. The potential for imposing new taxes or for appreciably increasing the tax base being very limited, the tax receipts soon tend to reach a saturation point. In this situation, an improvement in the productivity of the existing tax system would unquestionably make substantial additions to the resource position of Governments. Such an improvement on an appreciable scale could be brought about by the Supreme Audit Institution conducting audit of the revenue, as amply testified by the pioneering work done by the SAI in India.

I am glad to say that in Tanzania we have established this revenue audit (income tax, customs duties and sales tax) covering not only the collection aspect but also the tax assessments vis-a-vis the laws and tariffs governing them. As a result of the revenue audit conducted even on a limited scale, substantial additional tax revenue has accrued to Government and more importantly, it has brought about streamlining and strengthening the tax administration leading to increased revenue receipts.

Audit Reports

As mentioned earlier, the Controller and Auditor-General is required to prepare and furnish a report on his audit findings. The Audit Report is prepared bilingually (in English and in Swahili) and is submitted to the President once a year. It is then forwarded to the Speaker of the National Assembly for consideration by the Public Accounts Committee.

Public Accounts Committee (PAC)

The Public Accounts Committee of the National Assembly considers the Audit Report in detail, and the Auditor-General assists the Committee

in its deliberations. The Principal Secretaries to the Ministries of the Government or their designated Deputies attend the meeting to answer the points raised by the PAC on the basis of the Audit Report. After considering the replies furnished by the representatives of the Executive Government, the PAC issues directives for suitable remedial action. The PAC in Tanzania has also powers to surcharge any official found to be responsible, in the opinion of the Committee, for the lapses, the losses and the like.

The follow-up action on the PAC's directives is carried out by the Treasury and I also keep in touch with the further developments in the matters included in my annual reports.

Public Relations

The fact that public accountability is a matter of concern ultimately for the public at large, should not be lost sight of. The Audit Reports are public documents intended also for the man-in-the-street.

In Tanzania, copies of my Agency's reports, sometimes accompanied by a press release, are given in a bilingual (English and Swahili) form to the local press. Extracts from the Audit Reports are published, accompanied by perceptive editorial comments. Letters to the editors of the newspapers, expressing the usually indignant reaction of the reading public at the financial foibles of the Executive, as brought out in the Audit Report, are also published.

Independence of the Auditor-General

At the beginning I touched briefly on the need for complete independence for the institution of the Auditor-General. Besides the Constitutional provisions to ensure his independence, there are additional provisions to ensure his independence. There are three prominent strands to this independence. First, the personal independence of the Auditor-General; second, his ability to marshall sufficient resources including human resources of appropriate competence to perform the audit function at a sufficiently high level of skill and coverage; and third, his freedom to choose the areas and modalities for audit, and to set work plans and programmes, without being vetoed by statute or otherwise.

Freedom to Marshall Sufficient Resources:

Since the Auditor-General has to necessarily function through the members of his institution, they should also similarly enjoy a relatively high status, adequate emoluments and other satisfying conditions of service, considering the multifarious and onerous duties cast upon them. To attract high quality, well-qualified staff and to retain highly trained and specialized personnel, the Auditor-General should be free to decide the salary and other conditions of service of the members of the Supreme Audit Institution. He will no doubt take into account factors such as the Executive Government's pay policy for the civil service but he will not be bound and hedged in by those factors. This freedom for the Auditor-General is particularly essential in an environment where there is very high demand for skilled accountants and experienced auditors, as is the case in Tanzania.

In the UK the Auditor-General has been statutorily endowed with such freedom. Sadly, this is not the case in most of the countries including Tanzania, where I have to be at the tender mercies of:

i the Treasury
ii the Ministry of Labour and Manpower Development, and
iii the Civil Service Commission

not only to meet my staff needs but also in their salaries, the rules for their promotion within the Department and other conditions of service. In the absence of any autonomy in these matters, it has not been found possible to attract and recruit staff of the right calibre and qualifications, and to provide them with adequate professional training. As the private sector and even the parastatal organizations offer better "packages", there is a high turnover of staff, and the Supreme Audit Institution is unable to retain even the few trained staff. The problem has been very acute, and it is time that this essential ingredient of the Auditor-General's independence is provided in full measure.

The financial resources required for the performance of the AG's duties should be adequate and the Auditor-General should have full administrative and financial powers without any veto by other agencies. In Tanzania the budget of the Exchequer and Audit Department is scrutinized and approved by the Treasury. Although I have had no difficulty in getting the funds required, it is desirable that in principle, the

annual appropriation of the SAI is taken out of the preview of the Executive and entrusted to a Committee of Parliament, as has been done in the United Kingdom.

Conclusions and Suggestions

Unquestionably public accountability is at a very low ebb in Tanzania and the absence of this essential ingredient in public bodies in adequate measure has led to serious impairment of the development process, to increasing the debt burden and to other such undesirable consequences. The problem has to be tackled in several ways if the developing countries are to reach anywhere near the cherished goals of economic independence and the well-being of the people. One sure way is to strengthen the institution of the Auditor-General and to provide him with all the ingredients of independence as outlined above.

The Executive government must take early and adequate steps to overcome weaknesses in several areas of public administration, right from the stage of planning to the final stage of completion. The design, management and operation areas should be substantially reoriented towards public accountability, and the monitoring and control system effectively strengthened. Absence of financial discipline (fraud, waste and extravagance), abuse of privilege and the insidious cancer of corruption and similar other ills in public bodies have led to a crisis of accountability. These have to be tackled as a war with vision, foresight and earnestness in the interests of the welfare of the nation and of the generation to come.

Additionally, we could also consider including a lesson in the syllabi of all final year school and college students to bring about greater awareness of public accountability and of the Institutions, such as that of the Auditor-General, established for its promotion. This may not mean much, but in keeping with the maximum "catch them young" it may contribute to greater accountability in the long run.

13

Ethics and Accountability in The Swaziland Civil Service

N. Holpe

POPULATION AND EMPLOYMENT

The Kingdom of Swaziland, at the time of the last national census, in 1986, had a total population of 706,000 and a resident population of 676,000. The official rate of population increase per annum is 3.2%.

The majority of Swazis live on Swazi Nation Land. There has been a progressive rural to urban migration. This has put a lot of pressure on the urban sector to provide employment opportunities. School leavers far outnumber jobs created in the formal sector. The population of greater Manzini and Mbabane (the two major urban centres in Swaziland) at the time of the 1986 census had increased by 56% in the past 15 years to 81,000.

It is therefore against this background that the whole issue of Ethics and Accountability in the Swaziland Civil service will be discussed.

Government and Administration in Swaziland

All legislative and executive functions are vested in His Majesty the King. Ministers are appointed and removed at the prerogative of the king. The king fulfills two parallel roles. He is the Head of State and is advised by a Cabinet of Ministers responsible to a two Chamber Parliament. He is also advised by the Swazi National Council and an inner Council of senior Traditional Leaders (Chiefs).

The Prime Minister is charged with the overall responsibility for operation of good government and the welfare of the people. Ministers exercise their responsibility collectively through cabinet.

As the functions of the Ministers and their Principal Secretaries are properly defined, ideally this should result in smoothly operating ministries. The Minister is the political head of the ministry and should be responsible for policy formulation. The Principal Secretary on the other hand should be responsible for policy advice and implementation and the overall management of the Ministry. In order for Government to implement its national policies and programmes it is of vital importance that these functions are clearly understood. Sometimes the practice gets confused.

Profile of the Swaziland's Civil Service

The Swaziland Civil Service has approximately 22,000 employees. About 7,000 of these are teachers, 2,000 are daily paid, either attached to capital projects or providing services of a daily-paid nature. The balance are on permanent and pensionable conditions.

The conditions of service of civil servants are governed by various principal legislations, such as the Pensions Act of 1986, the Employment Act, the Industrial Relations Act of 1980, and the Government General Orders, as amended from time to time. The teachers on the other hand have their conditions of service defined in the Education Act, the Teaching Service Act and the various regulations as published by the Ministry of Education.

The Civil Service Board is the employing body for all Civil Servants. The Teaching Service Commission employs teachers, and the Judicial Service Commission employs Judges and Magistrates. The Civil Service Board has delegated some of its initial selection powers to cadre promotions boards. The Civil Service Board however retains the ultimate decision making powers on Civil Service appointments, promotions, transfers etc.

A large portion of the recurrent budget goes towards paying Civil Service salaries. During the 1991/92, financial year, this figure is E 223, 033,000 which is roughly 46% of the recurrent budget.

General Observations on Unethical Behaviour

The Civil Service has been set up to provide a service to the public and a favourable environment for the continued growth of the Swaziland Economy. The role of the Civil Service was clearly stated by the Minister for Labour and the Public Service in his 1990 Christmas message:

> As servants of the Public, we should always strive to serve the Public, who are our pay-masters with great dedication and we should be guided by the desire to improve performance and productivity. I would urge all those in supervising positions to take their responsibility seriously and strive to improve performance.

Productivity in the Civil Service should be measured by the ability to meet specific developmental goals, as stated in the country's National Development Plan.

There is a definite need to look at the state of the Civil Service not only in relation to the management of the Service, but also the quality and productivity of the people employed by Government. This has been an issue of great concern to the Government. In order to address these concerns the Government has set up a number of Commissions of Enquiry, such as the Chief Udoji Commission of 1969, the Wamalwa Commission of 1976, the Hlophe Committee of 1986, and more recently, the Richards Commission of 1988. These Commissions have come out with a number of recommendations to redress the declining standards in the Civil Service. Although a number of the recommendations of these Commissions have been accepted by Government, only a small number have been implemented. A good number of these recommendations remain valid.

There are a number of contributory factors to the present state of ethics in the Swaziland Civil service. The most serious forms of unethical behaviour in the Swaziland Civil Service are a result of poor management and lack of supervision. There is also the problem of long acting appointments, where officers are appointed to act in very responsible positions for long periods, despite a clearly specified period of acting appointments, without substantive appointments being made. Another cause is the failure to recruit and retain properly trained and experienced officers. There is also the converse of this situation where very highly trained officers are not assigned to jobs to which they best qualify.

The major forms of unethical behaviour frequently reported in the Swaziland Civil Service are discussed below together with efforts to tackle them and some suggested recommendations.

i Poor Discipline

This is manifested by lack of respect for authority, drunkenness, late coming etc.

One explanation for this problem is the dualistic nature of the operations of the Civil Service. Some supervisors discipline officers in good faith and in accordance with existing regulations and find that they have to answer to authorities outside the normal government machinery, mainly because of roles that are not clearly spelt out. There is usually a fear of the unknown or unwritten laws. It is sometimes disheartening when qualified officers take advantage of the situation and seek redress from the traditional system.

Mechanisms for Monitoring

Civil servants are disciplined according to specific rules and regulations. The existing disciplinary procedure is very lengthy but if action is taken at the right time it can be quite effective.

There is need however to revise the disciplinary procedure and give more authority to the supervising officers, whilst at the same time ensuring that the officer is protected from unfair discipline.

The roles of modern and traditional management systems need to be spelt out clearly. The systems should complement each other, by ensuring that they are not in conflict. There should be recognition of the fact that the modern management systems for example operate within set guidelines some of which are in place because of parliamentary rulings.

Another mechanism that can be utilized to monitor the state of discipline in the civil service is the performance appraisal system. The Swaziland Civil Service has an open system of performance appraisal. The appraisal reports are supposed to be completed and submitted each year. If properly utilized these can generate information to be used by the Civil Service Management, such as the officer's performance, his training needs, suitability for promotion etc. These reports could also generate data on succession planning, establishment of appropriate recruitment, training and retirement policies and procedures.

Unfortunately most of the Civil Service Managers tend to make one off assessments, either because a disciplinary case has come up

against the officer, or the officer is recommended for promotion. This makes the reports very biased.

There are a number of reasons for this situation the main ones are that supervising officers are not properly trained to complete the appraisal report, reluctance to give a poor rating, outdated job descriptions, and non-appreciation of the importance of the appraisal system.

If the system is properly utilized, it should give each Civil Servant feedback on his/her performance. Any performance that is below standard could then be redressed quickly, before it is accepted as normal.

ii Misuse of Government Equipment, Materials and Funds

There is currently an outcry from the public because of the misuse of government cars, equipment and materials by Civil Servants. This problem is not just limited to certain ranks of the Civil Service, but seems to cut across the whole service.

Causes

The main cause of this is poor management both by example and the lack of willingness to take prompt disciplinary action against the offending officers.

Another reason is the failure by some Civil Servants to appreciate that they are accountable to the public whose taxes are used to pay their salaries and purchase the equipment at their disposal.

The question of misappropriation of funds stems from the inability of supervising officers to closely supervise the work of those who are entrusted with the handling of funds.

Monitoring Mechanisms

On the question of misuse of Government transport and equipment, the Government has set up an Inspection Unit within the Ministry of Works. Also in the pipeline is an amendment of the relevant Legislation to give the unit the necessary legal clout. This unit has recently been set up. It is however pleasing to note that it seems to have the full support of all senior officials in Government.

A Parliamentary Committee, called the Public Accounts Committee is in place to review the Annual Reports of the Accountant-General and the Auditor-General. Controlling Officers have to account for both over and under expenditures. The deliberations of this Committee are taken very seriously, by Heads of Departments. The Committee's effectiveness could be enhanced by more rigorous follow up.

There is also the Planning and Budget Committee comprising the Principal Secretaries of Finance, Labour and Public Service and Economic Planning. This Committee advises the Minister for Finance on budgetary issues, and is chaired by the Principal Secretary for Finance. The role of this Committee is to review submissions from line Ministries and Departments on all resources (i.e. money, materials and manpower). The Committee then makes recommendations for inclusion of various expenditure items in the budget. The formulated budget is then presented by the Minister for Finance to Parliament. After the budget has been approved, the role of the Committee is to monitor the expenditure of funds and the implementation of the capital programmes. The impact of this committee has grown from strength to strength, as line Ministries have realized that their request for resource allocations are closely reviewed by the three Central Ministries.

iii Drunkenness and Absenteeism

The main cause of this phenomenon which is quite widespread within the Service is low morale. A number of Civil Servants are of the opinion that their work does not count for anything, so even if they are absent or drunk nobody really cares.

Another reason is unclear or outdated job descriptions and unclear lines of communication. An officer finding himself in a frustrating environment, with no job satisfaction will tend to find solace in being either constantly drunk or absent.

Mechanism for Monitoring

The monitoring of this problem is in accordance with various Civil Service regulations. There is a realization in most government circles that the country may be facing a very serious alcohol abuse problem. Most of the work of educating the public on alcohol abuse is done

through non-governmental organizations, some of which receive a subvention from Government.

There is need also to urgently update job descriptions and ensure that reporting relationships are clear. Another issue which needs addressing is that of incentive schemes which would go some way to ensure that those officers who perform well do get recognition for the good performance. There is always the danger that if not properly monitored this would end up being awarded to every officer.

As a follow up to the recommendations of the Hlophe Committee of 1986, a Research and Development Unit was set up within the Management Services Division of the Ministry of Labour and Public Service. The specific terms of reference are to collect, collate and analyse information on the Swaziland Civil Service as well as other Public Services, pay rates, labour market trends, salary reviews, and the introduction and review of allowances and other research on remunerative and fringe benefits. The Research and Development Unit has been involved in a number of assignments since its establishment. For example the salary structure for most of the grades in the Civil Service has been restructured to remove a number of overlaps. A Recruitment and Retention allowance has been introduced for those cadres within the Service that have problems in either recruiting or retaining their officers. The unit could also make proposals for incentive schemes in the Civil Service.

iv Delays in Decision Making

There are delays in making decisions, be they operational, administrative or major policy decisions. The causes are:

i The reluctance to make unpopular decisions. Some decision makers get round this situation by first giving the problem to a committee to look at and make proposals. The proposals of the Committee are then given to a sub-committee, and the time taken to make a decision becomes endless.

ii The other reason which is just as serious is non-availability of data. Either data to aid managers to decide is not there, inadequate, or outdated. This leads to delays while data

is either updated or verified for accuracy, or is collected from scratch.

iii The third reason is related to the second but has a slightly different focus. This is the question of institutional memory. There are a number of classic cases where one is thrown in at the deep end with no back up information whatsoever, concerning the decisions which were taken. This situation is not helped by the frequent transfers.

iv The fourth reason is absence of policy or policy guidelines. Public policy analysis is nonexistent in the Civil Service.

Mechanisms for Monitoring

The Wamalwa Commission of 1976, recommended a Public Service Reconstruction Committee "to give the vital and sustained thrust which is essential to transform the Civil Service into a fully effective organization for national development." This Committee comprises five Principal Secretaries and is chaired by the Secretary to Cabinet/Head of the Civil Service. It makes major decisions on most policy initiatives and manages the effective transformation of the service.

Another machinery for ensuring that public policy issues are properly addressed, or that bottlenecks in the decision making process are removed, is the Management Services Division, situated within the Ministry of Labour and Public Service. The Division has the mandate to recommend efficiency improvement initiatives. A number of the policy issues addressed by the Public Service Reconstruction Committee are either initiated or researched by the Division.

The third important and relevant institution is the Office of the Secretary to Cabinet which performs more than the traditional role of being in charge of the Cabinet Office, arranging the business for, and keeping minutes of Cabinet meetings. The other focus of this office is in fact ensuring that resources allocated to the Civil Service are properly harnessed, so that decisions of Cabinet are carried out efficiently, quickly and in a co-ordinated manner.

The post of Secretary to Cabinet, remained vacant for a long time. Since assuming duty in 1991, the present incumbent of this post has revived those mechanisms in Government, that will assist with the

smooth running of Government. He has also attempted to ensure that those reports with recommendations that have a bearing on Civil Service performance are studied, checked for relevance, and whenever possible implementation has begun.

To address the problem of delayed decision it would help if Government developed a good Management Information System, to be able to utilize the mass of data in the Service. This is not to say that the problem will be solved overnight, there is still the problem of getting the Civil Servants to understand that a delayed decision costs tax payers money.

v Corruption

Tax payers are finding that in some instances they have to pay for services that should be offered either free of charge or for a specified fee. Swaziland like most other countries is now increasingly facing the problem of corruption.

This is causing the Government large sums of money in trying to beat the corrupt elements. An example is that Government has had to change the drivers licensing system by introducing a computerized system. There are a number of contributory factors, these are:

Low Salaries and Rising Inflation

A number of Civil Servants find that increasingly their take home pay is no longer adequate to cope with their most basic needs. Either payment is required before a service is rendered, or strings are pulled in order to ensure that certain actions which would not normally be covered by the various Civil Service regulations do in fact take place.

Abdication of Responsibility by Supervisors

This occurs in situations where an officer finds himself in a position where he can make very high level decisions without needing to clear these with his supervisor. For example if a Clerical Officer posted to an outstation, finds that he can actually make very firm proposals to the land allocation committee, soon if not checked, money will be changing hands or he will make the allocations himself, without even consulting the committee.

Lack of Example by Senior Officers

There is this belief that certain levels within the Service are above the law. These senior officers forget that by virtue of their positions, they are seen as the sounding board on ethical behaviour, and that they lead by example.

