

# PARADOXES OF PUBLIC ACCOUNTABILITY IN MALAYSIA: CONTROL MECHANISMS AND THEIR LIMITATIONS

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## ABSTRACT

*Public accountability has become difficult to ensure for there are a variety of factors, often rooted in the politico-bureaucratic institutions, that render accountability mechanisms largely ineffective. Since the utility of existing mechanisms of accountability is under challenge, governments have made increasing use of newer and non-conventional tools/strategies to enforce responsible administrative behavior. This article seeks to contribute to the understanding of public accountability in Malaysia and its limitations. In particular, it focuses on the mechanisms of public accountability and their roles in theoretical and empirical terms. The article begins with a brief overview of the Malaysia's political and administrative context.*

## INTRODUCTION

Public bureaucracy is an indispensable part of modern government for it serves as the principal tool in planning and implementation of public policies and in the delivery of vital services to the people. However, the public-ness of their employment and the trust reposed on them by the community at large, demand that public officials respond to public demands promptly, discharge their duties with probity and ethics and more importantly, render themselves open to popular control and scrutiny. This is an imperative, though the challenge that governments often face is how to ensure such a responsible administrative behavior. Broadly known as public accountability, this has assumed a central position in the study of politics and public administration. Accountability is seen as a crucial safeguard without which public bureaucracy is in danger of losing its image of public-ness, risking its legitimacy and even relegating itself to self-seeking private interests (Haque, 1994).

While the demands for responsive administrative behavior have increased in recent years, concern for accountability is by no means new. It is as old as, and an integral part of, democratic theory and practice. Since democracy signifies the sovereignty of the people, the entire government machinery is required to be accountable to the public for its conduct, policies and performance. Public officials, being servants of the public are expected to serve the society with the highest degree of responsibility, integrity and loyalty and remain accountable to the latter for their behavior, actions and performance. The general notion of democracy implies that public officials demonstrate ethical and moral behavior, respond to a complex system of checks and balances, and be subject to scrutiny by a number of agents. It also requires public officials to remain liable for their actions and performance in terms of the adherence of rules and procedures, discharge of their administrative, managerial and financial responsibilities.

Two major approaches to administrative accountability advanced decades ago by early scholars including Carl Friedrich and Herman Finer seem still valid. In their seminal debate on modes of public accountability, Friedrich argued that accountability could be ensured only internally through professionalism i.e., public officials' sense of duty to the public and commitment to their professional values and norms (Friedrich, 1940). Herman Finer, on the other hand, rejected such an assertion and maintained that accountability could be secured through formal and external controls (Finer, 1941). Therefore, the advocates of internal control emphasize devoting greater attention to public officials' own professional values and ethics, which are believed to be instrumental in making them responsible to the public. On the other hand, external controls are designed to enable institutions outside bureaucracy to oversee its activities and compel it to act responsibly and efficiently. In other words, external accountability refers to the processes whereby public servants remain answerable, for actions carried out and performance achieved, to authorities outside their own organizations.

The above classification - internal/external and formal/informal accountability – has been used by subsequent scholars who advanced the debate even further. Using a framework of who is accountable, to whom, for what and through what means Carino identifies four different types of accountability: traditional, managerial, program and process accountability (see, Carino, 1983). On the other hand, Samuel Paul classifies accountability into three broad types: democratic, professional and legal accountability (Paul, 1992). Most contemporary writers of public accountability however, find the typology proposed by Romzek and Dubnick more relevant. Using whether the sources of control is internal or external and whether the degree of control is strong or weak, Romzek and Dubnick put forward four types of accountability<sup>1</sup>: hierarchical/bureaucratic, legal, professional and political. According to them, bureaucratic accountability stresses on superior-subordinate relationships and legal accountability, in contrast, advocates fiduciary/principal-agent relations, auditing and other oversights. While political accountability emphasizes on the government's responsiveness to its constituents, professional accountability relies exclusively on integrity and trustworthiness of experts who have the skills to get the job done (Romzek and Dubnick, 2001). It is obvious that although different scholars have used different labels to explain the means of accountability, they all essentially point to the same set of mechanisms and approaches. Thus, a broad consensus has emerged that both dimensions of accountability – formal and informal / internal and external - are important, for they supplement rather than substitute each other. Although it has always been a challenge to strike a balance between the two without undermining the motivation and resolve of administrators to perform at their best, modern governments have devised and introduced a plethora of mechanisms - both formal and informal - that subject public officials to rigorous control, monitoring and oversight both from within and from without. The aim is to ensure that public officials behave responsibly, they operate within the bounds of their authority and that the quantity and quality of the services they deliver are in line with popular demands.

