

# Transparency and Accountability for Public Financial Integrity

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## Introduction

The overwhelming majority of people, in all countries across the globe, are not economists or accountants, nor are they actively involved in the government of their countries. Neither the intricacies of financial management, nor the relative merits of different systems and the philosophies underlying them, are ever likely to be the focus of their attention. But it must astound and appall them when they discover, usually long after the event, that those who had taken upon themselves the responsibility of governance had actually robbed them, and that the management system had not been able either to detect or to prevent such pillage. I do not refer to “speed money” or “grease payments” with which the people of this region are only too familiar. I refer instead to the “grand corruption” which, we are told, had been indulged in by both elected and appointed officials from Pakistan to the Philippines, through India, Bangladesh, Sri Lanka, Thailand, Indonesia, Malaysia, China, South Korea, and Japan. Ordinary people in these countries must naturally ask what it is that is wrong with a financial management system within which officials can defraud the national treasury and not be detected or held accountable until after they or their regimes have ceased to exist.

## A Flawed System

There must be something fundamentally wrong with the system if decision makers at the highest levels of government are able to “sell” their discretion in privatization exercises, in public procurement, and in respect of major civil engineering contracts, and not be detected. For example, in respect of the privatization of the water authority of the city of Jakarta, it was only after he was ousted from office that it was publicly revealed that President Suharto had instructed his Minister of Public Works to divide the city into two geographical units and to award two concessions to two of the many foreign companies interested in the project. One was French, the Lyonnaise des Eaux, and the other was British, Thames Water International. The local partner of the former was a longtime business associate of the President, and the local partner of the latter was the President’s eldest son. According to the Asian Development Bank,<sup>1</sup> over the last twenty years, one East Asian country is estimated to have lost US\$48 billion on account of corruption, surpassing its entire foreign debt of US\$40.6 billion. In another Asian country, over the past decade, state assets fell by more than US\$50 billion, primarily on account of deliberate undervaluing by corrupt officials responsible for a privatization program. In a South Asian country, US\$50 million was misappropriated daily on account of mismanagement and corruption. At the same time, studies of corruption in government procurement in several Asian countries revealed that 20–100 percent more had been paid for goods and services. How is it possible for a private company dealing with the government to pay to be included in a list of prequalified bidders or to restrict the size of the list, to pay for inside information, to pay to have the bidding specifications structured so that the corrupt firm is the only qualified supplier, to pay to be selected as the winning contractor,

<sup>1</sup> Asian Development Bank, “Anticorruption Policy,” Strategy and Policy Office, June 1998.

and then to pay to set inflated prices or to skimp on quality—and yet not be detected at any stage of that crooked and tortuous journey?

There must be something fundamentally wrong with the system when even officials of lesser rank are able to demand money with impunity for doing acts that they are required by law to do or to provide services that they are prohibited by law from providing. A recent national household survey on corruption in Bangladesh, conducted by the national chapter of Transparency International in that country, revealed that:

- 41 percent of households had paid a “donation” to have their children admitted into schools;
- 36 percent had made payments to or through hospital staff to secure admission into hospitals;
- 65 percent had bribed land registrars to record a false sale price for a land transaction;
- 54 percent had bribed either employees or “other influential persons” to secure bank loans;
- 33 percent had paid money to obtain electricity connections;
- 37 percent had paid less for water “by arrangement with the meter reader”;
- 47 percent had been able to reduce the holding tax assessment on house and property “by arrangement with municipal staff on payment of money”; and
- 63 percent of those involved in litigation had paid bribes to either court staff or the opponents’ lawyers.

Eighty-nine percent of those surveyed were convinced that judges were corrupt; and 97 percent thought the police service was corrupt. A survey in Bangalore revealed that in a government maternity hospital in that city one had to pay even to see one’s own baby, the price for a baby boy being higher than for a baby girl. Some assistance in diagnosing the flaws in the system may perhaps be forthcoming if one were to shift the focus to those systems that do in fact function, and function very well.

## A Diagnosis

In each of the past four years, Transparency International (TI) has published a Corruption Perception Index (CPI). It is not an assessment of the corruption level within a country. Instead, it is an attempt to assess the level at which corruption is perceived to affect commercial life, in the view of several thousand businessmen, risk analysts, and business journalists. In an area as complex and controversial as corruption, no single source or polling method has yet been developed that would combine a perfect sampling frame, a large enough country coverage, and a fully convincing methodology. TI therefore chose the option of a composite index. The CPI is a “poll of polls.” The 1998 index is based on seven credible surveys conducted by reputed organizations using different sampling frames and varying methodologies. The strength of the CPI is based on the concept that a combination of sources into a single index increases the reliability of each individual figure. The probability of misrepresenting a country has been lowered by including only those that have been the subject of at least three surveys, the premise being that the imperfections of one may be balanced by those of at least two others. The perceptions reflected in the CPI may not necessarily be a fair assessment of the actual extent of corruption within a country, but they are a reality. If those in a unique position to observe the behavior of public officials and politicians wrongly believe that they are corrupt, the reasons for that mistaken belief need to be identified and remedied.