Mechanisms for Monitoring

Most of the cases of corruption should be investigated by the police. It is very doubtful whether the relevant legislation does in fact give the police adequate powers to do a proper job. Another problem is that corruption in most cases is reported by a complainant. These complainants have to be prepared to take the matter right through to a court of law.

The Honourable Prime Minster and a number of his Cabinet Ministers have come out very strongly against corruption and have encouraged citizens who have found themselves compromised to report the perpetrators directly to them. This has not necessarily brought forward a flood of reports.

vi Disclosure of Confidential Information to Unauthorized Sources

In most instances where this has happened it has been done in order to influence public opinion on Civil Service issues. These are either issues that the Government is taking too long to decide on or intends to take a stand that will not be very popular. The usual form this takes is leaking information to the media. There are a number of instances where personal information, relating to a probable promotion, transfer or disciplinary action is leaked to the affected officer.

Mechanisms for Monitoring

There are regulations in place to address the question of disclosure of information. Some of the deterrents such as possible loss of a job do not seem to be working.

All Civil Servants on assumption of duty sign the Official Secrets Act. In a bid to address this problem the Secretary to Cabinet/Head of

the Civil Service recently had to issue a Cabinet Circular reminding Civil Servants of the penalties of disclosure.

Government has also set up a press committee responsible for ensuring the proper handling of Government information. This is a new outfit, whose strengths and weaknesses still have to be tested.

Conclusion

The Swaziland Civil Service like other civil services in Africa is facing serious ethical and accountability problems. What can be said though is that there is realization by most senior managers in the Civil Service that the service is not performing as it should. Wherever possible, various structures/institutions have been put in place to address the problems. Those institutions that are properly managed are yielding results. I hope the picture of the Swaziland Civil Service is not too bleak. We try our very best.



Remedies

14

Education and Training in Democratic Ethical Values for African Public Services

Peter Anyang Nyong'o

INTRODUCTION

The current concern for ethics and accountability in the Civil Service in Africa may treat education and training, as essentially remedial measures against lack of accountability and prevalence of unethical practices in the public service. There is also a tendency to perpetuate the myth that public servants, by their role in society, are expected to act ethically and to observe rules of accountability. What needs to be understood at the primary level is not why civil servants behave unethically, but why people's expectations of state action are quite often disappointed by state performance. The unethical behaviour of civil servants is secondary to our understanding of the nature of the state and state action. In other words, we need to address ourselves to the following questions first: *how can the state successfully reconcile purely selfish private interests with its public concerns; to what extent can the private interests of those who occupy state power be successfully subordinated to the pursuit of the public good by the state?*

Problems associated with the conflicts between private interests and the public good confront public administration in all societies today. The difference in its magnitude between one society and the other may be found in many factors, all depending on the level of social development and the cultural dynamics of a society. But one thing remains constant: as long as the state is expected to perform public functions, private interests will tend to subvert it, hence raising ethical issues which are of some concern to us in this chapter.

The Private and the Public Good

Peter Ekeh, for example, in an article that attempted to theorize this problem in the African context, argued that public administration in Africa is faced with "the crises of the two publics": that which might be regarded as "the private public" and that which might be regarded as "the real public", or "the public public."[1] Africans, as it were, when they occupy public offices, see their positions as serving these two publics. Regarding the private one, an individual is justified to violate any "state law" that refers to the "public public" if a particular action is intended to satisfy the "private public." For example, employing a brother-in-law as a clerk even when he does not satisfy the qualifications laid down by the Public Service Commission is regarded as morally justifiable with reference to the "private public." Creaming off huge surpluses from a public corporation by a Managing Director, even when it is pointed out by the Public Accounts Committee as a violation of rules and regulations and as tantamount to stealing is still regarded as defensible if it leads to "economic parity" between "those who stole in the previous regime" as opposed to "those who are trying to catch up in the present regime".

Thus the individual civil servant always sees himself as serving two publics: those related to him by blood and family ties—the clan, ethnic group or tribe; and those with whom he shares citizenship in the modern state. To those he must render service by dispensing with public goods in a manner that somehow serves these two publics.

What Ekeh does not dwell on at length is the manner in which serving the private public tends to undermine the development of citizenship as a shared value: what has been called nation building. To what extent should the ethic of nation building be inculcated into the African civil service? What would they understand by this?

The tension between the private and the public good in state action lies at the basis of all theories of the state. Two clear tendencies can be discerned here. The first one, from the social contract theories, sees the state as a necessary evil, a system of power and public authority to which society submits for its own good. Without some order and authority, argues Thomas Hobbes,[2] society would be totally destroyed by the selfishness of its own members. In fact, the existence of public authority is coterminous with the existence of society. Pre-social man was also pre-political: his life was nasty, brutish and short. Jean Jacques Rousseau saw submission to authority as the product of

a rational choice in society, a contract among citizens which establishes the limits between public authority and the domain of the individual, and one which, of necessity, preserves individual sovereignty as the highest form of freedom when, in society, he rationally decides to submit to public authority.[3]

Thus the process of belonging to society and of submission to authority is, in social contract theory, essentially a process of the socialization of the individual. Rousseau puts it much more graphically: People come into this world naked and sinless; it is society which clothes them and teaches them wicked ways. In this process of socialization, the individual is inculcated with certain values; in other words, the individual is educated.

The bone of contention in social contract theories is whether such values exist in and of themselves or whether they are products of social relations. If the former is the case, then where do such values come from: Are they God-given, or do they, like manna, fall from heaven? If the latter is the case, then how can such values be the basis of a social contract through which pre-social man opt to enter society?

What is really at stake is to understand the hegemonic role of the state in capitalist society. In other words, the manner in which all social classes and categories, in spite of their contradictory interests and relations, subscribe, in the final analysis, to a bourgeois perception of the social order. And how the state constitutes and reproduces this order. One important aspect of this hegemony is the belief that the state needs to be neutral in arbitrating social relations and conflicts. Along with this, the contention that the civil service should be ethical, and that it should serve the public. At the ideological level, such beliefs are necessary in keeping antagonistic interests within the bounds of order. What is really detrimental to bourgeois interests — and, for that matter, the interests of everybody in reproducing a legitimate social order — is when state practice deviates significantly from this belief. When state organized corruption, for example, goes unpunished and even condoned by such ideologies as Ekeh's two publics theory.

With that in mind, we can turn to our subject: education and training in ethical values for the African Public Service. Our first question is: is there really a problem here? The second question is: where does the problem come from? The third question logically follows from the first two: is it a problem we can deal with and what solutions would we offer?

The Problem

The problem in the public service in Africa today is essentially that of limited accountability or non-accountability of the civil servants to the public, leading to what is normally seen as disregard for public rules and regulations which govern both the conduct of civil servants and the use to which public resources are put. Part of the problem is answered by Ekeh's theory of the two publics; civil servants do not feel morally bound to obey public rules which disallow using public resources to satisfy the needs of the private public. That, however, does not mean that the problem is solved. We are still left with the major problem of the competition among the many "private publics" regarding how "the national cake" will be used: what is the principle that will ensure that there is a fair and justified share and distribution of the national cake such that the public servants are not led to serve the private public within the public domain? In other words, how is the principle of citizenship and citizenship rights to be operationalized in the Civil Service?

Civil Service Tradition in Africa

The Civil Service practices in independent Africa derives a lot from colonial experiences. In English speaking countries, the civil servant was at the service of Her/His Majesty's government. He was expected to run the daily affairs of government based on laws, rules, regulations and ordinances which were independent of himself as a person. In other words, there was only one public he was meant to serve: the colonial state. In the event that any administrative action disregarded or went beyond statutory provisions, there was recourse to a system of judicial review of administrative action. Thus, given the political resolve and will within the colonial state, there was little experience between the so-called conflict of the two publics. A separate argument could be made with reference to the bias of colonial laws towards the interests of the colonizers. But even this bias was written and promulgated in law.

Most of these laws were subsequently inherited by the post-colonial state and minor changes were made to suit the interests of the nationalists now in state power. But in areas where these laws protected the regime of private property, for example, they tended not to have been qualitatively altered. It must be recognized that the colonizers had the political power to invest the colonial state with a certain form of

authority. This power allowed them to use the authority of the state to fulfill their interests. In post-colonial times, however, the ruling class or ruling political coalitions quite often lack the requisite political power to use the authority of the state legitimately in their interests. The result is that, in a quest to pursue their interests, the authority of the state is subverted, hence Ekeh's ideological justification of this subversion of state authority as the phenomenon of the "two publics".

Most political regimes in post-colonial Africa have regarded the state with suspicion. They find the complex rules and regulations that govern social relations in a bourgeois democratic republic — this is what these laws assume — as cumbersome and a hindrance to their use of state power for private ends. Where rules and regulations cannot be changed—since this would obviously make their interests transparent — the practice is to subvert the state by using its power contrary to the statutory provisions. Further, legal provisions that are meant to review administrative behaviour are quite often undermined or altogether done away with. These include the independence of the offices of the Auditor- and Attorney-General, the effectiveness of the public accounts committees and the necessity of a General Inspector of State or Ombudsman. For a Civil Service to develop a tradition where there is a civil service respect for serving the interests of the public good, there needs to be a commitment of civil servants to a set of values that state what the public good is and where the private and public domains begin and end. Democracy and representative government seem to have provided such ethical values to which most governments in Africa have paid only lip service since independence.

Towards Education and Training in Democratic Ethical Values

The first question that needs to be asked is: what is democracy? And to what extent are democratic values relevant to the education and training in ethical values for African civil servants? Democracy is a system of government that is based on the following characteristics:

> Formation of a political community by free citizens having the obligation to obey, by their own active consent, rules and laws that govern them.
>
> Establishment of this system of government through a

process in which all individuals participate on the basis of equality, either directly as free and sovereign citizens, or indirectly through their representatives.

- Ensuring the moral, intellectual, social and material development of every individual and social group that is part of the political community, thus avoiding any sort of discrimination that may introduce any inequality, political oppression or economic exploitation based on gender, caste, race, ethnicity, colour or any other social category.

- Distribution of public goods and rewards on criteria that every citizen, qua citizen, can achieve.

- Making sure that the governors are controlled by the governed, and that this system of control and accountability can only be subjected to change through a plebiscite in which all citizens participate, or through a principle of majority decision on which all citizens concur.

Thus democratic societies are governed by the rule of law and respect for inalienable human rights which are often enshrined in written constitutions. From the constitution — or the fundamental law — are derived other laws and regulations, e.g. the penal code, civil service regulations, etc. which are used to guide the day-to-day relations and transactions in society. It is the responsibility of the Civil Service to administer social relations on the basis of the constitution and established law impartially, promptly, dutifully and diligently. Hence the principle of neutrality in discharging duty is regarded to be the hallmark of a good and ethical Civil Service. How can the Civil Service be made to live up to these ethical and democratic principles in modern democratic republics in Africa?

Education and Training in Ethical Values

One solution lies in a proper system of education and training in democratic ethics and political values. First, these values cannot be taught unless they are somehow practiced in society in general. A political culture must be built, and must grow, which respects democratic

principles in matters of government.

Second, the ethics of good government should be taught in the school system, and images of good government should be demonstrated to children as they grow up. This should not be done in an ideological form; on the contrary, it should stem from a logical argument based on such models as the social contract theories referred to above.

Third, the Civil Service should be a literate community; literate not only in the sense of being able to read, but literate in a wider sense: i.e. able to engage in its own discourse in government. Thus departments, ministries and professional groups should have their newsletters and journals in which they discuss and exchange ideas on matters of government.

Fourth, within a general political culture in which conflicting ideas are seen to be legitimate in social discourse, the Civil Service should be open to public scrutiny and discussion. What has really run down the African public service in terms of ethical standards is its political and ideological protection. This type of protection shields the public away from its servants. Any questioning of Civil Service action is quite often interpreted in partisan political and ideological terms by an incumbent regime. As such only a dialogue of the deaf is allowed, as it were.

Finally, a culture of discussion and tolerance in the face of opposing ideas must be allowed in the Civil Service. Public decisions are usually based on options each one of which has merit along certain criteria and within certain parameters. All these cannot be appreciated and used in proper decision making unless they are subjected to open discussion and a scientific method (i.e. respect for evidence) of arriving at a decision. Perhaps this should be a central point in training sessions for civil servants. The question that should be put to them is: how do you make a decision?

In conclusion, it must be reiterated that the Civil Service will mirror, in its ethical practice, dominant social practices in its society. The responsibility of having a Civil Service that serves with democratic values and ethics lies with society as a whole, particularly the political regime. If the Civil Service is not appropriately remunerated for its services, it will tend to drift towards corruption. If there is a great deal of license in the behaviour of politicians, the Civil Service will equally be tempted to follow suit. An ethical Civil Service can only be reproduced in a society where the reproduction of democratic values of government are part and parcel of the political culture.

Notes

1. Peter P. Ekeh, "Colonialism and the Two Publics: A Theoretical Statement", *Comparative Studies in Society and History*, 17 (Jan. 1975), pp. 91–112.
2. Thomas Hobbes, *Leviathan.*
3. Jean Jacques Rousseau, *Du Contract Social.*

15

Organizational and Institutional Mechanisms for Enhancing Accountability in Anglophone Africa: A Review

Dele Olowu

Accountability requires a number of institutions to give it force over a sustained period of time. The neglect of this sub-field of political science/public administration is only matched by the ineffectiveness of such institutions in virtually every African country.

The purpose of this chapter is to review the various organizations established to ensure accountable governance in Africa. However, I shall first attempt to define accountability, proceed to rationalize the variety of institutional mechanisms before appraising their effectiveness in the context of some selected (Anglophone) African countries.

1 Public Accountability and its Significance

Public accountability is the requirement that those who hold public trust should account for the use of that trust to citizens or their representatives. Public accountability signifies the superiority of the public will over private interests and tries to ensure that the former is supreme in every activity and conduct of a public official. Without effective accountability, bureaucratic power runs amock. In popular parlance, power corrupts and absolute, i.e. unchecked and unaccountable use of power, tends to corrupt absolutely. One writer equates accountability in government to the discipline of the market:

> Accountability, since it involves an organized system of reporting on and providing information about government actions, implies an improved ability to evaluate these actions, and thus more governmental efficiency in pursuing public objectives. The application of accountability requirements to the performance of public sector institutions is equivalent, in some important respects, to the application of the market in a non-market setting.[1]

There are of course different forms of public accountability: political, judicial, financial, moral. The earliest controversy on the subject was initiated by scholars such as Carl J. Frederick who stressed the need to strengthen the internal controls of self-restraint of public officials through education and training which would make them particularly sensitive to seek and defend the public interest rather than seek private interests either of their own or of other special interest groups. On the other hand, several other students of the subject led by Herman Finer made a strong case for external political controls on public servants. As it is to be expected, both viewpoints are integrated today in any programme of public accountability, although some developments after the second world war have made the external controls on the bureaucracy more prominent.[2]

The expansion of government power and scope especially in the industrialized countries in a couple of decades after the second world war led to a renewed interest and concern on the most efficacious manner of ensuring responsible and accountable performance of bureaucratic agencies.

Both in the political and academic discourse epiphets such as the "ruling servants", "Masters in Disguise" became the titles of academic and popular literature aimed at highlighting the power of bureaucrats vis-a-vis their political bosses in the governmental policy-making process. A number of measures were effected especially in the 1970s to bring the bureaucracy under a more effective control by the political class. These included amongst others, the decentralization of responsibilities to local governments, quangos (quasi governmental organizations), the review of secrecy laws, measures designed to ensure a more representative bureaucracy, or to increase the responsiveness of the bureaucracy such as the Ombudsman plan, the politicization of the bureaucracy and the increased involvement of the legislature in policy-making.[3]

All these were in addition to the traditional institutions established to control and hold the public service accountable. These institutions

included the legislature, the judiciary, the political executive, and a number of extra - bureaucratic agencies such as the press, the political parties, pressure and special interest groups. These were in addition to the internal controls which inhere within the Civil Service itself. The method by which each of these agencies exercises its power is described in Table 1. As indicated above, most industrialized nations have sought ways in the last two to three decades to strengthen these various institutions and ensure that public administration agents are fully accountable for their actions.

In Africa on the other hand, the immediate decades following independence were spent in strengthening their executive institutions at the expense of all other agencies of government, the public service inclusive. A colleague of mine and myself have in a recent assessment characterized the major elements in this process as follows:

- Replacement of competitive politics by one or no party systems ostensibly dedicated to national unity;
- Reliance upon unified bureaucratic structures exclusively accountable to the central government to define, organize, and manage the production of public goods and services along lines determined at *all levels* by a "national plan";
- Absence of a legitimate significant role for local government, including those for traditional, ethnically related groups as well as modern institutions of local government;
- Executive authority maximized at the expense of such other institutions as the legislature, judiciary, regional governments and press and private organizations;
- The national budget regarded as the primary source of funding for the development agenda, and to be raised out of the largest economic sectors: either agriculture or mineral extraction.[4]

The resultant concentration of powers in the executive has led not only to bureaucratic weakness, inefficiency and rampart corruption but has also undermined the fabric of the state, the economy and society.[5]

Table 1

Institutions for Promoting Accountable Performance in Industrialized/Democratic Nations

External			Control	
Internal Control	Legislature-Based	Executive-Based	Judicial-Based	Extra-Legal
1. Civil Service rules/regualtions (including financial instructions).	1. Initiation and approach of Bills into law	1. Ministerial control	1. The courts	1. Media
2. Training (formal and informal; including effective supervision)	2. Budget review and approval	2. Budget (Formulation, implementation and monitoring)	2. Quasi-judicial institutions e.g. Commissions of Inquiry, Administrative Courts and other specialized agencies such as the Public/ Civil Services Commissions	2. Pressure/ Interest Groups
3. Disciplinary/ appraisal procedure	3. Audit through the Public Accounts Committee	3. Appointments to top positions and review	3. Ethical codes and enforcement institutions	3. Political parties
4. Inspectorates	4. Approval of top appointments 5. Investigation of abuse of office (and removal of public officers through impeachment procedures)			4. Elections

Unfortunately, popular reactions to this state of affairs have only aggravated the problems. Such reactions include military coups and dictatorships, warfare often along ethnic lines and secession bids. The current donor-driven pressure towards the adjustment of economic structures without adequate attention to the need for the adjustment of political structures represents may represent another blind alley.[6]

Of course, public administration scholars whose focus of interest were the developing countries have drawn attention to the imbalance between the political and bureaucratic sub-system institutions and a lot of evidence has been gathered on the subject by various scholars.[7] However, what is particularly disturbing has been the normative direction of these studies. Most observers have turned away from the logical implications of their findings and indeed a few have counselled the need to further strengthen the executive either for the purpose of political integration, rapid economic growth or development. The tendency led into African political executives who equated their regime with the sovereign state: absolute, unlimited and indivisible.[8]

The logical implication of the relative imbalance between bureaucratic and political institutions ought to be the strengthening of those institutions which will ensure that public officers were accountable for their performance. As will be shown in the next section, most of these institutions in Africa are in different states of atrophy. And it is worrisome that even though there is much discussion of multiparty democracy, little attention is being paid to the need for strengthening the whole range of political institutions which would ensure that those who serve the public will be responsive and accountable.