Notwithstanding such arrangements and policy declarations to this effect, public accountability has become difficult to ensure for there are a variety of factors, often rooted in the politico-bureaucratic institutions, which render the accountability mechanisms largely ineffective (Peters, 1989; Haque, 1994). Since the utility of existing mechanisms of accountability is under challenge, governments have been found to make

increasing use of newer and non-conventional tools/strategies seeking to enforce responsible administrative behavior. This article seeks to contribute to the understanding of public accountability in Malaysia and its limitations. In particular, it seeks to focus on the mechanisms of public accountability and their roles in theoretical and empirical terms. However, it begins with a brief overview of the country's political and administrative context.

## **MALAYSIA: THE POLITICAL AND ADMINISTRATIVE ENVIRONMENT**

Malaysia is a federation of 13 states and three federal territories with constitutional monarchy and a parliamentary system of government. Nine out of the 13 states of the federation are headed by hereditary *Sultans*; the remaining states are headed by state governors appointed by *Yang DiPertuan Agong (Agong)*, the constitutional head of the federation. The position of the *Agong* rotates every five years among the nine hereditary rulers who constitute a unique chamber or Conference of Rulers. The parliament has two chambers: *Dewan Rakyat* (lower house with 219 members) and *Dewan Negara* (the upper house with 69 members). While the members of *Dewan Rakyat* are elected through universal adult franchise for five years, those of the upper house are mostly nominated. The lower house plays a more important role in that it has exclusive power to choose the Prime Minister (PM) from among its members, approve major policy decisions and pass the annual budget of the government. The upper house serves mainly as a house of review seeking to protect the interests of states and special interest groups.

The constitution lays down the framework for the executive, legislative and judicial systems of the country. According to the constitution, though the *Agong* is the head of state, executive authority is vested in and exercised by the PM and his cabinet. The PM is chosen from among the members of *Dewan Rakyat*; as elsewhere, the leader of the party or coalition which secures most seats in the lower house becomes the PM. The cabinet is appointed by the PM with the consent of the *Agong* and it remains collectively responsible to the parliament. Constitutionally, the judiciary is separate from the other organs of the government and enjoys adequate powers including the power to undertake judicial review. However, the judiciary has, over the past two decades, lost much of its independence. Therefore, rather than acting as an independent organ often it serves as an instrument by which to legitimize the actions of the executive.

Politically, Malaysia practices multi-party democracy where free and fair elections are held at regular intervals. Still Malaysia is often described as a 'quasi-democracy' (Zakaria, 1987), implying that despite the presence of the democratic form some vital conditions of democracy are non-existent. Freedom of expression and assembly are rather restricted,<sup>2</sup> space allowed for democratic exercise is limited and political and electoral controls - justified on the grounds of maintaining political stability and ethnic harmony - are rather extensive. A single party - the United Malays' National Organization (UMNO) - has dominated the political landscape since independence, making the political system 'hegemonic' (Common, 2001; Hilley, 2002). UMNO forged an alliance with other ethnically based parties like the Malaysian Chinese Association (MCA) and Malaysian Indian Congress (MIC) and has so far maintained, except for 1969 elections, a two-thirds majority in parliament. Opposition political parties like *Persatuan Islam SeTanah Malayu* (PAS), Democratic Action Party (DAP), *Parti Rakyat*

*Malaysia* (PRM) and more recently *Parti Keadilan* (Justice Party) have so far failed to pose a serious challenge to the ruling coalition.

The weak and fragmented opposition coupled with an absence of robust media and independent oversight bodies has undermined the prospect of enforcing an effective check on the government. Though it is hard to deny the critical roles being played by the media in terms of providing the citizens with alternative channels to voice out their views and concerns, in the Malaysian context the media's role is rather limited. Often the media is unable to keep the public informed of any official malfeasance and abuse of power simply because it lacks access to information and because it is subject to strict government control. While the electronic media is the captive of the government, all major dailies are either wholly owned by the government or under the direct influence of component parties of the *Barisan Nasional* (BN). Also, the media face a formidable challenge with regard to the publication of critical analytical commentaries as they are required to renew their licenses from the Ministry of Home Affairs every year. The sweeping powers given to the government under the Official Secrets Act, the Printing and Publications Act, the Internal Security Act and the Sedition Act serve as further deterrents on the ability of the media to act as an effective watchdog (Chee, 1991; Funston, 2001).