In the TI Corruption Perception Indices for 1995–1998, ten countries achieved consistently high scores for integrity, remaining throughout among the twelve least corrupt countries in the world. They are Australia, Canada, Denmark, Finland, New Zealand, Netherlands, Norway, Singapore, Sweden, and Switzerland. Also at the top end of the scale in the CPI for 1998 are the United Kingdom, Ireland, Germany, and Hong Kong. At the other end of the scale, among the countries perceived to be among the most corrupt in the world, are Indonesia,

India, Nigeria, Pakistan, Russia, and Venezuela. Another Asian country at the bottom end in 1998 is Vietnam. It is not suggested that corruption is wholly absent in the first group of countries, or that corruption is peculiar to the developing world or to societies in transition. Indeed, among those found guilty recently of corruption were the Auditor-General of New Zealand and ministers in Canada and Australia. The significant difference is that corrupt acts were detected and punished in these countries without the need for a revolution or even a change of government. In contrast, the long and tedious criminal investigations in India into alleged massive corruption among the highest in the land, which were set in motion by an activist Supreme Court, have not produced any tangible results. Therefore, if the first group is compared with the second, it is not difficult to identify what the former possesses which the latter do not: legal and institutional mechanisms that work, a feature that is conspicuously absent in the latter. In the one case, governance is not only participatory but also transparent and accountable; in the other, it is not. The majority of the countries in Asia and the Pacific probably swing within this spectrum. Assuming that a government is participatory, this comparison suggests that even the most sophisticated financial management system cannot curb or contain corruption in the absence of both transparency and accountability. These are different, yet inter-related and interdependent, concepts.

## Transparency in Public Financial Management

In the field of public financial management, transparency implies that the procedures and methods of decision making and the disbursement of public funds are *open and visible* to all. There are at least three methods by which such transparency can be achieved:

### ***Access-to-information law***

The British colonial administration bequeathed to its colonies and dependent territories a tradition of secret government. The ubiquitous Official Secrets Act enabled governments to classify all its documents as top secret—secret, confidential, or restricted. The trend toward open government, which began in the United States in the mid-1960s, percolated to Canada, Australia, and New Zealand nearly two decades later. The recognition by these countries of a statutory right to information, and a decade and a half of its implementation, has not borne out any of the fears originally entertained and expressed by their respective governments as they grudgingly or with little enthusiasm conceded to the community the right to know. Public administration has not collapsed under the burden of an access-to-information law, nor has the cost proved overwhelming. On the contrary, studies indicate that most government departments have come to terms with the innovation without undue difficulty, and the cost has continued to be but a fraction of each government's total information budget.

About seven years ago, I drafted an access-to-information law for a group of legislators and a coalition of nongovernmental organizations in Hong Kong. For many years, the Hong Kong community had been denied official information relating to matters such as dangerous slopes, environmental pollution, and town planning. Insinuations had been made about the refusal to release telecommunication consultancy reports funded with public money, and dissatisfaction on the failure of the government to involve the community in the decision-making process on high-cost projects such as the new airport at Chek Lap Kok and the new University of Science and Technology had reached the proportions of a public outcry. In 1996, on the eve of the transfer of sovereignty, presumably on instructions from London, the Governor exercised his constitutional veto and introduced instead a nonenforceable code of practice.

The draft Hong Kong law adopted four methods to achieve its objective. First, every government agency was required to publish annually a statement of its operations. This statement included a description of its structure and functions, as well as a register of all categories of documents in its possession, in sufficient detail to facilitate access. Also required to be published were its policy documents. These included interpretations, rules and guidelines, any statements of policy, practice, or precedents issued to its officers, and, of course, its procurement rules. Second, a legally enforceable right of access to information in documentary form held by the government was recognized, subject only to such exceptions as were reasonably necessary to protect public interests and the private and business affairs of other persons. Access was to be provided by giving the applicant a reasonable opportunity to inspect the document or by supplying him with a copy. Third, recognition was granted to the right of a person to apply to amend any record containing information relating to him which, in his opinion, was incomplete, incorrect, out of date, or misleading. Fourth, a two-tier appeal system to bodies independent of the government was provided against any refusal to provide access. A substantial portion of the draft law dealt with exempt documents. Among the subjects generally excluded from scrutiny were executive council discussions, judicial functions, law enforcement and public safety, intergovernmental relations, and internal working documents.