It is, however, worthwhile to mention the recent initiatives by a number of multilateral and bilateral institutions to focus on "good governance" as contributors to economic development and democracy in developing countries. Even though the essence of what constitutes good governance or even governance remains ill-defined, significant effort has been made to characterize it. According to Landell-Mills and Serageldin:

> good governance depends on the extent to which a government is perceived and accepted by the general citizenry to be *legitimate; committed* to improving general public welfare and *responsive* to the needs of the citizenry; *competent* in assuring law and order and in delivering public services; able to create an *enabling policy environment* for productive activities; *and equitable* in its conduct, favouring no special interests or groups (emphasis in the original).[9]

The political arrangements for achieving this goal include: political accountability, freedom of association and organization, an objective and efficient judiciary, bureaucratic accountability, freedom of information and expression, public service efficiency.

This international reawakening to the issue of good governance is significant for several reasons. First, it has formally established the linkage between economic and political reform. The policy reform agenda of 1980s thought economic reform was politically neutral. Second, it has helped to focus attention on the need not only for effective but accountable governance. But perhaps its most important contribution is the attention it has called to the fact that accountable governance has two dimensions: *the political commitment to good governance* and the *technical efficiency of the national public administration system.*

2 The State of Public Accountability Institutions in Africa

Practically, all the external public accountability institutions described have either been suspended or legislated out of existence. We review each of the four broad types already recognized below.

The Legislature and Legislature-Based Institutions

The legislature is expected to be one of the key institutions which helps to translate the supremacy of citizens into reality. Members of the legislature are representatives of the people and are empowered to initiate, debate and approve bills into laws, review and amend the budget prepared by the Executive as well as audit actual expenditures based on annual audit reports submitted by the Auditor-General. They are also required to approve important political appointments, investigate abuse of office and generally provide opportunities for citizens to participate in the governing process.

Perhaps the two most important roles performed by modern legislatures are the scrutiny of public accounts and their oversight responsibilities over the executive: especially in investigating abuse of office or other general complaints against the executive. In order to effectively discharge these responsibilities, legislative assemblies often have own separate staff and are provided resources to be able to make their impact felt both in the assembly and their respective constituencies.

In Africa, the legislature has been rendered into a rubber stamp agency by two near-universal developments. First, most countries in Africa were until most recently controlled by single parties which often define their roles in socialist language as superior to the state. Within such a scheme, the legislature and to some extent the machinery of the state becomes almost redundant.

Gelase Mutahaba succinctly states the position of things in Tanzania which was regarded as the model case among the three East/ Central African countries he studied:

> According to the (one-party) constitution (of 1965) the National Executive Committee (NEC) cannot only lay down broad lines of policy to be followed by the government but it has the power to summon witnesses and call for papers from all government organs. A decision was subsequently made in 1968 requiring the government to submit for discussion and approval to the NEC all major policy measures before they were sent to the parliament to be enacted into law. This was to become a normal working procedure between the party and the state... a step further when the National Constitution was amended to make the party the supreme authority in the country; legally and structurally it became the most important locus for policy-making in the country.[10]

The other phenomenon, perhaps worse than the first is military rule. One of the first institutions to be proscribed by a military junta after shooting its way to power is the legislature. Subsequently, the ruling junta combines both executive and legislative roles in one. For a country such as Nigeria, which has been ruled by the military (21 years) more than civilians (10 years) since its independence, the legislature is either non-existent or exists even in post-military periods as the most impoverished of the institutions of governance.

The results of a survey conducted in eight English-speaking countries in the summer of 1991 to obtain some indicative information on the state of African legislatures is produced in Table 2. With the

exception of only three of these sample countries, the legislature was hardly playing any significant role in any of the functions conventionally performed by legislatures. Of the eight, the worst were Nigeria, Cameroon and Malawi. However even, in the best performing countries, the legislatures' roles are circumscribed by one-party national constitutions (Tanzania and Uganda).[11] My informants on Tanzania further noted that until a legislative reform of 1984, the legislative institution was poorly resourced in terms of constitutional competence (some areas such as foreign policy and a number of others were outside its competence), supporting facilities and quality of its membership. However, in 1984, the legal competence of the legislature was increased to cover all subjects, members were provided with "landrovers" and allowances for constituency offices and more public servants took advantage of the provision which allowed civil servants to take leave to contest elective office and return after their period expired.

None of the legislative assemblies was involved in confirmation hearing of top government officers (although the Uganda's assembly has begun through the Resistance Councils). In all other countries except Tanzania, Uganda and Zimbabwe, there is no institutional separation between the executive and legislative branches. The latter is run by the former.

It is thus not surprising that the legislative assemblies have little or no impact on the budgetary process, the scrutiny of public account and the investigation of corruption and abuse of office, with the exception of the three countries noted above. It is particularly noteworthy that four of the sample countries have established Public Complaints (Ombudsman) institutions. However, only in two of the four (Tanzania and Uganda) is the institution rated as "very effective". The most serious problematics of the institution everywhere are its over-bureaucratization, lack of operational autonomy and low resource-levels.

Judiciary and Quasi-Judicial Institutions

The courts are charged with the responsibilities of adjudication among institutions, organized groups and individuals in society. For this reason it is regarded as the common man's last hope.

However, as the legislative branch, the judicial branch is often poorly resourced, circumscribed or managed as part of the executive branch and largely ineffective in carrying out its constitutional responsibilities.

Table 2

The State of African Legislative Assemblies in Some Selected Countries, 1991***

	Bots-wana	Came-roon	Kenya	Malawi	Nigeria	Tanz-ania	Uganda	Zimb-abwe	
1. Role in law making	1	1	1	1	0	1	1	2	Scoring
2. Role in budgetary process	1	0	1	0	0	3	1	3	For Qns 1–6 3=Very High 2=High 1=Modest 2=High 0= Non-existent
3. Role in scrutinizing the public account	2	0	2	1	1*	3	1	3	
4. Role in confirming top government officials	0	0	0	0	0	0	1	0	
5. Role in investigating corruption cnd other abuses	10	0	1	0	0	3	3	1	For Qns 7–8 2= positive 0= Negative
6. Effective-ness of Ombudsman	0	0	0	0	1	3	3	1	
7. Remunera-tion of legislators	2	2	2	2	0**	0	0	2	Max Score = 22
8. Separation of legislature from executive	0	0	0	0	0	2	2	2	
Total Score	7	3	7	4	2	15	12	14	
% Score	32	14	32	18	9	68	55	64	

Note: * Even though the scrutiny of public accounts is not carried out by a formal legislature, the military Government successfully revived the PAC within the last three years in Nigeria.

** As proposed in the Third Republic Constitution.

*** All information provided only indicative.

Even though there are exceptions, such as the Cameroon, the Judiciary seems to enjoy more independence and more institutional authority than the legislature. However, its procedures are cumbrous and efficiency in terms of processing cases is very low. (See Table 3).

It is not unusual to find cases of twenty years still pending in several courts. In the rural areas, some countries do not have any viable judicial system. A few, such as Nigeria, use the customary courts but these courts have been grossly abused by politicians and some traditional elites in the past.

It is important to underscore the point that these questionnaire responses must be taken only as indicative since some of the respondents might have been superficial in their responses. It is possible for instance that the judiciary is constitutionally separated but *de facto* integrated into the executive through staffing and financial arrangements, as is known to be the case in many African countries.

The work of the judiciary is often supplemented by a number of quasi-judicial institutions — commissions of inquiry, tribunals etc. Africa has its full share of these agencies although experience has shown how these commissions and their reports can be so easily manipulated by the executive through delay and the process of writing the white paper. The latter is usually done in secret without the benefit of debate through a discussion (green) paper as is the case in Britain where these institutions were borrowed.

Two quasi-judicial institutions are particularly worthy of note: the Ombudsman and the public/civil service commission. The former has been discussed in the last section. The Public/Civil Service Commission still exists in virtually all African countries (all of our sample have them). However, its powers especially in respect of top administrative appointment has been severely circumscribed as these have been taken away in every African country and treated as a prerogative of the Chief Executive or President.

It is significant to note that none of the countries has a tradition of French-style administrative courts which specialize in judicial matters affecting administrators.

On the other hand, virtually every one of these countries has some form of ethical codes to which it expects all its public officers (political/permanent) to abide. Usually, some specialized organizations have been set up to monitor compliance and try infractors (e.g. the Tanzanian Commission for the Enforcement of Ethical Code, the

Table 3

The State of Africa's Judiciary Institutions

	Botswana	Cameroon	Kenya	Malawi	Nigeria	Tanzania	Uganda	Zimbabwe	
1. Independence	3	0	2	2	2	3	3	3	Scoring
2. Institutional separation from the Executive	2	0	2	2		2	2	2	Qn 1 3=Very High 2=High 1=Low 0=Non-existent
3. Partial or limited juridisdiction	2	0	2	2	2	2	2	2	
4. Efficiency in terms of time used in processing cases	3	1	3	0	0	1	1	1	Qns 2 & 3 2= positive 0= Negative Qn 4 3=Very efficient 2= Efficient 1=Just fair 0= Inefficient
	10	1	9	6	6	8	8	8	Max score= 10

Nigeria Code of Conduct Bureau/Tribunal and the *Cour de Sureté de l'Etat* in Mali).

The Executive and Executive-Based Institutions

The Executive is expected to exercise the powers of governance through its Ministerial agencies. According to the Westminster-Whitehall tradition, Ministers are expected to be members of the legislature and provide the policy direction for their respective ministries. To this extent, they are regarded as responsible for the activities and efficient performance of their respective ministries. This is what is known as the doctrine of Ministerial Responsibility. Usually, there are junior or assistant ministers to assist them. These are also politically appointed. However, the officer who is the confidential adviser to the Minister is the Permanent Secretary, a career officer. He is also the accounting officer for the Ministry and responsible for the management of men and money, in that Ministry. None of these roles, at least in theory is expected to derogate from the role of the Minster as the Chief Executive of the Ministry. The latter is responsible for defending the budget of his Ministry in the Cabinet and parliament and must also render account, with the assistance of his Permanent Secretary.

As the executive branch has increased its powers in Africa, at the expense of the other branches of government, the fear has risen that most of these new powers of the executive will be exercised by non-elected officials. The concern is further aggravated by the fact that senior career officers have a permanent tenure, are often better trained and better exposed than their superiors, the ministers.

The response of very many African countries is to strengthen the role of the party over the policy making process (as earlier described) rather than enhance the office of the minister. For instance in all of the eight countries, only in one, Nigeria, do ministers and also the presidency have access to an alternative system of advice (Special Advisers and Special Assistants) on a regular basis other than those received from their civil servants.

The problem with the political party exercising the powers of the executive at least as it has turned out in Africa is that these political parties are usually not independent or even separate from the government. More importantly, they lack the critical skills for carrying out the onerous responsibilities of managing effectively the sole political party machinery and the state at the same time. As Gelase Mutahaba discusses in respect of Kenya, Tanzania and Zambia, these political parties themselves have often become hijacked by career civil servants and bureaucratized.

On the other hand, the Nigerian-type response of abolishing the post of Permanent Secretary, transferring the responsibilities for ministerial accounting to the Minister and turning ex-Permanent Secretaries into political office-holders (Director-Generals whose major responsibility is to serve as deputy to the Minister) is regarded also as an extreme and likely to destabilize the public administration system further.

Extra-Legal Forms

The media, pressure and interest groups and political parties are usually three of the most formidable institutions that demand accountable performance from the public service. We have reviewed the political parties already. The fact that these parties themselves lack organizational capacity of their own is a serious constraint together with the fact of single party and military rule, the latter of which usually outlaws political parties.

The media is often government - owned and more often than not is hesitant to criticize its sponsors. In spite of this, it must be noted that the media, especially the press, has been one of the vanguards for probity,accountable public performance in African countries and it is heartening to note that non-governmental newspaper houses have re-established themselves in some countries (Kenya, Nigeria, Zimbabwe) and a few new others have just been launched (Cameroon, Togo and Francophone Africa). They may perhaps help to herald the age of indigenous non-governmental electronic media.

Pressure group/interest group activities (trade unions, professional associations etc.) have not really been seriously involved in the policy process in Africa. They are more often than not regarded as "enemies of the state", outlawed or effectively emasculated by the central government. However, in the 1990s, these forces have become particularly important and may herald Africa into a democratic twenty-first century.

A final and ultimate extra-legal instrument of accountability are elections and referenda. These are expected to give the citizens an opportunity to change governments or government leaders. Over the last two to three decades, elections have either been suspended by the military or turned into a farce by ruling single-political parties. While elections are not regarded as effective forms of enforcing administrative

accountability, they could be used in providing some form of political accountability. The recent openings towards multipartism and democratic governance, may necessitate a closer scrutiny of electoral procedures and management to ensure that elections enjoy wide public support and efficient management.

Internal Institutions

Given the poor state of external controls on the bureaucracy, one would have expected that the internal institutions would be stronger. The fact that neither the internal nor external institutions for promoting accountability are effective in Africa is perhaps the bane of public service effectiveness in Africa.

The Civil Service Rules and Regulations in very many countries have become outdated and need review for relevance. But a more serious problem is that these rules/regulations are often poorly disseminated within the Civil Service. These ought to be the major instruments for conducting induction training into the civil/public service but in many public institutions induction training has become an exception rather than the norm.

Training both in terms of the formal and informal types are also poorly organized. This results from a multiple set of causes. First, there are no clearly articulated policies on mandatory training. So, civil servants seek for training opportunities by themselves, some are lucky while some others may not be so lucky. Second, training departments are often poorly resourced. Training is not really valued and is thus the first of the line item budget votes to be deleted or drastically reduced under severe budget constraints. Informal training could have compensated for the absence of formal training but then the system of supervision has become more lax and economic adversity has led to the exit of top career administrators while others moonlight as they have to keep several jobs to make a living.

Thirdly, the *disciplinary/appraisal procedures* are not only cumbrous and outdated, they are weak and at times often make accountability and productivity improvements impossible. Civil Service managers do not possess the capacity to hire and fire senior officials. In any case, a large number of senior officials are selected on the basis of seniority rather than meritorious performance or worse on the basis of their political loyalties or ethnic backgrounds. The performance

review procedures in many African countries have not been able to adopt modern appraisal techniques due to structural, operational and attitudinal obstacles.

Finally, most governments use various systems of *inspection* to ensure that lower level organizations comply with ministry-wide regulations and directives. These types of agencies are widely used in virtually every African country and their effectiveness is variable. These institutions, are however confronted with two types of contrasting problems. First, the inspectorate system itself may be weak in terms of the provision to it of skilled personnel, equipment, especially for rapid communication and information analysis/dissemination. Secondly, even where these resources are provided, the desire of its officials to control often supersedes their capability to assist lower level officials in positive ways.

Conclusion

An examination of the range of internal and external mechanisms for ensuring that Africa's public services are responsible, accountable and liable gives an insight to why the public service is in such a dismal state on the continent. Yet, there are some hopeful signs as well. Some countries have fairly effective systems of accountability, while a number of others are beginning to strengthen both the internal and external controls on administration. Effort must continue to also seek ways to ensure that the public service's capacity to act is enhanced through productivity improvement measures (including professionalism, personnel management reforms, cut-back management) and the articulation and inculcation of public service ethos in public officials. More important, efforts must be made to sensitize the citizenry through formal and informal educational strategies to demand competent, responsible, accountable and liable performance from their public bureaucracies.

Having noted these, it is important to also state that accountable government is much more easily attained under a democratic regime which is itself conditioned by a healthy and stable political economy. These points need to be made lest we become overly optimistic about the prospects of accountable governance on the continent.

Notes

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8. See Vincent Ostrom, "The Problem of Sovereignty in Human Affairs" in J.S. Wunsch and D. Olowu (eds) *The Failure of the Centralized State ibidem*. pp. 228–244.
9. Pierre Landell-Mills and Ismail Serageldin, "Governance and the External Factor" Paper presented at the World Bank Annual Conference on Development Economics April 25–26, 1991.

10. Gelase Mutahaba, *Reforming Public Administration for Development ibidem*, p.126.
11. This and what follows are the analysis of responses to open-ended questionnaires administered to senior policy administrators/ academics at a conference.

16

Mechanisms for Enhancing Ethics and Public Accountability in Francophone Africa

Mouftau Laleye

The purpose of this chapter is to provide a general overview of mechanisms for enhancing ethics and public accountability in Francophone African countries. Francophone Africa is no exception to the universal concern about issues of ethical conduct of public officials (public servants and politicians) and issues of control of these public officials by the public. As a matter of fact, countries have all along been confronted with serious cases of unethical behaviour as a result of which the public has been losing faith in public servants and politicians. The critical state of this problem has led to a situation in which the institutional arrangement whereby members of the public in general and/or other arms of government besides the executive (namely the legislative and the judiciary) act as watch-dogs over the behaviour of public officials became largely unsatisfactory. The executive was therefore forced to strengthen a variety of internal measures of control in order not to undermine its credibility further. This has become necessary in view of the general or relative weakness of the other arms of government and in view of the difficulties and intricacies of their functioning as watch-dogs over administrative action. So, a description of public accountability and ethical mechanisms in Francophone Africa must devote a greater attention to what is termed "State control" (Controle d'Etat) of public administration. That is why the first part of this study will relate to those institutions that are internal to the administrative system and aimed at restraining and checking the behaviours of administrators with a view to preventing the abuse of administrative power. The second part will deal with the external control mechanisms.

It is important at this juncture to put the concepts of accountability, control and ethics into perspective, without dabbling into the very tempting philosophical and theoretical discussion of these concepts. Public accountability refers to sanctions and procedures by which public officials may be held to account for their actions. Taken in this sense, the term is broader than administrative control as it concerns both public servants and political office holders.

Furthermore, public accountability and control have the same preoccupation: enforcing an ethical conduct. This refers to the obligations of public officials, to the rules and principles of their behaviours. While the deontological codes of public services tend to adhere to simplistic universal moral values and principles which are enshrined in the public service laws and whereas sanctions are designed for application in case of non-respect of these values and principles, the situation is different with respect to politicians who rather adopt primitive machiavellianism (expediency must take precedence over virtue) as their guiding rule. The issue of public service ethical values will be dealt with in the first part, as being part of the internal control mechanisms. The code of conduct for political office holders depends to a great extent on the values and norms of the society. It is expected that the overview of the internal and external mechanisms will enable us to characterize the political and social terrain of political ethics in French-speaking African countries.