Despite the adoption of the Westminster system of government and the separation of powers and checks and balances as envisaged in the federal constitution, the power and position of the executive seems to be overwhelming. The fact that Malaysia has a 'permanent ruling party', as indicated above, that has consistently maintained its majority in the parliament, contributed to executive dominance in the society. The UMNO-led Alliance and later *Barisan Nasional* (BN) has used its majority to effect constitutional amendments to increase the power of the executive in relation to other branches of the government and the power of the government in relation to the society (Hai, 2002). The dominance of the executive increased dramatically following the introduction of the New Economic Policy (NEP) in the early 1970s as a framework of economic and social development in the country. Although the state-led approach to development - a feature of the NEP- was later abandoned in favor of pro-market policies, the public sector in Malaysia continues to dominate; it plays an important role in terms of setting developmental goals, stimulating economic growth through promotion of private sector and distribution of income and wealth among various ethnic groups.

The administrative machinery at the federal level is organized into ministries, departments and statutory bodies. Headed by a minister, each ministry plays an important role in planning, coordinating and implementing government policies and programs. The Secretary General, a career civil servant, is the administrative head of the ministry. He is to assist and advise the minister concerning all matters of the ministry and remains responsible for proper implementation of all policies and directives pertaining to the ministry. At the state level, the governmental machinery is organized in a similar fashion - with some exceptions in Sabah and Sarawak. The highest executive authority at the state level is the State Executive Council, which is headed by a *Mentri Besar* in states having hereditary *sultans* and chief minister in other states. Despite such an arrangement the governmental system is highly centralized with most powers remaining with the central ministries. Although the administrative structure has undergone some changes, decision making process continues to be top-down, with very

little or no delegation of powers at lower levels. There are local government bodies like city halls, municipalities and district councils. However, instead of being elected the officials of such bodies are appointed by respective state governments. As such, popular influence on government and pressures for responsiveness are limited, if not absent altogether.

## **INSTRUMENTS AND STRATEGIES OF PUBLIC ACCOUNTABILITY: PERFORMANCE AND PITFALLS**

In the democratic world, public officials are usually subjected to monitoring and oversight by a set of institutions, besides internal control through the chain of hierarchy and professional norms and values. Those in Malaysia are no exceptions to this general rule: the parliament, anti-corruption agency, public complaints bureau, auditor general's office and a variety of other formal and informal tools are available that seek to scrutinize the operations of public sector individuals and agencies. In this section we focus on important accountability mechanisms put in place and their expected as well as actual roles in upholding good governance and ethical administrative behavior.

### **DEWAN RAKYAT**

*Dewan Rakyat* is the prime political institution of the country to hold the government accountable and public officials, as servants of the public, are accountable to the latter through the parliament. The administration is represented by the ministers who are accountable to the House for the overall activities of their respective ministries. When the Malaysian constitution provides that 'the cabinet shall be collectively responsible to the parliament' it essentially recognizes the limits to executive authority and the ministerial responsibility – the hallmarks of the Westminster system. Therefore, the parliament may censure or force the resignation of an individual minister for his failure in the discharge of his duties or for gross irregularities in his ministry. It may even cause the entire cabinet to resign if a vote of no confidence against the government is successful (Chee, 1991). Parliamentary questions, supplementary questions, debates and motions are among the devices that the Members of Parliament (MPs) can use to scrutinize the activities of various ministries of the government and those of the senior bureaucrats within these ministries. The other viable and potentially powerful accountability tools in the parliamentary system are the committees. The most important among these committees, however, is the Public Accounts Committee (PAC), which is responsible for examining government accounts and reports of the Auditor General. Since it has been given adequate powers to send for persons, papers and records from any ministry, civil servants are liable to be called before the PAC to explain any financial irregularities in their agencies. Thus, theoretically speaking, the parliament provides ample opportunities to the MPs to raise matters of public concern and to have them debated on the floor of the House.