Access to information is a powerful mechanism of accountability. To the extent that shrouds are lifted off government, and the decision-making process made visible, to that extent are opportunities for corruption minimized and the abuse of power lessened. In a small and impoverished village in the state of Rajasthan in India, a local grassroots NGO recently demonstrated the potential of an access-to-information law after it secured the enactment of such a law through a 53-day hunger strike. It immediately invoked the new law and revealed to the community the massive and systematic abuse of

development funds by local politicians and government functionaries. In its own quaint fashion, through a six-hour puppet show, it publicized by reference to muster rolls the amounts of money said to have been paid to workers long since dead or migrated or nonexistent, and by reference to bills and receipts the hundreds of bags of cement claimed to have been purchased and used to repair a small primary-school building. Within weeks, much of the looted money was recovered.

### *Demystification of the budget*

The annual budget is invariably couched in language and presented in a format that is unintelligible to all but the initiated. Comments on it are invited and obtained only from those at the commanding heights of the economy or in the ivory towers of academia. Public response is usually sought only on such prosaic and plebeian issues such as the increase in the duty on cigarettes or the reduction in respect of alcohol. But no single act in the legislature has such a profound impact on the lives of people throughout the country as the annual budget and its related legislation. If it is presented in a form that is easily accessible to, and understood by, ordinary people, and then disseminated in cooperation with the free media, not only will the budget be subjected to greater scrutiny and more widespread comment, but a process would begin which would involve the public in open consultation on choices and preferences in the utilization of national resources. At the micro level, it would enable, for example, parents armed with the knowledge of how much money has been allocated to the schools that their children attend to demand to know how and where that money has been spent. The public audit of the government's financial management, thereby secured, is potentially a potent weapon in the struggle against corruption. It is capable of being achieved, and will certainly be more productive, if donors conditioned their aid not by specifying policies to be followed but by undertaking a "transparency audit" in recipient countries.

### *Annual reports of government departments*

Once upon a time, in what was then Ceylon, government departments published annual reports. These were not glossy promotional material or fancy performance indicators. They were each an authoritative, matter-of-fact narrative, whether by the Director of Public Works, the Director of Agriculture, the Director of Education, or the Director of Medical Services, of the performance of their respective departments. These reports ceased publication shortly after independence, as did the annual Civil List which rendered the civil service transparent by providing the public with detailed information on the qualifications and movement of its members. Today, these archival documents serve the needs only of historians and research students. However, such annual reports (which are insisted upon by law in respect of every publicly quoted company), even if confined to a simple narrative of how financial resources allocated in the annual budget have been utilized by the relevant department, will be a valuable instrument in the quest for transparency.

## **Accountability in Public Financial Management**

Accountability requires that those who hold positions of public trust should account for their performance to the public or their duly elected representatives. Accountability, therefore, implies that decision makers are monitored by, and are responsible to, others, each of whom is, in turn, responsible to the people of the country. In respect of public financial management, there are at least three independent and essential mechanisms through which accountability is enforced.

### *The Auditor-General*

The Auditor-General stands at the pinnacle of the financial accountability pyramid. As the officer responsible for auditing government income and expenditure, he acts as a watchdog over financial integrity and the credibility of reported information. His responsibilities include ensuring that the executive complies with the will of the legislature as expressed through parliamentary appropriations; promoting efficiency and cost-effectiveness; and preventing corruption through the development of financial and auditing procedures designed to effectively reduce the incidence of corruption and increase the likelihood of its detection. In the United Kingdom, where the Auditor-General is by law designated as an officer of the House of Commons, the elected house of Parliament, his functions have been described thus:

The [Auditor-General] audits the Appropriation Accounts on behalf of the House of Commons. He is the external auditor of Government, acting on behalf of the taxpayer, through Parliament, and it is on his investigations that Parliament has to rely for assurances about the accuracy and regularity of Government accounts.<sup>2</sup>

To be effective, the Auditor-General must be independent of the institutions being audited. His independence will be compromised if, for instance, the executive branch of government were to be responsible for overall financial management of his office, and were to determine staffing levels and classifications and the allocation of resources. Equally unacceptable are an appointment process and a removal procedure which

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<sup>2</sup> House of Commons, *First Special Report from the Committee of Public Accounts, Session 1980–81, The Role of the Comptroller and Auditor-General*, vol. 1, HMSO, 4 February 1981.

are exclusively within the control of the executive. The nature of his duties requires that the independence and tenure of office of the Auditor-General be constitutionally protected, and that his office be accountable only to the legislature.