Before we turn to the description of public accountability measures, it is necessary to mention that there are several difficulties confronting this study. Firstly, it is difficult, if not impossible to do justice to the richness and depth of more than twenty countries in a paper like this. Partly, because the French tradition inherited from the former colonial master was not adapted to the circumstances of these countries and partly because of pressing needs for new institutional arrangements arising from political and social evolution, the institutions oriented towards ensuring public accountability have developed very fast. The development has not only been varied and tremendous it has been very dynamic during the three decades of independence. Secondly, it is more delicate to talk about ethics and accountability measures in these countries as most of them are currently undergoing fundamental political and institutional changes, culminating in the unfolding of a profound democratization process. Thirdly, the internal accountability institutions are part and parcel of the administrative organs which they are meant to control. These two sets of institutions are in such an intricate pattern

that it is not easy to separate them for presentation purposes as we are going to try here. It would perhaps have been more interesting to deal with a case-study of one of these countries, in order to bring out the various factors that have determined the emergence of the institutions.

The point being made is that overgeneralization is certainly very difficult to avoid in a study like this. What we are attempting here is simply a presentation of the general or dominant features and trends. Such general features and trends may not correspond totally to the exact situation in one specific country. This is just an effort at drawing some general framework within which public accountability and ethics mechanisms have developed in Francophone Africa.

1 The Internal Control Mechanisms

It must be recalled that the institutions under consideration here are control mechanisms that are in-built in the administrative system. They are mechanisms of state control in the general sense which implies that this control is applicable to the decisions, personnel and properties of administration and also to moral/legal entities that are under the supervision (*tutelle*) of government. This type of control is entrusted to public servants who may have specific competences and powers within each administrative unit or organ. The public servants providing this control may also be located outside the unit/organ, with specific competences. The domain of the control includes generally all public administration bodies (control administration and parastatals) all public administration activities (organization and functioning of administrative organs, financial management and accounting).

Five inter-related aspects of the internal control mechanisms will be presented. They are:

- the bureaucratic/organizational norms of public administration in Francophone Africa.
- the disciplinary regime of personnel in public services.
- the ethical education in the schools of administration.
- the role of professional associations and service unions.

- the specialized inspectorate and control bodies.

The Bureaucratic/Organizational Norms and Principles of Public Administration in Francophone Africa

Francophone Africa inherited a very centralized administrative organization from her former colonial master. The organization was of a bureaucratic type based on the French administrative law. Each country has been attempting to evolve an indigenous administrative law through a process of adaptation and innovation of the received legal system. Although everywhere the administrative system and its legal basis have been under constant evolution, there is one of the bureaucratic organizational principles that is particularly relevant to the discussion of the internal control: the principle of hierarchical power and subordination, arising from the hierarchical organization of the administrative set up. The major element of this principle is the existence of a hierarchical control power which permeates all the administrative system. It follows from this principle that every hierarchical authority has the power to control all the actions and all the servants under its authority and every subordinate organ or servant is subjected to the control of the higher authority and it is also duty-bound to obey instructions from above. This two-way institutional and organizational relationship makes it possible to exercise all types of control at all levels and in every organ of the administration set up. The purpose of the control is to check the legality, opportunity and quality (management wise) of all actions taken. A huge variety of administrative techniques and arrangements are utilized depending on whether the control is effected within the central administration (manipulation of centralization and deconcentration techniques) or whether the control relates to organizations that are under supervision (*tutelle*) to which territorial or functional decentralization techniques apply.

Three remarks are in order with regard to the significance of hierarchical power and subordination principle to the control of administration in Francophone Africa. Firstly, the existence and application of this principle may certainly not be specific to Francophone countries, but it is of interest to note that the specificity of these countries is that the application of the principle is guided by the techniques of the French administrative law. These point not only to the impact of the

French legal legacy but also to the continued relevance of French administrative law as a source of inspiration for administrators and law-makers.

Secondly, another interesting development in virtually all the Francophone African countries is the decline of the internal control based on the principle of hierarchical control power. There is an increasing gradual reliance on specialized control institutions. However, there is no doubt that the principle is of great reference in checking wrongdoings, in turning around mismanagement and increasing effectiveness. But it has generally, on the other hand, favoured malpractices at the higher levels. In other words, there are factors (political and sociological) that have determined the limited effectiveness of this bureaucratic organizational principle which has nonetheless remained the backbone of the control system, as the rest of this chapter will confirm.

Thirdly, with the general trend of the Francophone administrative system to become more centralized at the top, it is remarkable that the principle of hierarchical power has followed the pattern of evolution. The lower levels of authority have been hollowed out of their power which led to a situation whereby there is all control at the top, with the result that we have a negation of hierarchical control principle *à la weberienne*. Benin and Guinea under the socialist regime, as well as Zaire, provide vivid illustration of this. It is to be noted that with the democratization process underway, this trend is on the reverse and more officers are playing hierarchical control role. It is also interesting to mention that a country like Benin has also gone to the extent of waiving the obedience duty to a public servant when the order received constitutes a violation of Human Rights and public liberties (1990 Constitution, article 19).

The Disciplinary Regime of Public Services Personnel

The mechanism for disciplining public servants in Francophone Africa is an important element of internal control over the behaviour of personnel. In effect the obligations of public servants are supported by a strict sanction system. It is not the intention here to describe the obligations of civil servants, but rather to review the disciplinary procedure.

In general in the various countries, the disciplinary procedure is a circumstantial balance of two contradictory concerns. On the one hand, the problem is to ensure that administration has extensive powers

of discipline over its staff and on the other hand the issue of how to accommodate pressures from professional organizations and workers unions for more guarantees of fairness in the disciplinary procedure.

Following the French tradition on the subject-matter, and contrary to the principle of criminal law, there is generally no definition of what constitutes a misdemeanour or act of misconduct or an offence. Administration, through the higher hierarchical authority has full/or wide power to appreciate what is the offence. The only exception to this tradition is the Algerian tradition since a decree was adopted to that effect in 1982.

The Algerian law distinguishes between three types of offences. The first category or degree of offence is when there is infringement to general discipline as defined by special statutes and professional rules and regulations. The second category of offences involves an element of carelessness and/or negligence, while the third category involves their voluntary character. So, in a nutshell, the Algerian example differs from the general principle of subjecting the appreciation of the gravity of an offence to the discretion of the hierarchical authority. However, the two systems have advantages and disadvantages which are not part of our concern.

Relating to sanctions to offences, the principle is also that administration has the power to decide what sanction to give. The competent authority to proffer a sanction is not bound by any principle of proportionality between the sanction and the offence, and the administrative courts have refused to consider such linkage. In this regard, Algeria remains the only exception where disciplinary sanction is attached to the gravity of the offence. In consistency with the above classification of offences, there is a three-scale classification of offences, there is a three-scale classification of sanctions. So, Algeria represents the only radical departure from the French tradition.

However, one should hasten to add the powers of administration in defining the offence and the sanction are not really unlimited. The rights of public servants have been allowed to bear on the powers of administration, as they (public servants) make serious contribution to the disciplinary procedure.

There are two consultative organs in the procedure that restrict the powers of administration, as a result of public servants' participation in these organs: the Management Committee and the Disciplinary Committee.

The Management Committees are set up at the level of every Ministry directorate and every unit and they include management and representatives of workers. There are first degree sanctions that can be handed down by the hierarchical authority, after the servant has replied the query and the management Committee has expressed its views. Such sanctions include warning, blame etc... More serious offences, like termination, delay in promotion, etc., have to involve the views of the Disciplinary Committee in which public servants are represented in varying numbers for each *corps* (grouping of civil servants subjected to the same career system). In case of very serious offences, including criminal offences, the Minister under whom the civil servant works can suspend him pending the final decision.

There has been a general argument on the nature of the decisions of these committees. The courts have affirmed their consultative character, which implies that in final analysis the administration has the last say. In addition, to this stringent disciplinary regime in Francophone Africa, virtually all the governments have had to introduce more rigorous disciplinary measures to check important problems such as financial malpractices and embezzlements, the phenomenon of lateness and absence from work, etc... We shall talk about this shortly, as part of the specialized inspectorates and control institutions. Before this, the role of the ethical education and professional associations and worker unions in fostering accountability and ethical behaviour needs to be highlighted.

The Importance of Ethical Education

Each country in the Francophone Africa sphere has her *Ecoles Nationales d'Administration,* (national schools of administration) under various denomination. In addition they have specialized management training institutions. One important feature of the training programmes in these institutions is the great attention attached to the teaching of ethics and deontological rules of public administration.

The courses lay emphasis on the significance of organizational norms, professional norms, the rights and obligations of public servants, issues of loyalty, responsibility, obedience, honesty, justice, impartiality, neutrality, anonymity, confidentiality, conflict of interests, accountability etc...

Assessment of the impact of the teaching has not been conducted anywhere and questions may be raised as to the adequacy of the course design and methods. Be that as it may, the contention here is that the teaching of ethics is a recognition of the impossibility of separating public administration from the values prevailing within both the administrative system and the society at large. It is also a recognition of the instrumental character of education and training as a means of creating a conducive administrative culture.

The Role of Professional Associations and Public Services Unions

The role of professional organizations in promoting high professional and ethical standards cannot be over-emphasized. Although the professional organizations are at various levels of perfection and although there is still a lot to do in this respect in Francophone Africa, the contribution of such bodies to enhancing ethics and accountability should be noted. Prominent among such organizations are the professional associations or *orders professionals* which, in conjunction with government provide a comprehensive regulation of professional practice and ethical behaviour. Like their French counterpart, the Francophone African public services are highly professionalized with important *grands corps* (prestigious professions) emerging, both nationally and internationally. The influence of these organizations pervades all the society and its impact on public service management is noteworthy. Such associations include Bar Associations, Accountants Association, Bench Associations, Agronomists Associations, various Engineers Associations etc... Public service unions have also been playing an important supportive role for the institutions of public accountability and impeccable ethical behaviour. Examples are too many to be mentioned.

So, in a nutshell, the bureaucratic organizational norms and principles, especially the principle of hierarchical control power, the rigorous disciplinary regime in Francophone African public services, the contribution of ethical education and the influence of professional associations and unions are everywhere in the Francophone African world the traditional internal mechanisms for enhancing public accountability and ethics. These mechanisms are traditional in the sense that they are part of the legacy France left behind even though such a legacy has been under constant evolution, especially by way of

adaptation. The remaining internal control mechanisms, namely the specialized inspectorate and control bodies are more modern in the sense that even if they are largely inspired from the French system, they respond to newly felt needs and pressures for innovation, in view of complication of problems raised by public accountability.

The Specialized Inspectorate and Control Bodies

The system of control, generally called "State control" through specialized agencies developed after independence. Authoritative studies of such institutions have been carried out by authors like Jean-Marie Breton. An empirical distinction of the domain of this control has been made to distinguish administrative management control from financial and accounting management control. So, there are specialized inspectorate and control bodies in these two different areas. However, in places like Mali, Congo, Cameroon and Central African Republic the two controls are carried out by the same bodies under the Presidency.

The Administrative Management Control

In addition to the hierarchical control mechanisms which we have talked about earlier on, Francophone African countries have established a huge variety of specialized control and inspectorates at ministerial and interministerial levels, as far as the central administration machinery is concerned. There are specialized institutions called *Controleurs d'Etat* (State controllers) and *Commissaires du gouvernement* (government commissioners) for parastatal bodies. These institutions are to secure vertical and horizontal controls. They are generally under the authority of the Minister. The distinction between technical and administrative Ministries does not really matter with regard to the existence of these bodies. These inspectorates or control agencies are entrusted with a double role: (i) identify irregularities in the structure and functioning of the Ministry services and feed back the Minister; and (ii) advise the Minister on the desirable improvements to the structure and functioning of his services. Experience has shown that the more elaborate the inspectorate machinery superimposed on internal hierarchical control, the weaker these internal hierarchical control. This has led to serious questions about how to integrate the two types of control and how to coordinate them. In some countries like Cameroon, Chad and Congo, the two sets of institutions are juxtaposed.

In practically all the countries the need to coordinate the action of these inspectorates at the apex have led to the emergence of the *Inspection Generale d'Etat* (Inspectorate general) generally located in the General Secretariat of Government at the Presidency or in the Prime Minister's office. For instance, in arrangement made as far back as December 1967 in Côte d'Ivoire, the general inspectorate, under a chief inspector is located in the Secretariat of Government at the Presidency. A similar arrangement operates in Benin and Congo. In Cameroon, a decree of August 1988, makes these inspectorates and control agencies part of the Ministry for Civil Service Matters and State Control. The control bodies are also made Ministries or led by officials with ministerial status in Mali, Zaire and Gabon. They may be decentralized like in Chad, Congo and Central African Republic.

However the relationship between inspectorate-based control and hierarchical control can be dynamic as the case of Senegal indicates. After 1964 when the general inspectorate was set up, specialized controls tended to disappear until December 1974, when Financial matters inspectors were established in each Ministry. In Côte d'Ivoire in 1975, a Directorate of Holdings was created to ensure control and supervision of all companies in which government has interest, in replacement of State controllers and Government Commissioners.

The ultimate objective of these bodies is to secure management turnaround and sanction irregularities and wrongdoings. The experience in Francophone Africa has shown that the significance of these control mechanisms depend on the obligation on the various authorities to follow up reports from inspectorates with concrete actions and on the degree of applicability of measures recommended. It is clear that much depends on the discretion of the administrative authorities as there are rarely obligations made to them to sanction. Even when such obligations exist like in Benin, they may be ignored. In Senegal, the inspectorates oversee the implementation of follow-up measures.

The Financial Management Control

This is the most important domain of control by specialized agencies, in addition to the application of the universal public financial management principles,especially as they operate in the French system. However, in Francophone Africa, financial control may be located in the Ministry of Finance or at the seat of government or in the Head of State's office.

The Financial control institutions may also enjoy varying degrees of autonomy and it is strictly internal when located in the Ministry of Finance and in this case it is sheer hierarchical control. It may also be entrusted to expenditures controllers or to a special *corps* of Finance Inspectors. Gabon set up a financial control unit in 1959, and it was based under the government and was responsible for expenditure control and budget implementation. It was scrapped in 1967. In Benin, the role is entrusted to a directorate of the Ministry of Finance with wide expenditure control powers. In Mali, the situation is like in Benin with the difference that the Financial controller is appointed by the government and he reports to the President through the General Inspectorate of administration. In Senegal, since 1967, financial control is carried out by an Inspectorate body within the Presidency. The evolution has been more dynamic in Côte d'Ivoire. In 1961, there was a General Inspectorate of Finance within the Ministry of Finance, but in 1964, there was an Economic and Financial Control Unit. Since 1972, the Financial Controller is appointed by the Head of State after recommendation by the Finance Minister. In 1977, his powers were strengthened in respect of accounts reconciliation and control of parastatals. The evolution of this agency in Cameroon has been the reverse of what happened in Côte d'Ivoire. In Zaire, Finance inspectors provide expenditures control.

Whereas financial controls are permanent in character, special inspection missions are created in response to the occurrence of financial mismanagement and malpractices. The reports are sent either to the higher authorities or to the Head of State or to the Minister of Finance. However, it is important to note that inspectorate bodies cannot interfere in management matters; they can only report back as is also the case with the administrative management inspectorates. In Cameroon, accounts reconciliations are reported to the President and the Minister in charge of the Inspectorate is charged with recovering monies lost to Public servants that are convicted of malpractices or mismanagement.

In Cameroon, there is a Council for Accounting and Budgetary Discipline, while in Chad, there is a Commission for the Auditing of Accounts, the decisions of which must be enforced.

The general conclusion that can be drawn from the survey of the functioning of these inspectorate-based control mechanisms is that they have tended to be more oriented towards controlling legality and irregularity. Furthermore, follow-up of corrective measures is a very

serious one, as the relevant authorities are rarely committed to effecting them and implementing sanctions. Pressures on administrative authorities to do so depend to a great extent on how the external control mechanisms have been brought to bear on them.

2 The External Control Mechanisms

The external control mechanisms relate to the other forms of control effected through the other arms of government according to the tripartite separation of power, namely through the judiciary and the legislature. While Francophone Africa is tributary of a very original tradition of judicial control inherited from France, the underdevelopment of the legislative institutions under the parliamentary form has not enabled legislative control mechanisms to play a significant role. We shall look at these forms of control or mechanisms for public accountability in turn. The role of other developing institutions, as well as the impact of some public enlightenment campaigns will be also discussed, although very briefly.

The Judiciary and Public Accountability

In Francophone Africa, the judiciary makes a considerable contribution to checking the abuse of administrative power and making administration to account for its actions. In general, administrative disciplinary sanctions are given to erring public servants, without prejudice to the courts of law handling the criminal aspects of sanctions involved if the acts of the public servants are also reprehensible by Criminal law. But the contribution of the judiciary does not stop there. The Francophone countries have instituted a system of administrative courts which was inspired from the French administrative court system and which has been performing creditably well despite considerable adverse environmental factors.

In France, a public administrator can be taken only to administrative courts and private individuals to private courts while the *Counseil d'Etat* is the appeal court for the administrative courts. Thus, there is a duality of the type of judicial institutions: the administrative court system functioning under public law and the ordinary court system operating under private law. Francophone African countries have drawn inspiration both from this judicial organization model and from techniques of

functioning of the administrative courts, with a lot of innovation. In trying to find out what organs should perform the function of administrative control, a variety of decisions have been made culminating in the jettisoning of the principle of duality of the judicial arrangement. After independence, each African country established an administrative court under variable arrangements. Virtually all the Francophone countries adopted a unitary judicial system, but entrusted the administrative litigations to a section or a specialized branch of the single system. Only Madagascar maintained the duality of judicial competence. But, all the countries kept the dichotomy between public law and private law. In all countries, the institutions of the administrative judiciary have been under constant evolution but it has been able to record numerous interesting cases. The administrative control function of the judiciary involves the following aspects:

- control of legality of decisions taken by administrative organs (with regard to form and content);
- protection of the people against administrative abuse; and
- auditing accounts reconciliation, financial mismanagement sanctions.

Important difficulties have surfaced in ensuring administrative control through the judiciary. The procedure of the litigation is too costly. It is also not accessible to all because it is very elitist and too sophisticated for those who are not knowledgeable in law. With time, most of the countries have resolved the problem of competent personnel to man the judicial institutions.

The Legislature and Public Accountability

The parliament is a weak institution in Francophone Africa, even in countries that have not been under military rule. Everywhere, power is highly centralized in the Office of the President of the Republic leaving virtually no room for the control of administration through the parliament. However, all the routine measures are made possible by the constitution: oral questions, written questions, question time, parliamentary Commission or Committees etc. Unfortunately, all these mechanisms

have not been made to function effectively and one observes either general lack of interest or collusion with the members of the executive and the administration.

It is important to note that there is now a ray of hope for the parliament to play the control role more significantly with the present democratization process and the adoption of the multi-party system in most of the Francophone countries. The case of Benin Republic which has operated these new institutions for only six months provide a lot of ground for optimism.

The Press and Civil Liberties Organizations

During the three decades of independence there has been a general clamp-down on press freedom and other public liberties and human rights in most of the Francophone countries, except Senegal. The past two years or so have seen the restoration of these freedoms in these countries. It is to be expected that their impact on public accountability will be noticeable in a not distant future. There are already important signs that the press is taking up administrators and politicians on topical accountability and ethical issues.