However, in reality *Dewan Rakyat* has not been able to assert itself as a powerful watchdog on the functions of the executive. The effectiveness of the House in this

regard has been greatly reduced by a number of factors. Despite all its trappings and grandeurs, the parliament in Malaysia is no more than a rubber stamp in the hands of the Cabinet. It is true that parliament witnesses regular meetings, questions and answers, debates and discussions on matters of public interest, but these are rarely aimed at enforcing governmental responsiveness. The parliamentary opposition finds it difficult to bring the government into account, for the standing orders of the house have been changed to their disadvantage, parliamentary privilege on sensitive questions has been lifted, question time has been limited to one hour and 25 questions, adjournment speeches have been banned for certain occasions, insufficient time is given to study the bills and the treasury bench tends to pass the bill as quickly as possible (Mansor and Nordin, 1990; Chee, 1991). Perhaps the most important factor that explains the inability of the legislature to play an effective role is the excessive dominance of the ruling coalition and the absence of a strong and credible opposition. Malaysia provides a unique case where the ruling coalition has since independence consistently maintained 80% margin in the parliament, thereby allowing itself to remain indifferent to opposition demands for greater accountability in the governance. As table 1 shows, during the past 25 years the number of seats captured by the combined opposition remained quite low. The opposition's best showing in 1990 and 1999 elections (with 53 and 45 seats out of 180 and 193 respectively) fell short of one-third of the parliamentary seats. Even though the opposition has managed to increase its percentage of votes by exploiting issues of public concern, it has never been able to pose a challenge to the BN strong enough to force the latter to alter its policies and preferences. The opposition has suffered its worst electoral setback in the most recent general elections held in 2004. The combined opposition has managed to barely win 20 out of 219 seats in the federal parliament, leaving the entire *Dewan Rakyat* virtually under the control of the BN lawmakers.

*Table 1: Share of Government and Opposition Seats in Dewan Rakyat, 1982 – 2004*

Election Year	Total Seats	Government		Opposition	
		No. of Seats	Percentage	No. of Seats	Percentage
1982	154	132	85.71	22	14.29
1986	177	148	83.62	29	16.38
1990	180	127	70.55	53	29.45
1995	192	162	84.38	30	15.62
1999	193	148	76.68	45	23.32
2004	219	199	90.87	20	9.13

Source: Adapted from Funston (2001); Elections Commission, Malaysia, 2004

The above scenario clearly indicates the weakness of the parliamentary opposition in Malaysia. It also suggests that the scope for those in the opposition to raise critical concerns and thus exert some control on the executive is extremely limited. Also the question time, debates and motions have not proved very effective in securing ministerial/bureaucratic accountability since the answers to questions and supplementary questions are either inadequate (Chee, 1991) or evasive, controversial questions are always scheduled at the end of the session so as not to allow adequate time, and debates and motions proposed by opposition MPs are often suspended for lack of quorum in the House (see Mansor and Nordin, 1990). Recent experience shows that the government MPs usually resort to 'sabotage' particularly when sensitive matters are brought in, thwarting the opposition's attempt to seek greater governmental responsiveness. The problem of legislative oversight has been compounded further by the fact that not only some of the spending is kept above legislative scrutiny but also often the policy decisions are not subjected to detailed scrutiny on the floors of the House. While the opposition faces an array of problems as outlined above, those within the government are unlikely to be critical of the government or pose any serious questions, for they are always expected to go along the party line. The threat of party discipline aside, such an exercise may jeopardize their ambitions for ministerial office or future nominations with party tickets.

Similarly, the effectiveness of legislative committees is greatly reduced by a number of factors. There are far fewer legislative committees in Malaysia than elsewhere; even those available are not in a position to probe governmental performance for a variety of reasons. Committees like Public Accounts Committee (PAC) fail to have a major impact partly because the financial and management control within the government is generally weak and the public accounts and audit reports presented to the PAC are always late (ibid). Secondly, committees are toothless entities for they are headed by the ruling party MPs and also they lack sufficient authority and resources. It may be added here that the repeated overtures from the opposition and civil society groups for appointing the committee chairmen from the opposition camp, as in Britain, have gone unheeded. Thirdly, legislative committees are always advisory bodies and as such, they lack any formal authority to enforce their recommendations and decisions. This allows various ministries of the government to bypass and even defy the committees' directives in terms of checking financial irregularities.