It appears to be the practice in certain countries to contract out to private-sector accountancy and auditing firms some of the responsibilities of the Auditor-General. This appears to undermine both the independence and the effectiveness of the audit. Apart from the inherent danger of a conflict of interest arising in such situations, private-sector firms are unlikely to share the considerable expertise of the Auditor-General's office in public-sector audit. While the Auditor-General should have the freedom to diversify the skill base of his office by recruiting on contract competent persons from the private sector, constitutional propriety demands that his office be strengthened rather than that his legitimate functions be farmed out to others, whether subject to his overall control or not.

### *Public Accounts Committee*

The Public Accounts Committee of the legislature receives the Auditor-General's report, and enables a representative committee of legislators, usually under the chairmanship of an opposition member, to hold the executive to account. The effective discharge of this responsibility presupposes that the legislature is elected at genuine periodic elections, by universal and equal suffrage and by secret ballot, in conditions that guarantee the free expression of the will of the electors. An example worthy of emulation is that of South Africa where the entire parliamentary process has now been rendered as open as possible to the public and the press. All select committees, including the Public Accounts Committee, are required to meet in public, and if they wish to go into closed session, the reasons for doing so must be debated in public.

### *The Ombudsman*

An Ombudsman who receives and investigates allegations of maladministration is an important instrument of accountability. The complaints may range from neglect, inattention, delay, incompetence, inefficiency, and ineptitude in the administration or discharge of duties and responsibilities, to bribery, favoritism, nepotism, and administrative excesses. The Ombudsman examines procedures, practices, and processes, but is usually not vested with power to make binding orders. On the basis of his findings, he makes recommendations in the expectation that, if maladministration or corruption has been identified, the relevant public officials will undertake remedial action. The Ombudsman is an independent officer to whom citizens have direct access, and whose independence and security of tenure are constitutionally protected.

While the office is Scandinavian in origin, two of the most effective Ombudsmen are in the Pacific states of Papua New Guinea and Vanuatu. In the latter, the Ombudsman, Marie-Noelle Ferrieux Patterson, is also mandated to investigate and report on breaches of the constitutionally entrenched leadership code. In over 40 reports issued in the past four years, she has revealed, among others:

- “compensation payments” to several members of parliament and ministers;
- a bloated public service, in part due to politicians and in particular the prime minister appointing political allies, family members, and friends to offices for which they were not qualified;
- the purchase by politicians, with money borrowed from the state superannuation fund, at grossly undervalued prices, of houses belonging to the government; and
- the construction at a cost of US\$4 million of a rarely used sports stadium named after the then prime minister.

## National Integrity System

The mechanisms referred to above cannot, of course, function in a vacuum. They are elements of a comprehensive national integrity system whose other “pillars” include an independent judiciary, a freely elected legislature, a meritocratic civil service, an independent anticorruption agency, a free press, the private sector, and civil society; and whose other “tools” include a declaration-of-assets law, conflict of interest rules, readily accessible and transparent procurement rules, a constitutionally entrenched bill of rights, protection for whistleblowers, administrative reform, and the judicial review of administrative action. These collectively sustain and support a country’s integrity.

Conventional wisdom dictates that a country should also enact legislation to criminalize corruption, in whatever form it surfaces. The significance of such legislation is often overestimated. In many countries, notwithstanding laws that prescribe criminal sanctions, corruption continues to flourish. While such legislation is necessary, and may eventually help to establish a value system that could contribute to the creation of an anticorruption culture in the country, containing corruption is not simply a matter of enacting criminal laws. When laws do exist, they are usually not applied at all, or when they are, they tend to be directed at “small fish” rather than “big fish,” or selectively at political opponents no longer holding public office. The emphasis of an anticorruption strategy should therefore be on reforming systems, not scouring the murky waters for the elusive “big fish.” Another reason not to go “fishing” at all is that any serious attempt to reform systems requires the active participation of the government. Even a relatively corrupt government may be persuaded to initiate and support a reform program that would eventually strengthen the national integrity system if such a program is not perceived as being a threat to its own survival until the next general election. Indeed, a preoccupation with prosecutions and inquiries into the present or the past will detract from the urgency of an anticorruption

strategy that involves legal and institutional change. It often makes sense to wipe the slate clean and look forward to the future rather than remain focused on the past.