The Introduction of an Ombudsman-like Institution

Senegal has taken the lead by introducing an Ombudsman-like institution called *Mediateur de la Republique* in January 1991, with a view to improving the relationships between administration and the public. The *Mediateur* is appointed by the President for six years. He enjoys total freedom from government. He is to receive complaints from the public about the functioning of government administration, local authorities, public enterprises and other public bodies. He is to make recommendations for amicable settlements of grievances submitted to him. He can also make recommendations for change or improvement of administrative practice. He makes the recommendations to the President who will seek the views of the Minsters concerned and ensure that action is taken. He has extensive investigatory powers. The new institution is yet to settle down and it is presently in a very confused environment. It is too early to pass any judgement. But views have been expressed that it is a blind imitation of the French institution bearing the same denomination and it will not be easy to allow it to make a significant impact.

It is noteworthy that some national broadcasting agencies have promoted some public complaints programmes on the radio or television. The impact of such actions are far from significant.

The Anti-Corruption Campaigns and Public Enlightenment Programmes

Some governments in Francophone Africa, like Mali in January 1972 and Côte d'Ivoire in 1974 have had to launch anti-corruption campaigns to check the dangers of the evil. The campaigns have had little or no impact but they must be mentioned in this study.

3 Conclusion

This study has provided a rapid overview of both internal and external control mechanisms for ensuring ethics and accountability. It was not our intention to assess the effectiveness of these institutions. However, it is important to note that there have been a lot of difficulties in adapting the French-inspired arrangements in general. Generally, the population has been marginalized in the control and public accountability process. It is our considered view that there are important political and sociological factors that have stultified the public accountability mechanisms. These factors have not been dealt with but they require urgent attention, so that they can be tackled. If anything, political leaders, and administrators should show a greater disposition to ethical behaviour and public accountability. However, whether they do or not, it is no more a dream or an utopia to expect that the political developments and democratisation will of course usher Francophone Africa into an era of genuine public accountability.

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17

Ethical Codes for African Administrations: Nature, Content, Limitations and Required Improvements

C.H.M. Barlow

All human societies from the smallest unit, that is the family, to world-wide organizations such as the United Nations, have minimum standards of behaviour and conduct for purposes of facilitating their living together harmoniously or minimizing friction between the members. These standards of conduct and behaviour may be imposed on the society by the recognized leader; they may be mutually agreed upon through discussion and sometimes they may be forcefully imposed by a conquering power on the society.

Departure from these standards of conduct and behaviour, whether mutually agreed or imposed, attracts sanctions and punishments of differing severity on the offender by an enforcing institution or machinery.

In small or simple or simple and/or illiterate societies, such as the family, the clan and the tribe these standards are understood and are verbally transmitted throughout the society. Adherence to the standards is usually strengthened by superstitious beliefs that terrible misfortunes and tragedy will befall those who dare depart from them, or by fear of being ostracized by the society, quite apart from actual punishment of the offenders. Enforcement is also relatively simple. For example a slap from the father or mother in a family is often quite enough to establish adherence; even an angry stare may be quite sufficient.

However as human societies become bigger, more sophisticated and complex, management of human societies becomes correspondingly much more complex and difficult. Society therefore reverts to establishing

uniform standards of societal conduct through "a body of legal rules expressed in a fixed and authoritative written form". In other words codes, such as rules, regulations, acts, statutes or decrees, all of which give more and more powers to the administrator and managers of society over the individual members and organized groups in the society.

The political leaders of society can no longer manage the bigger, more complex and sophisticated societies single-handed; so they appoint State-paid employees and give them powers to assist them in administering and managing society.

Administrators all over the world have tremendous powers; the enormity of which is quite often never fully realized by society. The Administrations or the government and their servants rigorously control man's life from birth to death:

i they control the natural resources of the country, their distribution and how and when these resources should be exploited and used by the society; for example whether an individual can use land by customary lease or free-hold tenure, whether one can cut down a forest or not;

ii they control the distribution of social services; for example which towns or areas can get electric power supply, piped/ treated water, tarmac roads, hospitals, schools, whether education or health services are free or not, what types and quality of building you may build in certain areas in towns;

iii Control the individual in numerous ways; for example, for your marriage to be recognized you must fulfill certain ceremonies, fill in and sign certain forms; on getting a child you must register the birth; when a death occurs it must be registered; if a death occurs far from the ancestral burial grounds permission may be necessary to transport the body across district boundaries; should you want to build a house, shop or hotel it must conform to certain set standards; should you want to travel outside your country, you must have a passport; this involves the filling numerous forms, all requiring many official stamps and signatures; numerous other forms and stamps to obtain foreign exchange; and yet other forms at the airport of departure,

to say nothing of those at the destination in the country you are visiting; setting up an industry, licensing a motor vehicle, paying Income Tax, getting water, electricity, telephones all involve application forms, permission, official stamps, travelling to and from numerous offices.

The state has vast and tremendous powers which can be used for the good of the individual or society. Similarly however these very same powers can, and often are used to harass, frustrate and cause irritation and misery to society. Hence the old adage "power corrupts and absolute power corrupts absolutely."

The use and exercise of the enormous powers conferred on administrators and managers of society to enable them to manage and administer society for the general good and benefit of the whole society, has very often been abused and corruptly exercised for the personal enrichment and aggrandisement of many leaders of the State, both politicians and paid public servants. These same powers have been misused, to sustain politicians in power, to suppress or gag any criticism and even to eliminate, opponents or competitors for positions of leadership. Leaders have misappropriated public funds and proprieties put at their disposal to use on societal development and growth.

It is this gross abuse and misuse of power, that has led to the demand for, and enactment of, Ethical Codes. Ethical Codes are specifically applicable to the leaders, the administrators and managers of societal public affairs, in contrast to other legal codes — such as Criminal Codes, Civil codes and any other legal enactments that apply generally to the whole society including its leaders, managers and administrators.

For purposes of this paper Ethical Code or codes will be taken to mean: *a body or bodies of rules, regulations or laws expressed in a fixed and authoritative written form clearly setting out morally based standards of behaviour or conduct that society requires of its leaders in the management and administration of the society's affairs.*

The words "the state" "Government", "the administration: will be used interchangeably to mean *those people or cadres of people that are charged with responsibility of managing or administering the political, socio-economic, cultural and security affairs of a nation or a state.*

The above definitions are capable of being improved and perhaps made more precise or more comprehensive but to avoid long

semantic argument, they are sufficient for the purposes of this presentation.

It has been highlighted in the introductory paragraphs of this chapter, that administrations the world over have enormous powers over their societies and individual members. These powers are quite often abused and hence the need for Ethical Codes to regulate the exercise of the power. Why then focus on African administrations? Are African Administrations so different from other administrations all over the world?

It does not need detailed argument to establish the fact although there are many similarities in the basic management and administration of societal affairs, there are also many differences both in basics and in details, but more so in the latter. These differences may be cultural, ideological, religious, socio-economic or of any other natures. African Administration is therefore different in that respect and deserves to be discussed on its own. But apart from that, we must bear in mind that we are dealing specifically with *Ethical Codes*. Ethical Codes, as has been already stated in this chapter, are morally based standards of behaviour required by the society of its *leaders* in the exercise of their powers. Therefore in addition to the differences in the basic and details of administrative practices already mentioned, the morals of societies differ considerably from society to society.

Therefore for the discussions to be meaningful and in-depth, it is reasonable to have realistic parameters to limit the societies under discussions to Africa.

Although a case has been made for concentrating on African Administration, it must at the same time be emphasized and acknowledged that Africa is by no means uniform. Africa is a huge continent and its societies and States differ greatly in cultures, political ideologies, socio-economic status, religious beliefs all of which make it completely unrealistic to apply a single common Ethical Code to this vast continent.

Notwithstanding this diversity however, there are, on the other hand, common factors which validate separately discussing Ethical Codes for African Administration.

1. Culturally it can be reasonably generalized that, on the whole, African society, nations or tribes, until very recently, have been subjected to, or willingly accepted and even in

some cases respected, dictatorial rule. Before the colonial era African societies were administered and ruled by kings or great chiefs such as the Asantehenes, the Emirs, the Kabakas and the Bakamas. Even though these rulers had their Great Councils, elders, clan leaders and their appointed chiefs to advise and assist them, they ruled more or less by "divine right." Some of the rulers were elected or selected from among the children of the ruling family or families, but once elected, they ruled for life. Others became Chiefs through fighting and defeating the other contenders and/or opponents and ruled by the spear. There was no real democracy and its essential accountability to the people. The revenues of the state, such as they were, were not separated from the personal incomes of the rulers and were spent by the rulers as they pleased.

Thus there were no state coffers or public assets and proprieties on which accountability for use was expected by the ruled. Similarly, in commerce and industry, public companies where management has to account to the share holders, were generally unknown. The idea of administration and management accounting to the people is of recent origin in Africa and has not yet fully permeated into the traditions of the society. Accountability is strange to the general populace and only a small percentage of enlightened people do regard it a serious matter.

2. When Europe colonized Africa it only worsened the situation. The metropolitan powers administered and exploited African societies but they did not, nor were they expected, to account for anything to the colonized and subjugated peoples. The only accounting they did was to their governments in Europe. Democracy and its accompanying public accountability to the people was only introduced to Africa for only a brief period just before independence when African States achieved internal self Government.

3. At and after independence the crop of leaders that emerged,

with few exceptions, did not do much better than the pre-colonial era African leaders or the colonialists. Once elected they wanted to rule for life. They did not tolerate criticism or opposition. They gagged or suffocated the media and the States monopolized the radio and TV Services. To some of them public coffers were almost synonymous to private funds. Official vehicles and other state properties were completely personalized. They could not tolerate Accounting Officers who had the courage to ask them to account for public funds, instead, they surrounded themselves with sycophants. Public offices became sinecures for incompetent party supporters and unsuccessful relatives. Corruption, nepotism, and sectarianism permeated state machinery structures downwards from presidents, prime ministers right to office messengers.

4. African societies have on the whole, not yet established powerful traditions of demanding for:

   A democracy and meaningful participation in their own governance;

   B ethical exercise of the tremendous powers they have given or surrendered to their Administrations; and

   C the smooth and peaceful change of rulers.

5. Politicians grossly failed to deliver the utopia that they had earnestly promised the expectant electorate. This led to the spate and era of military coups. Each succeeding coup leader accused the former regime of the faults which they in turn proceeded to unashamedly commit! Meanwhile the populace suffered as they were trampled by the fighting political "elephants" and the economy sunk to lower and lower levels through the resultant incompetent and self-seeking leadership.It is this depressing situation that has recently led to the clamour for democracy, enactment of Ethical codes and new Constitutions for African Nations.

The size of the African continent and diversity of African people make it impossible not to make broad generalizations in the analysis of the subject under discussion. It is probable that the situation described above may not obtain in some African States, but in a short paper such as this, it is not practicable to cover individual state situations that may be exceptions to the general situation.

The Nature of Ethical Codes

Apart from the formally enacted Ethical Codes there are other types of ethical "codes of conduct" which are applicable and are in many cases practiced by African Administrations and elsewhere. These are:

i the personal self-imposed ethics

ii the group self-imposed ethics, and

iii the administratively enforceable Ethical Codes as opposed to the legally enacted Ethical Codes.

The personal ethical conduct and behaviour stems from personal beliefs and convictions on what is the right or wrong way of conducting oneself in respect of conducting public affairs, for instance the conviction that it is wrong to dip one's hand into public funds or to practice sectarianism or nepotism.

Group ethics are group-agreed right or wrong way which should be practiced by any member of the group when serving society. These groups have a common unifying factor such as is demanded by a profession. A good example is the professional ethics of the medical profession.

The administratively implemented ethical codes are written ethical rules of conduct for civil servants or staff of parastatal bodies which are not enacted by the Legislature but do have administratively implemented sanctions against the offenders and machinery for imposing sanctions. These are found scattered in Staff Regulations, Standing Orders, Circular Standing instructions and other similar Government issued documents.

Then of course there are the enacted Act statutes, Rules and Regulations which are enacted by Constituent Assemblies and Legislatures or emerge as decrees from military governments.

Some Ethical Codes are entrenched in the national Constitutions in very considerable details. All these have provisions within the Constitution for further enactment by the Legislatures. Examples of these are:

i Chapter twenty-four of the 1979 Ghana Constitution, articles 200 to 209, which constitutes five pages of the Constitution;

ii Parts I and II of the Constitution of the Federal Republic of Nigeria 1979. This takes up six pages of the constitution.

The main reason for entrenching detailed Ethical Codes within a country's Constitution is normally because of the importance a country attaches to the proper exercise of state powers by its officers. For example prior to the enactment of the current Ghanaian and Nigerian constitutions there had been such a barrage of accusations of gross abuse of state powers and such extensive corruption by Government Officials that it was thought necessary to entrench the Ethical Codes into the constitutions in the hope that entrenching the code in the Constitution would impress upon the Administrators, the importance of conducting the affairs of state in an ethical manner.

The Tanzania Ethical Code started as an ideologically oriented party code of conduct for the leaders of TANU for the *purpose of establishing Socialism and Self Reliance.* When in 1967 TANU made the Arusha Declaration as its blue print for establishing Socialism and Self Reliance, they also decided that the leaders of the party should conform to a leadership code that would facilitate the establishment of Socialism and Self Reliance. Tanzania was a one party state and the party was above the President, his cabinet and all government officers. Every leader, therefore, be he a politician, a civil servant or an officer in a parastatal was expected to abide by the leadership code.

After complaints from within TANU about continued breaches of the party's Leadership Code by the leaders, the party directed the Government to enact a law incorporating the contents of Arusha Declaration Leadership Code and create a machinery to enforce compliance with the Code which then would be legally based.

The leadership Code Act No. 6 of 1973 was then enacted. The Act was further amended in 1987 by Act No. 5 of 1987. The Commission for the Enforcement of the Leadership Code was created based on

Chapter 6, part 2 of the Union Constitution of the United Republic of Tanzania and the relevant provisions of the Leadership Code Acts No. 6, 1973.

The Commission's primary responsibility is to promote, guard, superintend the compliance and pursuit of the policy of Socialism and Self Reliance through ensuring that the leaders comply with the Leadership code. The Commission is expected to do this by first, *educating the general public about the obligation of all those in Leadership roles to comply with the Leadership Code and about the responsibilities and functioning of the Commission.* Secondly the Commission investigates leaders who breach the code, cautions or warns them. Serious breaches are reported to the President for action.

These brief examples of the nature of Ethical codes serve to establish the fact that Ethical Codes reflect the generally accepted values and aspirations of society which they want their leaders, administrations and management to follow and comply with. At best they are publicly debated and mutually agreed upon. At worst they can be imposed values which a small ruling group or a dictator thinks is best for the society or, in the case of a self-seeking dictator, for his personal gain. The most successful Ethical Codes must be home grown and not borrowed or imposed.

The Content of African Administrations Ethical Codes

Generally speaking African Ethical Codes are fairly similar in content. All of them address very similar problems of trying to ensure that the awe-inspiring powers that leaders exercise over their citizens are exercised in an ethical manner. Below are general content of African Ethical Codes:

1. They all have a clause stating categorically that the Leadership Code is additional and not a substitution of any other laws that are applicable to all citizens (including the leaders) relating to:

   A agents and their principals;

   B the duties of public officers and the consequences of any breach of those duties;

C investigation of offenses, examination and punishment of persons in connection with criminal offences.

2. They specify the Officers to whom the code is applicable and make a provision for adding onto the list of specified officers. The specified officers differ from state to state.

3. They provide for the establishment and state the functions of the code's enforcement machinery.

4. They make it obligatory for the Specified Officers to make a statement of their income, assets and liabilities within a specified time after the officers' appointments and thereafter, at the end of a specified duration of time. Failure to do so is made a breach of the code.

5. They list a number of prohibited conduct by the Specified Officers which constitute a breach of the code.

   Common among prohibited behaviour lists are:

   i receipt or soliciting for gifts or benefits in kind in payment for or appreciation of things done or omitted to be done in discharge of their official duties;

   ii putting themselves in positions of conflict between their personal interest and their official duties;

   iii prohibition of leaders contracting with bodies specified in the Ethical Code Act without the written consent of the enforcement machinery;

   iv prohibiting leaders from abusing or misusing State property;

   v prohibiting leaders directly or indirectly using official information for promoting private financial or any

other gainful interests;

vi prohibiting leaders from generally conducting themselves in a manner that prejudices the interests of the State specified in the act.

vii requiring leaders specified in the Act, to disclose their interests before debating or voting on matters in which they have personal interests.

6. They make provision for the procedural and reporting systems of the enforcement machinery.

7. They specify punishments and/or sanction for breach of the Code.

8. They provide for the protection of members of the enforcement machinery against:

i criminal or civil liability for anything done in good faith in the performance of their duty;

ii being compelled to give evidence in any court, other than the highest court when considering an appeal to it on any matter that has come to his knowledge during the performance of his official duties;

9. They contain provisions making it a punishable offence to:

i give false information to the enforcing machinery;

ii obstruct the enforcement machinery in the performance of its duty.

The contents of Ethical Code of course differ from country to country but it can be said that the Codes are quite adequate for the purposes they are enacted for, especially in view of the fact that the Codes are additional to other laws that are meant to curb crimes and punish offenders.

Limitations

However desirable Ethical Codes are, they have limitations to their effectiveness that must be recognized. Ethical Codes *per se* will never be a panacea to the evil that make their enactment a must. Until very recently, as already pointed out in this chapter, African societies have been subjected to harsh dictatorial rule that was not accountable to society for neither their exercise of power nor for their conduct. African societies have very real fear and often dare not question or challenge the behaviour and conduct of their leaders. They would on the whole rather suffer in silence than stand for their rights. On top of this their generally widespread illiteracy make them ignorant of their rights and the leaders' obligations to account for their actions and for State funds and properties; thus very few individuals or group will make use of the Ethical Codes to fearlessly point out breaches of the Codes by the leaders of the societies.

Interest pressure-groups have so far only developed where leaders have been liberal enough to allow them to operate freely and effectively. The media in many countries is still not sufficiently effective in criticizing government and exposing breaches of ethical behaviour and conduct of leaders. The Radio and TV are in most cases State monopolies and the newspapers are often harassed and banned if they dare criticize leaders. Opponents in multi party states or within the party in single - party States, are harassed and gagged. Thus the environment in many African societies is not conducive to the effective use of Ethical Codes.

On the other hand the dismal performance of many African economies (if not all of them) and the resultant dire poverty of the individual members of African societies, including the leaders, provide powerful temptations to the leaders who misuse their powers and positions for personal gain despite the existence of Ethical Codes.

In cases where remuneration and other terms of service have become meaninglessly low and insufficient, loopholes have been found to beat the regulations. For example leaders have been known to drive to their home areas hundreds of miles away to officially attend trivial ceremonies such as opening a small protected spring on Fridays accompanied by an entourage so that they can claim mileage and allowances and in the process also be able to visit their relatives and homes during the rest of the weekend. The cost of such visits far

outweigh the value of their State funded trip and do not justify use of public funds. The real intention is to visit their homes at public expense. Others claim full allowances for visits abroad when host countries have fully met all expenses. Thus the scarce foreign exchange paid out by the governments are used to "rehabilitate" the leaders (that is for the leaders to do personal shopping). Yet other leaders, just for the sake of drawing foreign exchange allowances, decide to attend professional meetings abroad, to which they are incapable of contributing or gaining anything, instead of sending their professional officers.

Neither Ethical Codes nor Staff Regulations can provide for covering the numerous clever ways to misuse public funds. When salaries and allowances are completely inadequate, the law of the jungle, that is "survival of the fittest" irrespective of ethical behaviour, begins to assert itself over ethics.

Some Ethical Codes are so harsh and restrictive that they sometimes become counter productive to the ethical conduct and behaviour of leaders. For example some of the TANU Leadership Code provisions quoted below:

i Every TANU and Government Leader must be either a peasant or a worker and should in no way be associated with the practices of capitalism or federalism.

ii No TANU or government leader should hold shares in any company.

iii No TANU or government leader should own a house or houses which he rents to others.

The TANU Leadership Code provisions were incorporated in the Public Service Standing Orders in 1971 and further conditions of leadership summarized below were introduced. The Standing Orders provide that no Public Service Leader "being a person engaged in any trade, business, profession or vocation should employ any workman in connection with such trade, business, profession or vocation.

Public Service Leaders are required to dispose of any shares, houses or buildings or any interest in such property that may have been acquired through inheritance or by operation of the law within three months of their acquisition.

In such a low salaried society as Tanzania was, the result was a considerable brain-drain of some of the best would-be leaders out of the country because of those provisions.

Another example of Ethical Codes that may be counterproductive is taken from Ghana. The Ghanaian Ethical Code is entrenched in the Constitution. Article 205 of the Constitution deals with the requirement for specified leaders to declare their assets and liabilities and those of their spouses to the Auditor-General within three months of their appointment, at the end of every two years and at the end of their term of office. Clause(5), of the same article provides a very lengthy list of officers who are required to comply with submitting their assets and liabilities and those of their spouses to the Auditor-General. This list ranges, from the President right down to "the head or director, assistant director, bursar or finance officer of a school or institution financed out of public funds."

It also includes "such posts in the Public Service as Parliament may prescribe". The next article in the Constitution is quoted in full:

> "206 (1) Before entering upon the duties of his office, the public trustee shall take over as trustee for and on behalf of, a person appointed full time to an office to which the provisions of Article 205 of this Constitution apply, and for the period during which that person continues to hold such office:
>
> A The interest of that person in any business, trade or undertaking; and
>
> B Any business, trade or undertaking solely owned by that person.
>
> C Pursuant to Clause (1) of this article, compensation shall be paid, as the result of the mismanagement of the public trustee which has resulted in a loss to any person whose interest, business, trade or undertaking is taken over by the public trustee."

It is reasonable to assume that such a provision as is contained in the article quoted in full above would thoroughly frighten any serious businessman from joining the ranks of the Officers specified, notwithstanding the undertaking to compensate losses that may occur. Even if compensation was paid promptly, which appears very unlikely with Government bureaucratic delays in Africa, the compensation may

not be enough to re-establish one's life long effort to establish a successful business once destroyed by mismanagement. Such a provision appears counterproductive to attracting successful businessmen who could have considerable potential to be able and perhaps not so-greedy leaders.

With the review of the limitations of Ethical Codes one cannot possibly avoid concluding that, Ethical Codes *per se*, cannot ensure the ethical conduct and behaviour of leaders in African Administrations.

Conclusion

In concluding this chapter the following conclusions are put forward:

First, it is not desirable nor practicable to design an all-embracing single ethical code for all African Administrations and societies. It is best for each State to legislate its own Ethical Code which would reflect its cultural values, its social-economic development status and its aspirations and goals for the future.

Second, for Ethical Codes to be successful and effective there is a need to combine them within a package of other factors which cannot be legislated. These factors are numerous. Only a few which are considered most essential are mentioned briefly below:

First and foremost society must have developed a tradition of fearlessly standing up and demanding for their own rights and taking their leaders to task for unethical conduct and behaviour in the leaders' management of societal affairs.

This presumes a literate and well informed society, a free environment where individuals, pressure-groups, the media can air their views without undue restrictions and harassment.

Secondly, the Enforcement Machinery must be capable and determined to treat all offending leaders equitably and fairly without making exceptions from "the King maker" to the "small fry". Similarly punishments should be meted out justly and promptly. Thirdly, a tradition for democracy and accountability must be firmly established and deeply ingrained in within the society.

Fourthly, the enacted Ethical Codes must be of such a nature that leaders are not turned into poverty-stricken missionaries and as

poor as Church mice nor should they be so harsh and impracticable as to frighten would-be leaders from assuming leadership roles. But most important, there should be a determined and consistent political will to establish ethical conduct and behaviour in exercising the tremendous powers to the State over its citizens. The enactment of Ethical Codes in African Administrations are a commendable first step in the right direction. The journey is still long and needs persistent and grim determination to the destination of ethical conduct and behaviour in African Administration.

18

The Relevance of Research: Size, Cost and Effectiveness of the Civil Service Reform Programmes in Africa

J.H. Oyugi

The serious and deteriorating trends which have characterized the economic and social conditions in developing countries particularly in Africa since the beginning of the 1980s have given rise to efforts on the part of national governments as well as the international community to adopt measures for reversing these trends. These efforts have taken several forms and have included implementation of programmes for restructuring the economic and financial systems in several countries.

One key factor in the restructuring agenda of African governments is the role and capacity of the Civil Service in development reflecting a concern that the Civil Service is in itself so paralysed or in such a state of decay in some sub-Saharan African countries that it is unable to stimulate development. Hence, urgent action is needed to rehabilitate Civil Service institutions as a precondition for advancement on other development fronts.

A prevailing concern underlying reform is the question of Civil Service size and cost. In the context of international technical cooperation, the conditionality for granting structural adjustment loans has included the reduction of Civil Service numbers by predetermined percentages. The hope is that this will help bring improvements in morale and uplift public service productivity and effectiveness through improvement in the conditions of service for those who are retained in the service.

The United Nations Central Programme in Public Administration, which is implemented by the Development Administration Division of the United Nations Department of Technical Cooperation for Development (UN DTCD), is mandated by the relevant resolutions of

the United Nations General Assembly and the Economic and Social Council to assist governments of Member States to strengthen their civil service capacities for development at the request of these governments. Pursuant to these mandates, the Development Administration Division responded to requests from several governments to join with them in conducting a study aimed, among other things, at exploring methodologies for diagnosing the size and cost of their civil services, not just as a quest for an optimal size *per se*, but also to promote efficiency and effectiveness. Several of the requesting governments were already involved in implementing adjustment programmes including downsizing the Civil Service.

This inter-country collaboration was expressed through the implementation of a field project jointly sponsored by the United Nations and each of the following 10 participating countries — Cameroon, Equatorial Guinea, The Gambia, Ghana, Guinea, Guinea Bissau, Lesotho, Tanzania, Uganda and Zimbabwe — which agreed to the preparation and production of country reports that could be used directly to develop perspectives on methodologies for analysing the relationship between size and cost and effectiveness. The national reports were expected to form the basis for a Synthesis Paper summarizing the results of the findings, lessons learned and recommendations, that would be examined at a seminar attended by participants from all the countries concerned. The subject seminar was organized jointly by the Government of Ghana and the Development Administration Division of the United Nations Department of Technical Cooperation for Development and was held in Accra, Ghana from 7–11 October 1991.

This seminar marked the culmination of nearly 18 months of preparation involving three major steps:

i A launching workshop in Dar es Salaam, Tanzania in late 1990 to discuss and prepare the methodological framework for the field studies to be conducted by the national consultants from the participating countries;

ii A monitoring mission to six participating countries by the Chief Consultant and the Coordinator of the project at UN DTCD headquarters to finalize the methodological framework and to evaluate the progress made by various national researchers; and

iii Completion of detailed reports by the ten national consultants.

The Seminar was acclaimed highly successful by both participants and Ghana government officials as well as representatives of the UNDP office in Accra.

The end product of the Seminar was a report containing conclusions and recommendations, which, subject to further review, is expected to become a publication by the UN DTCD on the subject of Size, Cost and Effectiveness of the Civil Service with particular reference to Africa. The decision to publish the proceedings of the Seminar was based on a resolution passed by the participants at its last session, which after noting the success and momentum created by the Seminar, requested UN DTCD to coordinate the institutionalization of consultative meetings on the subject and to organize the publication of the Seminar's results for wider dissemination.

Methodological Issues

The Synthesis Paper which formed the basis of Seminar discussions, outlines and discusses in the first instance several issues relating to the determination of the approach to the subject. One major issue concerned the definition of the term "civil service," in a manner that would permit comparison and facilitate the assessment of experience in different countries. In some countries it is defined narrowly to include only "traditional civil servants." Others extend the term to cover the public service and to include judges, teachers, police and prisons officers and local authority employees. Yet others include employees of parastatal agencies and even party functionaries. The paper recommends the development by each country that is interested in conducting research in this field, of profiles of disaggregated data relating to size and cost of the Civil Service as a prerequisite for meaningful analysis, diagnosis and prescription for action.

The paper then goes on to discuss separately issues relating to size, cost and effectiveness, including findings and recommendations from the studies. Issues relating to size cover items such as (a) measurement in terms of total number, (b) structure and scope, (c) causes of growth and (d) the concept of "optimality."

A Size of Civil Service

The Synthesis Paper makes it possible to discuss these various issues in relation to the experience of some participating countries in the period between 1970 and 1990, and summarizes the longitudinal changes in levels of civil service employment for five countries included in the group. It concludes on the basis of available data that civil service employment increased throughout the 1970s and early 1980s and declined after 1986 in response mostly to the introduction of structural adjustment programmes. For example, in Cameroon, civil service employment doubled in the six years between 1970 and 1976. It doubled again by 1984, peaked in 1987 and started to decline thereafter. A second conclusion derived from nearly all national reports was that until recently, increases in civil service employment levels did not correspond to changes in the state of economic performance and that such increases as occurred in these levels were "largely revenue inelastic."

On the growth of the Civil Service, evidence exists that significant increases have occurred in all African bureaucracies since independence. The causes of these vary between countries but can in general be attributed to:

i The need to meet the growing expectations of the masses resulting from the advent of independence and statehood;

ii Increased role of government and therefore of the Civil Service, as provider of goods and services;

iii Declining economic and social conditions necessitating government to become primary creator of economic opportunities such as employment and provider of social and humanitarian services as well as security;

iv Neglect, abuse and mismanagement leading to deliberate overstaffing, duplication of functions and resort to dishonest practices such as "ghosting" or "adopted workers" (using names of past employees); and

v Low levels of productivity due to lack of scarcity of critical

skills, poor skills mix, inadequate technology and weak civil service institutional capacity.

Improvement or changes in any of the above factors can be used to reverse growth in the size of the Civil Service.

On the question of optimality, significant interest has been manifested in recent years in defining optimal size of the Civil Service. This interest has been based on a number of reasons including (a) the perception that civil service and other public organizations need to be reduced to conform to their respective revenue bases; (b) dissatisfaction with the level and quality of service; (c) the demand for rationalization and streamlining of operations with the objective of improving internal organization, management and utilization of scarce resources and (d) need to improve accountability.

The Synthesis Paper concludes that the concept of optimality though theoretically useful, is rather static and cannot be practically employed in determining a precise number below or above which a Civil Service can be described as understaffed or overstaffed. A more practical pre-occupation will be for the management of the Civil Service to focus on determining appropriate staffing levels within a dynamic context.

The lessons learned about the size of civil service in relation to the researches conducted in the participating countries are summarized as follows in the Synthesis Paper:

i The question of size is quite complex because it is not only a question of head counts, but, perhaps more importantly, also of scope, structure, composition, skills mix, institutional capacity and the dynamic context within which the service must operate.

ii For all countries studies, the attainment of independence was followed by significant growth in the size of the Civil Service. This growth persisted even in the face of increasing economic difficulties and was not checked until the advent of structural adjustment programmes in the mid-1980s.

iii The analysis of the structure and composition of the Civil Service reveals that the growth in the size has been uneven. Specifically, the growth has been concentrated in

a few ministries, especially those employing professionals (e.g., agriculture), social services (education, health), lower level technicians (e.g., housing), local government and lower level grades made up of unskilled, kindred and semi-skilled labour.

iv Accordingly, the typical African Civil Service remains both understaffed and overstaffed. It is significantly understaffed in professional and managerial areas, and perhaps overstaffed in semi-skilled and unskilled areas.

v It is extremely important to undertake a thorough analysis and diagnosis of the structure, composition and institutional capacity of the Civil Service before making prescriptive statements about restructuring and redeployment.

vi There is an urgent need to improve Civil Service personnel management information systems as an on-going integral part of the management of the Civil Service.

vii Most governments have very limited flexibility in sustaining significant reductions in the size of the Civil Service, and even when these are made, the overall impact on the cost of the Civil Service, and overall government expenditure is minimal.

viii The debate about the size of the Civil Service is useful because it induces introspection, and leads to questions of cost, effectiveness and overall leadership and management of the Civil Service which are the ultimate objectives of any Civil Service reform programme. Indeed, the value of the statement that the African civil service is too big is not to be found in its validity but in its consequences.

B Cost of Civil Service

The Synthesis Paper also makes it possible to discuss and to draw conclusions on the question of cost of Civil Service in Africa, since independence. From the results obtained from the studies, the following

conclusion emerges: Despite all the efforts made in recent years under several structural adjustment programmes to reduce the size and promote privatization, African governments have not succeeded in reducing the cost of the public service. In fact, in some cases the cost has gone up instead over the years. For example, in Ghana there has been a significant increase in Civil Service labour costs since 1983. In 1985 alone, this cost went up by 180% over the previous year.

One way of obtaining a comparative measure of Civil Service cost is to calculate major items of expenditures as a percentage of either total government expenditure, total government revenue or GNP at a given base period. In Ghana, based on 1975 prices, Civil Service labour costs as a percentage of total government expenditures increased from 20% in 1984 to 38% in 1986. The figures for Uganda, though not as large, nevertheless show significant fluctuations. This fact leads to the conclusion that when governments devote a large proportion of their expenditure to meeting personnel costs, they have, correspondingly less to spend on other items such as equipment and operational supplies. This in turn undermines efficiency and effectiveness by limiting the tools and institutional infrastructure for effective policy formulation and implementation.

Comparison between Civil Service costs and government revenue produces an even more unfavourable picture. In Ghana this figure has fluctuated widely over the years, but has recently stabilized around 33% under the structural adjustment programme. In Lesotho, a 1966 report indicated that 46% of government revenue was being spent on staff salaries in the Civil Service.

Comparison between Civil Service cost and GNP is a useful measure. In Ghana, according to the studies conducted by the national consultant, the percentage has ranged from a high of 7.5% in 1975 to a low of 2% in 1984. Under the SAP, Ghana established a target of 4.4% for 1989, 3% for 1990 and 4.2% for 1991.

In summary, the utilization of the three indicators makes it possible to relate the total wage bill for the Civil Service to budgetary costs and to the performance of the economy generally. However, used in isolation, the indicators may give divergent impressions. They may not therefore provide the required guidance for judging the cost of the Civil Service. This seems to point to the need for further research to provide a firm base for relating acceptable Civil Service wage bill to levels of government expenditure, revenue or GNP.

One criticism that has been levelled against the traditional structural adjustment programmes is that they result in a reduction in Civil Service costs in the social sectors. Example quoted in the Gambia study seems to give credence to this criticism in that expenditure on education, health, social and community services which had averaged about 15% in an earlier period came down to less than 10% in 1985 and thereafter, following the introduction of the SAP. A similar pattern appears in the case of Tanzania. A different perspective is obtained when as in the Gambia study comparisons are made with reference to levels of expenditure in particular ministries or sectors, e.g., defence etc., as a percentage of total government expenditure. In general, these types of analysis are useful since they provide a framework for making allocative decisions in an environment of limited resources in relation to needs.

One of the major issues discussed in the Seminar in relation to cost of Civil Service concerned the relative attractiveness of the civil service. The Issues were discussed with particular reference to the notion of a living wage for civil servants. Available evidence indicates that despite significant pay hikes associated with implementation of SAPs in a number of countries, the typical African civil servant receives significantly less than a living wage. Statistics provided in the studies in Tanzania and Ghana seem to underline this phenomenon. Thus in Tanzania, due to inflation, lower, middle and top civil servants lost over 55%, 65% and 70% of their real wages respectively between 1981 and 1987; while in Ghana real wages for these categories of civil servants in 1989 were between 48% and 36% of their equivalents in 1977. Under these circumstances the Synthesis Paper concludes that it is not only difficult to attract and retain the best and the brightest in the Civil Service, but also, even among those who stay, it is unrealistic to expect optimum job performance.

A vicious circle is thereby created in which inadequate remuneration for civil servants, particularly at higher levels, results in reduced motivation and productivity. This in turn affects the efficiency with which government policies are formulated and executed, thereby preventing such improvement in economic conditions as would justify the offer of improved conditions of service or the payment of a living wage by the government to its employees.

Another perspective for judging the cost of the Civil Service relates to the incidence of losses, waste, corruption and neglect in the

service. Evidence contained in several of the country studies points to the growing importance of this phenomenon as a contributory cause of the costliness of the government bureaucracy in Africa. Examples of this abound in annual reports issued by government auditors and include misuse of vehicles and other government equipment, pilfering of stores and supplies, dishonest use of local purchase orders and absenteeism from work.

The causes of this loss and waste are many and varied. They include: (i) poor pay and conditions of service, (ii) inadequate supervision, (iii) cumbersome, outdated, inconsistent or unclear rules and regulations, (iv) personal greed and (v) lack of accountability coupled with weak or ineffective sanctions.

Available data does not at present allow a full assessment to be made of this phenomenon as an item in the cost of maintaining the Civil Service. However, its incidence points to the need for vigorous investigation and promulgation of appropriate rules and guidelines to minimize its impact.

C Civil Service Effectiveness

The Synthesis Paper states that in almost all countries there is a strong conviction that the Civil Service is ineffective and that action is urgently needed to make the service an effective, policy-driven, responsive and service-oriented organization. This is the aspect of the Seminar that is most closely linked to the idea of productivity. Yet it is a difficult concept to define in methodological and practical terms.

Different approaches have been adopted by various countries in understanding and applying measures for improvement of efficiency. Thus Ghana, emphasizing the distinction between efficiency, economy and effectiveness, has approached the problem through the use of (a) management audits and reviews, (b) job inspection, (c) management by objectives (MBO) and performance appraisals. In Gambia, various modern human resource management techniques such as human resource planning, performance appraisals, training and computerized personnel management information system are being applied. Other countries have linked effectiveness to staff morale and job satisfaction or losses, waste and abuse or misuse of public trust or to the general process of administrative reform.

In Committee discussions on the issue of effectiveness, participants noted the emphasis in the researches to deficiencies as

against success stories. Data should be obtained in the future also on cases of good performance so as to offer encouragement for superior performance and to boost the morale of civil servants both internally and externally.

Participants noted the adoption by several African countries of modern management techniques such as MBO, performance appraisals and organization development. These techniques should be the object of more detailed and systematic study with a view to adapting them to the cultural, economic and ideological context of Africa and to improve their transferability. This is particularly important on account of the profound impact that they can have on productivity.

At the same time, participants noted the causes of ineffectiveness which they identified as including:

i Poor allocation and utilization of human, financial and material resources;

ii Weak management practices including deficiencies in planning, budgeting and personnel management;

iii Problems of morale and job satisfaction;

iv Weak Civil Service institutional infrastructure; and

v A disabling, unpredictable and hostile environment involving political, economic, cultural and ethnic factors.

In consequence of these obstacles, any attempt at improving effectiveness and productivity in the Civil Service in Africa should be rooted in the introduction of institutional changes at the macro-level.

In summary, participants in the Accra Seminar concluded that the notion of effectiveness is complex and dynamic and has to be interpreted in the context of Africa. Four aspects are distinguishable in this regard:

i Transactional efficiency meaning the speed and accuracy with which internal transactions are completed. This includes such examples as writing memos, processing tax returns, interpreting and applying procedures, rules and regulations;

ii Efficiency of execution meaning success in implementation of policies regardless of their appropriateness to designated target groups in the population;

iii Impact —meaning the extent to which Civil Service behaviour and performance or otherwise affect the work and lives of others; and

iv Client Satisfaction — relating to the extent to which citizens at the receiving end are satisfied with Civil Service policy formulation and implementation.

In summary, participants at the Accra Seminar emphasized the need for improvement in all four aspects of effectiveness and particularly in the second area in the African context, on account of deficiencies in the mechanism for evaluating the efficiency of policy implementation. In this context also they noted that the role of the Civil Service is not to question the authorities but to advise on the best means of implementing public policies and of evaluating their effectiveness.

1 Implications for Analysis of Productivity Improvement

What lessons can one derive from the Accra Seminar in relation to the analysis of productivity improvement in Africa? It is necessary in order to answer this question to place productivity improvement in the general context of administrative reform.

The Accra Seminar underlined the fact that several African countries have embarked on administrative reform, in many cases with the encouragement of donor institutions and agencies. Progress achieved to-date varies from country to country. Similarly, the scope, strategies and degree of sophistication of approach adopted by various countries are not the same. The Gambia, Ghana, Guinea and Rwanda, for example, have adopted the comprehensive and systematic approach as compared with a sectoral or selective approach. These countries appear also to have reached the implementation stage as compared with countries like Uganda and Zimbabwe which are still at the level of elaboration. Tanzania and other countries are presently at the intermediate stage.

The primary objective of the reform is to improve the management of the policy environment of their countries for economic and social development as well as sound financial management. In a sense, therefore, reforms being a means rather than an end in themselves entail the adoption of measures that go beyond the economic and social to more fundamental areas of institutional change.

The fundamental nature of this process emphasizes the need for a systematic approach and careful planning. The strategies used for implementation of Civil Service reforms reflect the extent to which individual countries have undertaken serious planning before embarking on such reforms. Examples of such an approach are available in Africa. The most elaborate of these is to be found in Ghana where the strategies have included (i) diagnostic studies, (ii) institution building and development, (iii) changes in pay and benefits and (iv) structural down-sizing of the Civil Service. Other countries like Guinea have approached the same situation in the following way:

i Setting up of a pilot agency (located at a high level in the hierarchy) responsible for monitoring the process of reform;

ii Introduction of structural reform and re-definition of the mandates of all departments;

iii Revision and modernization of the "Statut Général" (General Orders);

iv Introduction of new personnel management techniques and improved human resources management; and

v Adoption of programmes for training and development.

Considering the different approaches that have been adopted, one may conclude that in order to have a chance of success, such reforms must contain three elements:

i They must be based on a clear understanding of the political, economic and cultural environment;

ii They must involve rigorous planning of actions to be taken following a careful diagnostic assessment of needs; and

iii They must recognize the fact that institutional structures might need to be re-oriented, resources organized and requisite staff deployed for the purpose of achieving the required objectives.

Changes at the above three levels in reality constitute pre-requisites for introduction of new techniques such as strategic planning, MBO and performance evaluation. The problem of productivity improvement among civil servants and in administrative units depends primarily upon measures adopted at the initial stages of reform and only secondly upon the adoption of the new techniques referred to earlier.

With this perspective in view, the reduction of costs and restructuring of civil services are important but secondary as compared with the abovementioned prerequisites. Improvement of productivity is an important objective of the reforms now under way in African countries. This cannot be achieved, however, unless actions are taken along the lines indicated above. In the final analysis, this is essentially the message of the Accra Seminar.

19

Conclusion: Towards an Agenda for Action in Enhancing Ethics and Accountability in African Public Services

Sadig Rasheed

INTRODUCTION

The public service (or Civil Service, taken here to mean ministries, departments and "core" agencies of central government) in African countries faces overwhelming and deep-rooted problems. The extent and specific dimensions of the difficulties do vary of course from country to country but there are some common elements. In financial systems, for example, largely symbolic budgets have been found to be unconnected with actual funds available and identified priorities; in human resource management, serious pay and performance problems as well as lack of fit between skilled manpower recruited and the needs of the service have surfaced; in organization and work processes, the design of organizations and schedules of duties sometimes have little relation to actual responsibilities or established procedures; in forward planning and policy analysis, a paucity of analytical capacity, innovation and flexibility in response to emerging challenges or changing circumstances is ubiquitous; in centre-periphery relations (and especially so in regard to rural services), extensive centralization of decision-making and resources with little understanding of local needs or commitment of the wherewithal; and management systems appear to have broken down with the very predictable consequence of disarray in the flow of supplies and equipment and maintenance of buildings and infrastructure that are vital to keep the service running. On top of all this, there are recurring incidences of patronage, corruption, theft, graft, moonlighting, and other unprofessional practices.

To be sure, tracing and establishing cause and effect for the predicament of the public service in Africa — and similar phenomena elsewhere — as in most endeavours of social science inquiry is a decidedly complex venture. Nonetheless, many scholars and practitioners have over the last thirty years gone to great lengths to assess and reassess the issues. Indeed, a long literature with this focus bears testimony to their efforts.[1] Any diligent survey of this literature cannot fail to observe that notwithstanding the diversity of theoretical perspectives and approaches, some concept of a deficit of ethical norms and values as well as weak institutions and practices of accountability are iterative themes in the explanation of both cause and effect of the public service predicament.

In response to the extensive catalogue of serious management and operational difficulties in African public services, a number of initiatives to restore and rebuild capacity have surfaced in recent years. The World Bank, for example, announced the establishment of an African Capacity-Building Initiative in March 1990. A study released about the same time revealed that institutional reform has become a major component of the Bank's adjustment lending with sectoral adjustment loans (SECALS, which are designed to respond to policy and institutional disarray at the sectoral/departmental level) accounting for US$9.4 billion during the 1980s. Fifty-five SECALS were made during this period, nearly half of them to sub-Saharan Africa.[2] Aside from a continuing programme of research,[3] training and technical assistance, ECA's response within the framework of the Special Action Programme for Public Administration and Management in Africa (SAPAM) has been to organize a number of forums for African public sector managers and other practitioners, academics, and experts to share experiences of the problems and identify practical solutions.[4] Other multilateral agencies, notably the UNDP and the Commonwealth Secretariat, bilateral donors, as well as, of course, the African Association for Public Administration and Management (AAPAM) have also made public service reform in Africa one of their priorities.

In all of these initiatives, the question of ethics and accountability has inevitably emerged as a major consideration in restoring and rebuilding capacity in African public services. The pervasive and widespread lack of accountability and unethical behaviour in the African civil services has now become a matter of general concern. The ECA brought up the subject at the 17th Meeting of Conference of Ministers

of ECA. Again, ECA organized, in collaboration with AAPAM in November 1991 a Senior Policy Workshop to specifically address the issue. ECA and AAPAM jointly followed this up with an exclusive discussion of the issue at AAPAM's 13th Annual Roundtable in December 1991. The World Bank has increasingly demonstrated interest in the question of "governance", which incorporates issues of ethics and accountability establishing a Task Force on this subject and making this a major theme in its 1991 *World Development Report*.[5] But what, precisely, is involved in promoting public service ethics and accountability in contemporary Africa? To the extent that there is broad consensus that a deficit of ethical norms and values and weak institutions and procedures of accountability are key considerations in understanding cause and effect in the predicament of African public services and that such a deficit is a major contributory factor to the inefficiency of the public services and the ability of the state to manage development, what are the main remedies and how can they be made to be more effective? In addressing these questions, this chapter identifies specific policy prescriptions and institutional practices that can be adopted to enhance ethical norms and strengthen accountability in African public services. A number of these have been mentioned by the various contributors to this volume. Important to stress here is the need to adopt a comprehensive and policy-oriented strategy to deal with this serious problem. First, however, some conceptual clarifications are necessary.

For our purposes, in this book, theoretical and philosophical debate on the meaning of ethics has been eschewed in favour of a more practical characterization. In public service occupations, professional ethics are the values underpinning impartiality, objectivity, integrity, efficiency, effectiveness and discipline of public servants when acting in the public interest in general and when exercising discretionary powers in particular. Hence, as we noted in the introduction, one of the contributors to this volume has suggested that professional ethics constitutes part of the non-material resource of society without which material progress becomes well nigh impossible.(Chapter 5)

This line of reasoning suggests that ethics and accountability complement one another. That is to say in any occupational group, professional ethics is the basis of accountability. Accountability itself refers to the obligation required of a subordinate to be answerable to the superordinate in carrying out assigned duties and in exercising discretionary powers. Indeed, the basic framework of organizational or

institutional structure in most human activities — public or private — depicts a hierarchical chain of accountable relationships. In the public service, the concept and practice of accountability is expected to make public officials responsible for their actions or inactions. Accountability is supposed to make government transparent, emphasize and enhance governmental responsiveness and legitimacy and improve policy implementation. In terms of modern democratic theory and practice, the basic principle at work here is that the public service derives its authority from the population as a whole, and its responsibilities and duties from the public interest. As such it must be answerable or accountable to the general public through the official — ideally elected — representatives of the populace. While the institutionalization of ethical norms is the basis of accountable relationships, it has to be recognized in the contemporary African context in which public servants and their political masters operate that the links in this chain of authority/ responsibility/ accountability relationship are weak or even broken in some places. The public service predicament that was outlined earlier is indeed one of the consequences. This, in itself, is a commentary on the crisis of governance in contemporary Africa and the subject of a vast literature.[6]

It is a fundamental assumption of this concluding chapter that the crisis of governance should not provide an alibi or constitute an apology for the difficulties faced by African public services. Moreover, it is a matter of simple empirical observation that the extent and character of the crisis varies from place to place and country to country. But to the extent that there is broad consensus that a deficit of ethical norms and values and weak institutions and practices of accountability are critical factors in the explanation of both cause and effect of the public service predicament, and the negative impact thereof on performance, efficiency, productivity and the efforts to bring about recovery and development, the position taken here is that a practical agenda of reform can be adumbrated to reduce the destructive impact of this deficit. If public administration history teaches any lessons, it is that bold and imaginative reforms in less than perfect political systems are the first milestones in the evolution over time of a professional, efficient, effective, responsive and flexible public service. Administrative reforms have a way of generating their own momentum in reaching further milestones. For example, the Northcote-Trevelyan reforms of the British public service in 1854, widely acknowledged to be the first milestone in the evolution of the professionalism that now characterizes Whitehall, were made

within a framework of governance that could have hardly been described as democratic. Similarly, the bureaucratic reforms in Japan following the Meiji Restoration in the 1870s provided the basis for the consolidation of a well-trained public service of good standing and tradition and endowed with a strong sense of duty and an equally strong sense of *esprit de corps*. And it is against the background of such lessons of history that a practical agenda for promoting ethics and accountability in contemporary African public services can be outlined.

This agenda is made up of six key areas of action as follows:

- fostering and promoting enabling conditions of service to enhance professional and ethical standards;
- advancing and affirming sound policies on recruitment, training and public personnel management;
- encouraging public service occupational associations to play a leading role in institutionalizing professional values and defending occupational interests;
- promoting a psychology of service in political and public life;
- upholding the integrity and effectiveness of public institutions of accountability;
- fostering popular participation to ensure the accountability of governance.

1 Fostering and Promoting Enabling Conditions of Service to Enhance Professional and Ethical Standards

It is widely acknowledged that poor working conditions, increasing levels of public service employment, and unrealistically low salaries or official rewards are key problems that have undermined the professional standing of African public services. As noted above, these difficulties have been the focus of a number of interventions by the region's multilateral and bilateral development partners since the early 1980s.

This is perhaps not the place to analyse the contours of post-colonial African political economy to situate the origins of these problems. It is sufficient for our purposes just to note some of the facts. In regard to public service working conditions, these in many parts of Africa were nothing short of dismal by the early 1980s. James Nti, for example, has noted that "shortages of stencils, duplicating paper, functioning typewriters, and photocopiers were rampant in many ministries and departments in a number of African countries...The monitoring and supervision of subordinates in the field, visits to projects, and the performance of extension work have also been frustrated by the immobility of public servants, and immobility resulting either from the lack of serviceable vehicles or the shortage of fuel. In some cases, vehicles are declared unserviceable because of the lack of minor parts such as brake pads or tyres!"[7]

Poor working conditions have been accompanied by significant increases in public service employment during the post-colonial years. It is sometimes difficult, if not impossible, to be certain of precisely what is included in public service employment data. Nonetheless, the evidence of a phenomenal increase in public service employment is persuasive. For example, as demonstrated in the last chapter, a recent United Nations Department of Technical Cooperation for Development (UN DTCD) study of ten African countries concluded, on the basis of available data, that public service employment increased throughout the 1970s and early 1980s and only started to decline after 1986 in response mostly to the introduction of structural adjustment programmes. In Cameroon, for instance, public service employment doubled in the six years between 1970 and 1976. It doubled again by 1984, peaked in 1987 and started to decline thereafter.[8] The UN DTCD study further suggested that analysis of the structure and composition of the public service revealed that the growth in its size has been uneven and concentrated in the lower grades made up of unskilled and semi-skilled labour. To this extent, the typical African public service has been simultaneously understaffed and overstaffed. It is significantly understaffed in professional and managerial areas and overstaffed in semi-skilled and unskilled areas. But the study also cautioned that it is extremely important to undertake a thorough analysis and diagnosis of the structure, composition and institutional capacity of the Civil Service before making prescriptive statements about restructuring and redeployment.

Conditions in African public services have also been undermined by unrealistic pay and compensation patterns that emerged. One of the prominent features of public service pay in the region is that it has generally trailed private sector pay. In the industrialized OECD countries by contrast, average public sector pay has broadly been in line with average private sector pay and in some cases has even been slightly better.[9]

More serious has been the dramatic fall in real wages which occurred since the beginning of the 1980s in Africa. ILO JASPA estimates that on average, real wages declined by 30 per cent between 1980 and 1986 alone and that in several countries the average wage rate has declined by 10 per cent or more every year since 1980. The same source concluded that " wage erosion seems to have been more pronounced in the public sector than in private enterprises".[10]

Another ILO survey of Civil Service pay in Africa has shown that real starting salaries have declined in all 14 countries that were surveyed. In some countries there has been virtual collapse of real wages. Only in one country, Zimbabwe, the starting salary increased. The study found that

> on the average, the lowest starting salary dropped by about one-half between 1975 – 1985, while that for the highest grade plunged by nearly two thirds, Real wages continued to decline in the second half of the 1980s. By September 1980, the starting salary in the lowest and highest grades in Uganda stood at 70.0 and 22.4 per cent respectively of their purchasing power of 1985. In Sierra Leone, the respective indices were 68.8 and 42.7 at the end of 1989.[11]

Other studies also point to the same direction. The DTCD study mentioned above found out that lower, middle and top civil servants in Tanzania lost over 55%, 65% and 70% of their real wages respectively between 1982 and 1987; while in Ghana real wages for these categories of public servants in 1989 were between 48% and 36% of their equivalents in 1977.

Wage freezes, inflation and substantial currency devaluations, which have accompanied the introduction of structural adjustment programmes, have been mainly responsible for this phenomenon. No wonder then that it has not only become difficult to attract and retain the best and brightest but also that even among those who stay in the service, it has become unrealistic to expect reasonable, let alone

optimum, job performance. Inevitably, such conditions have, furthermore, provided not only an excuse but virtually an incentive for graft, corruption and related behaviour.

Against this background, the first step in promoting ethics and accountability in African public services must be to foster enabling conditions of service, particularly adequate pay levels and economic incentives, that would encourage productivity and efficiency and enhance professional standards. To be sure, several economic and institutional reform initiatives have been introduced to improve performance and enforce ethical behaviour. However, evidence suggests that public sector adjustment policies have not only failed to address the problem, but have actually worsened it through the enforcement of pay restraints and below inflation indexation of wages during periods of rapidly declining real earnings.

2 Affirming and Advancing Sound Policies on Recruitment, Training and Public Personnel Management

Fostering public service professionalism acts as an important safeguard for ensuring ethical and accountable behaviour. It remains a fundamental requirement of public service professionalism that recruitment should be carried out on the basis of ability, and also that advancement within the service must depend on merit. These are basic considerations that must underlie current efforts at institutional capacity-building in the region. It is recognized that ethnic and gender factors have to be taken into account in recruitment and promotion opportunities. Nonetheless, the calibre of people recruited into the public service and the extent to which merit is the determining factor in their subsequent prospects of promotion and career development is perhaps the most crucial factor in institutionalizing professionalism in the public service.

In this regard, the Northcote-Trevelyan Reforms in Britain are particularly instructive. It would be useful to recall here the overall concern of the Northcote-Trevelyan Report:

> The government of the country could not be carried on without the aid of an efficient body of permanent officers, occupying a position duly subordinate to that of Ministers who are directly responsible to the Crown and to Parliament, yet possessing sufficient independence, character, ability and experience to be able to advise, assist, and to some extent, influence those who are from time to time set over them.[12]

An associated requirement for professionalism in contemporary African public services is a sound educational system — from primary to tertiary and university levels — to provide the skill levels that are required. A commitment to higher education that is both relevant and responsive to developmental and professional needs is especially germane to public service career development and training needs in response to changing demands and requirements. In this regard, the rehabilitation and revitalization of African educational systems is a necessary condition for increasing levels of professionalisation in the public service and in other occupations as well.[13]

3 Encouraging Public Service Occupational Associations to Institutionalize Professional Values

Public service occupational associations — like all combinations of workers — are organizations run by public servants to promote their interests. But they can also be used as instruments in transmitting expectations of the public to their members. They further constitute vehicles through which the morale, feelings and attitudes of public servants can be communicated and maintained. To this extent, "the informal support of public servants staff associations for the formal system helps to sustain professional values and ethics of public service.[14] To be sure, many African countries have a tradition for effective trade unionism in the public and private sectors and indeed trade unions were prominent in the struggle against colonial rule and more recently in articulating populist demands for democratic change. Typically, members of a trade union or staff association present their organization and occupation as a socially responsible enterprise. Public administration in Africa has been so presented by some of its practitioners complete with a region-wide association in the form of AAPAM and a Code of Ethics to be imbibed by all practitioners. The AAPAM Code begins with this stirring declaration:

> To none will we deny Service
> To none will we delay Service
> To none will we pervert Service[15]

However, as Laleye has noted, while the role of professional organizations in promoting high professional and ethical standards

cannot be over-emphasized, they still have a lot to do in this respect.[16] AAPAM itself has so far limited its efforts to research, training and advocacy. As such its most active members have been primarily individuals with an academic interest in African public administration. The Association needs to extend its role to establish or support effective national and branch chapters that are more directly responsive to the day-to-day needs of practitioners. It is only by building such a "grass-roots" base that its Code of Ethics will carry conviction. Moreover, strong and vibrant staff associations at branch levels will not only be more effective in promoting their members' interests in improving working conditions, salaries and benefits, but — given the divisive tendencies of ethnicity and religion in contemporary Africa — will also help to foster a sense of solidarity and *esprit de corps*. A strong sense of shared purpose in duty to serve the public is ultimately the basis of public service professional ethics. In the case of the Meiji Reforms in Japan in the 1870s as was earlier noted, much emphasis was placed on socializing public servants to inculcate such a sense of duty. Such socialization must, however, extend beyond that to encompass the family, the educational system, the media etc. to extol and popularize virtuous ethical values.

4 Promoting a Psychology of Service in Public and Political Life

It was suggested above that professional ethics are fundamentally a matter of value judgements on occupational morality. Eschewing the finer points of philosophical and theoretical debate on this matter, throughout human history, value judgements on appropriate conduct of public servants — politicians and officials have been quite consistent. That is to say, publicans have been expected to uphold some concept of the public good within the framework of the rule of law. Indeed, the notion of legitimacy in the modern state as a form of political organization is tied to this expectation. For public service officials, this expectation has been summed up as follows:

> Working within a framework provided by law, being required even in the sphere of informal administrative practice to maintain certain standards of procedural fairness, acknowledging political control and accountability, being subject to an obligation to use resources as economically as possible yet also efficiently and beneficially, being expected to contribute

> to policy development as well as to effective policy implementation, having some kind of duty, no matter how hard it is to formulate it, to serve the public.[17]

Duty to serve the public requires a psychology or culture of service in national political and public life. Africa's political leaders bear a heavy responsibility in promoting such a psychology through their own example and actions. Indeed, one shrewd observer of development problems in the region has put the issue as follows:

> In my considered view, the answer to Africa's socio-economic crisis lies in visionary leadership and managerial excellence. Resources are no doubt a major constraint in development. Nonetheless, the capacity to create, manage and optimize the required resources is part of the challenge that faces leadership and management.[18]

Senior public service managers and their political masters must provide a healthy combination of vision, dynamism, common sense and pragmatism. They must have the stature and ability to earn the respect and confidence of their colleagues in the lower ranks of the service in general and the people they serve in particular. One study of four outstanding senior public service officials in Kenya during the 1970s and early 1980s has demonstrated how such qualities of leadership helped to instill professionalism in their respective public service organizations.

- The four men had extraordinary drive and ability for hard work that was sometimes of legendary proportions. They worked exceedingly long hours and were extremely disciplined.

- They were careful to place the interests of the ministries and departments they served above their own pursuit of personal gain. They also demonstrated a willingness to take risks in advocating and pursuing policy innovations.

- In their relationships with their political masters "they were able to mobilize support at critical junctures not by building independent bases of support for themselves or their organizations, but from personal access to and the confidence of the President"[19]

- In staffing their organizations, they sought to maintain the highest professional standards, resorting to the use of non-Kenyans where this was justified.

- The professional reputations of the four senior public officials contributed significantly to donor confidence in Kenya during the period in question.

There are many public officials and politicians in the region today with similar qualities who are effective role models in promoting a psychology of public service. It is the responsibility of political leadership at the highest levels to encourage such attributes of public duty. It is also essential that codes of conduct on ethics, and accountability of public servants should be established and effectively enforced.

5 Upholding the Integrity of Public Institutions of Accountability

It was suggested above that professional ethics are the basis of public accountability and, as such, ethics and accountability are complementary. Within the framework of the modern state, accountability is supposed to make government transparent, emphasize and enhance governmental responsiveness and legitimacy, and improve public service efficiency and policy implementation. Indeed, recent international attention on the issue of "governance" has focused attention on these dimensions of public accountability. According to one characterization of governance:

> Good governance depends on the extent to which a government is perceived and accepted by the general citizenry to be legitimate; committed to improving the general public welfare and responsive to the needs of the citizenry; competent in assuring law and order and in delivering public services; able to create an enabling policy environment for productive activities; and equitable in its conduct, favouring no special interests or groups.[20]

Whatever characterization is adopted, it has become generally understood that accountable governance requires a political commitment to upholding the integrity and effectiveness of public institutions of accountability and the technical efficiency of the national public administrative system. Some African countries have fairly effective

systems of accountability while a number of others are beginning to strengthen public institutions of accountability. But it is clear that much remains to be done as a recent survey by Olowu of legislature, judiciary and executive-based institutions of accountability in eight African countries in 1991 revealed.[21]

The legislature is the key institution through which the sovereignty of the people is exercised. Members of the legislature are representatives of the people and are empowered to initiate, debate and pass bills into law, review and amend the budget prepared by the Executive as well as audit actual expenditures based on annual reports submitted by the authorities responsible for public auditing. They are also required to approve important political appointments, investigate abuse of office and generally provide opportunities for citizens to participate in the governing process.

Olowu's survey revealed that, with the exception of only three of the sample countries, the legislatures were hardly playing any significant role in any of the functions conventionally performed by legislatures. Of the eight countries in the sample, the worst were Nigeria, Cameroon and Malawi. But even in the best performing countries, the legislatures' roles were circumscribed by one-party constitutions (Tanzania and Uganda).

The survey of judicial institutions revealed a similar pattern. Judicial and quasi-judicial institutions are charged with responsibilities of adjudication among institutions, organized groups and individuals. But African judiciaries, like legislatures, tend to be poorly resourced, circumscribed, or managed as part of the executive branch. This also appears to be the fate of quasi-judicial institutions such as Public Service Commissions. Most of the powers of these bodies, especially in respect of top administrative appointments, has been severely circumscribed or taken away in almost every African country and treated as the prerogative of the Chief Executive or President. Of the eight countries in the sample, only in Botswana did judicial and quasi-judicial institutions seem to enjoy relative institutional authority.

Thus the general trend in most African countries is that the political executive has increased its powers at the expense of other branches of government. To this extent, external controls on the executive have generally been ineffective. The single party system also had the effect of consolidating the dominant position of the executive branch and limiting the relative autonomy of the public service as an instrument of serving the general interest. In regard to internal controls,

Olowu's survey found that public service rules, regulations and disciplinary procedures in many countries had become outdated or in need of review for relevance and compliance. Moreover, knowledge of these regulations and procedures were often poorly disseminated within the service and induction training was the exception rather than the norm.

The parlous state of institutions of public accountability in most African countries provides much insight on the public service predicament that was outlined earlier. While recent trends in political reform and in public service capacity-building provide some hopeful signs, the more sensitive matter of strengthening the institutional capacity of the legislature and judiciary also needs to be addressed.

The role of non-governmental "watch-dog" bodies and organizations is crucial in ensuring accountable government. The legislative and judiciary bodies must exercise their mandates and authority more effectively in this regard. Executive-based bodies for monitoring and enforcement of accountability—such as the Civil Service Commissions, the Ombudsman, public complaints bodies, the auditor-general offices etc. must be established and/or strengthened, be adequately funded, their officials adequately remunerated, be guaranteed complete independence and be allowed to report directly to the legislature.[22]

6 Fostering Popular Participation to Ensure the Accountability of Governance

The best safeguards and best practices to promote ethics and accountability do give way to abuses. Accordingly, the ultimate safeguard of high standards of public ethics and accountability has to fall on the ability of average citizens not only to hold public officials accountable for their actions but also to ensure that public institutions fulfil their functions and responsibilities. On the record of the recent wave of popular demands for democratic reforms that has swept across the region, there is no reason to doubt the growing capacity of civil society in Africa to oppose structures of state domination, and help in fostering the integrity, accountability and transparency of governance.

The challenge is to channel such populist capacity and energy into institutionalized forms of popular association and participation, such as political parties, pressure groups, and the media. People's

organizations have a crucial role to play as "watch-dogs" and in helping to strengthen the role of other "watch-dog" organizations and executive-based accountability enforcement bodies with a view to sensitizing the public on blatant abuse of power and office; exposing corrupt and unethical behaviour; and demanding that such acts should be corrected and punished.[23] The capacity and confidence of the ordinary citizen and popular organizations to take the initiative in holding public officials and institutions accountable also needs to be strengthened and supported. Efforts to support and strengthen non-governmental and people's organizations, as advocated in the African Charter for Popular Participation in Development, deserve to receive urgent priority.[24]

Conclusion

The lack of accountability, unethical behaviour and corrupt practices have become entrenched, and even institutionalized, norms of behaviour in their own right in the public services across Africa to the extent that the issue has now become a matter of major and general concern. Aside from outright bribery and corruption, patronage; nepotism; embezzlement; influence peddling; use of one's positions for self-enrichment; bestowing of favours to relatives and friends; moonlighting; partiality; partisanship; absenteeism; late coming for work; abuse of public property; leaking and/or misuse of government information and the like are common manifestations of this plight.

The increased emphasis on popular participation in development and governance; the recent movement towards political democratization in Africa, which increased the pressure for accountability and high transparency in the conduct of public business; as well as the recognition that pervasive unethical practices have been a contributory element to the economic difficulty in several African countries have prompted the urgency for dealing with the problem. Overall, the negative impact of such practices on productivity, performance and efforts to bring about recovery and development have been so pronounced to the extent that the issue can no longer be ignored or shelved aside.

The obvious implication of this is that concerted action *by all concerned,* such as contained in the practical agenda for reform as outlined in the preceding discussion, must be embarked upon and dedicatedly and systematically enforced. While element of this agenda are, to varying degrees of effectiveness, being pursued in several

countries, the general trend has been a worsening of the problem in spite of the efforts of the governments to grapple with it. This leads to the conclusion that much remains to be done and also that action must be taken in all fronts and must not be restricted to isolated elements of the agenda. Equally important is the conclusion that certain elements of the agenda, which deal with central bottlenecks do require specific attention.

In this regard, there is no denial to the fact that a major contributory factor which deepened the crisis of unethical and corrupt behaviour in the African public services in the last decade has been the serious deterioration of economic conditions in African countries which has encouraged public office holders, both political and administrators, to seek and obtain rewards in exchange for their services. In other words, the imperative need to survive the difficult times has almost given a convenient moral justification for breaching ethical norms of conduct and behaviour. The economic collapse has brought in its wake a social collapse, including an intensification of the breakdown of the ethical order. This has, in fact, led many observers to ask the question whether it is realistic to, at all, hope for a reversal of the situation.

This aspect of the problem has been further worsened through the adoption, by the majority of African countries, of structural adjustment programmes (SAPs). SAPs, which normally prescribe salary and wage freezes as well as a massive devaluation of national currencies that often trigger or intensify inflationary tendencies in the economy, have actually made a mockery of the concept of a "living wage". Salaries in many an African civil service could barely cover the needs of an average civil servant for more than a few days.

Bold action must be taken to address this fundamental problem. The implication here is that public sector adjustment policies cannot continue to ignore the resultant damaging impact of real wage cuts on efficiency and ethical behaviour. Indeed, such impact has tended to undermine some of the very objectives which the reforms were in the first place supposed to address. The fostering and promotion of conditions of services that would enhance efficiency, productivity and professional standards must, thus, assume a central position as a component of the practical agenda. Africa's bilateral and multilateral partners, who have been pressing for the strict implementation of SAPs, must recognize this reality and address it effectively within the context of the advocated public sector adjustment reform and the call for better governance.

It must also be recognized that even the best safeguards and best practices can give way to abuses — as such notorious cases as Watergate or the perennial occurrence of corruption at the highest levels of Japanese government readily illustrate. For this reason, a crucial safeguard of high standards of public ethics and accountability in Africa has to fall on the ability of average citizens and peoples organizations and associations to hold public officials accountable for their acts and also to ensure that public institutions fulfil their functions and responsibilities properly and effectively. As the democratic change and popular demands for democratic reforms become more pervasive and entrenched, the capacity of civil society in Africa to expose, publicize and oppose unethical and corrupt practices, hold those who are responsible for them accountable and force governments to be more transparent and accountable should become a more potent safeguard.

Notes

1. See for example, Fred Riggs, *Administration in Developing Countries: The Theory of Prismatic Society* (Boston: Houghton Mifflin, 1964); A. L. Adu, *The Civil Service in New African States* (London: Allen & Unwin, 1964); B.B. Schaffer, "Deadlock in Development Administration" in Colin Leys (ed) *Politics and Change in Developing Countries* (London: Cambridge University Press, 1969); A.H.M. Kirk-Greene, "The New African Administratory", *Journal of Modern African Studies* 10 (1), 1972; A.H. Ryeyemamu and G. Hyden (eds), *A Decade of Public Administration in Africa* (Nairobi: East African Literature Bureau, 1975); David Hirschmann, Development or Underdevelopment Administration? A Further Deadlock", *Development and Change* 12, 1981, p.472; Goran Hyden, *No Shortcuts to Progress: African Development Management in Perspective* (Berkeley: University of California Press, 1983);Selkuk Ozgediz, *Managing the Public Service in Developing Countries: Issues and Prospects* (Washington DC: World Bank Staff Working Papers No. 583, 1983); David F. Luke, "Trends in Development Administration: The Continuing Challenge to the Efficacy of the Post-Colonial State in the Third World", *Public Administration and Development* (6) 1, 1986; African Association for Public Administration and Management, *African Public Services: Challenges and a Profile for the Future* (New Delhi: Vikas, 1987);

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2. See Samuel Paul, *Institutional Reforms in Sector Adjustment Operations: The World Bank's Experience* (Washington DC: World Bank Discussion Papers No. 92, 1990).
3. Recent ECA research on the public service include the following studies: *In-Service Training Needs for Improving the Management of the Public Services in Least Developed African Countries* (Addis Ababa: ECA/PHSD/PAM/89/5[1.3(b)] 1989; *Reforming Government Budgetary Structure: A Review of Recent Developments in Selected African Countries* (Addis Ababa: ECA/PHSD/91/6[2.1 (c)] 1991; and *Public Administration and Management Innovations to Increase Popular Participation in the Design and Implementation of National Development Programmes* (Addis Ababa: ECA/PHSD Development Management Series No. 3, 1992).
4. Three of the SAPAM senior policy workshops have dealt specifically with public service issues. See the following reports: ECA, *Ethics and Accountability in the Public Services* (Addis Ababa: ECA/PHSD 1991); ECA, *Improving Productivity in African Public Services* (Addis Ababa: ECA/PHSD, 1992); and ECA, *Enhancing the Interface between Government Policy-Making Entities, Universities, and Research Institutions in Support of Economic Reform and Development in Africa* (Addis Ababa: ECA/PHSD, 1992).
5. See also Samuel Paul, *Strengthening Public Service Accountability: A Conceptual Framework* (Washington DC: World Bank Discussion papers No. 136, 1991).
6. See for example, Peter Ekeh, "Colonialism and the two Publics" in *Comparative Studies in History and Society* 17 (1), 1975; Patrick Chabal (ed), *Political Domination in Africa* (Cambridge: Cambridge University Press, 1986); Colin Legum, "The Coming of Africa's Second Independence" in *Washington Quarterly* 13 (1) Winter 1990; J.S. Wunsch and Dele Olowu (eds), *The Failure of the*

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7. See James Nti, "The Impact of the Economic Crisis on the Effectiveness of Public Service Personnel" in Balogun and Mutahaba (eds), *Economic Restructuring and African Public Administration,* p.124.
8. See J.H. Oyugi, "The Role of Research: Size, Cost and Effectiveness of the Civil Service Reform Programme in Africa" Chapter 17 of this volume. See also David Abernathy, "Bureaucratic Growth and Economic Stagnation in sub-Saharan Africa" in Commins (ed), *Africa's Development Challenges.*
9. For further reading see Peter Heller and Alan A. Tait, *Government Employment and Pay: Some International Comparisons* (Washington DC: IMF Occasional Paper No. 24 (Revised Edition) 1984, p.13; see also Selcuk Ozgediz, Managing the Public Service p.53; and Derek Robinson, "Civil Service Remuneration in Africa" in *International Labour Review* 129 (3), 1990.
10. ILO, JASPA "*African Employment Report 1990*", Addis Ababa, p.35.
11. *Ibid*; pp. 36–37.
12. The Northcote-Trevelyan Report cited in Ladipo Adamolekun, *Public Administration: A Nigerian and Comparative Perspective* (London: Longman 1983), p.112. For a detailed discussion of public personnel management see the same source.
13. On this point, see ECA, *Strengthening the Viability of the African University in the 1990s and Beyond* (Addis Ababa: ECA/SAPAM 1992).
14. See S. Agere, "Promotion of Good Ethical Standards and Behaviour in Public Services in Africa", Chapter 10 of this volume.
15. See AAPAM, *African Public Services,* Appendix 2.
16. See O.M. Laleye, "Mechanisms for Enhancing Ethics and Public Accountability in Francophone Africa", Chapter 17 of this volume.
17. Neville Johnson cited in Adamolekun, *Public Administration,* p. 24.
18. Adebayo Adedeji, " 'L' and 'M' factors in the African Development Equation", *African Journal of Public Administration and Management* 1 (1) 1992, p. 3.

19. See David Leonard, "The Secrets of African Managerial Success", Institute of Development Studies (IDS, University of Sussex) Bulletin 19 (4) 1988, p. 39.
20. See Pierre Landell-Mills and Ismail Sergeldin, "Governance and the External Factor", a paper presented at the World Bank Annual Conference on Development Economics 25–26 April, 1991.
21. See Olowu, "Organisational and Institutional Mechanisms for Ensuring Accountability in Anglophone Africa: A Review". Chapter 16 of this volume.
22. See ECA *Ethics and Accountability in African Public Services, op.cit.*
23. See Sadig Rasheed and Getachew Demeke, *Democracy, Popular Participation and Good Governance: The Role of People's Organizations and Non-Governance Organization*, paper presented to the Regional Conference on Development Management in Africa, ECA, 1993.
24. ECA, *African Charter for Popular Participation in Development*, Addis Ababa 1990.

ETHICS AND ACCOUNTABILITY IN IN AFRICAN PUBLIC SERVICES BOOK

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