### **ANTI CORRUPTION AGENCY (ACA)**

Arguably the most important and powerful institutional mechanism available to check administrative abuse in Malaysia is the Anti Corruption Agency (ACA). Established in 1967 the ACA is entrusted with the responsibility and given powers to prevent and eradicate all forms of misuse of power, corruption and maladministration from the society. The ACA has committed itself to create a Malaysian society that is free from corruption; it has formulated a comprehensive action plan and adopted a fairly broad approach aimed at achieving its mission. A three-pronged strategy involving preventive, punitive and educative dimensions is currently being followed. In addition

to an investigative function, the agency provides assistance, advice and training to public and private sector organizations in the detection and prevention of corruption. It also conducts lectures, dialogues, public campaigns aimed at inculcating noble, ethical and moral values among the public servants and educating members of the public about corruption (Noor, 2001). Such efforts on the part of the ACA are expected to have positive impacts for on the one hand those in official circles know that they are subject to constant scrutiny; on the other hand, the citizens are now more likely to report corruption cases to relevant authorities.

Over the years, the ACA has been able to establish itself as a dynamic and largely effective organization in combating and controlling corruption. A glance at the agency's annual reports reveals that the agency has been quite active especially in investigating the growing number of corruption cases. During the past 13 years it has investigated an average of around 600 corruption cases annually. It is also apparent that the number of cases investigated in recent years is considerably higher than those in the past. The table also shows a varying number of actions taken (in terms of arrests and prosecutions) annually against the offenders. Such zeal on the ACA's part is believed to have served as a deterrent to unlawful and unethical behavior on part of the administration.

*TABLE 2: ACA - CORRUPTION CASES INVESTIGATED AND OTHER ACTIONS TAKEN, 1991-2003*

Year	Information Received	No. of Cases Investigated	No.of Arrests	No.of Prosecutions	Disciplinary Actions
1991	6789	416	295	161	105
1992	7890	448	356	258	128
1993	7902	438	366	189	150
1994	8177	430	361	102	99
1995	8505	481	375	212	126
1996	8940	526	327	187	209
1997	10087	493	334	240	137
1998	9435	511	300	168	121
1999	7829	413	283	159	56
2000	10736	699	431	160	57
2001	9039	663	318	115	154
2002	8298	1063	290	200	191
2003	9719	1058	339	175	131
Total	113346	7639	4375	2326	1664
(Average)	(8719)	(588)	(337)	(179)	(128)

Source: ACA Annual Report, Various Issues, 2004



The agency has made itself equally visible in other areas such as training, seminars/dialogues and public campaigns. Despite such silver linings, the ACA is not without its share of problems and critics. Although the ACA is seen as the most active and effective institution, it appears to have managed to address only a small fraction of corruption cases reported. As table 2 indicates, the ACA has been able to investigate less than 7% of the corruption cases it received annually. It is understandable that the ACA investigates only those cases that are found to be valid and in some instances it does refer cases to the respective departments for disciplinary action. Still the meager number of cases investigated and arrests made speaks of the inadequate role played by the agency where the cases of corruption abound. Secondly, the ACA is alleged to have remained preoccupied with catching small fries and cases of 'petty corruption,' leaving big guns undisturbed and cases of grand corruption unexplored.

It is hard not to concur, as the available evidence supports this view. During 1996-2001, lower level officials represented 86.7% of the total of 1106 persons arrested. Although with 117 arrests, the management and professional group formed the second most important category, the number of arrests made from the other categories (only 4 top management officials and 15 politicians) has been negligible (see, Siddiquee, 2005). Though it is true that the support staff are more vulnerable to corruption, it does not mean that the problem is confined to the lower strata of the administrative hierarchy. Neither does it match with the growing number of high-level scandals involving politicians and senior officials at federal and state levels. It is now widely believed that corruption among the political elite is no less a problem than corruption in public bureaucracy.<sup>4</sup> Yet, the meager number of arrests made from this category lends credence to allegations that the ACA finds lower-level officials an easy target as they have neither the influence nor political clout to escape convictions.

### **PUBLIC COMPLAINTS BUREAU (PCB)**

While many commonwealth countries have adopted the Swedish institution of Ombudsman as an independent and impartial arbiter between the government and the individuals to check the abuse and mal-administration in the public sector, the government in Malaysia has, instead, set up what is known as the Public Complaints Bureau (PCB). The bureau is responsible to receive and investigate complaints arising from public dissatisfaction toward any action they consider as unjust, not in accordance with existing laws, abuse of power, misconduct, inefficiency and delay in service provision. The PCB is required to report the outcome of its investigation with recommendations to a high-powered Permanent Committee on Public Complaints (PCPC)<sup>5</sup> and other relevant authorities. It is also to forward the decisions of the PCPC to ministries, federal and state departments, statutory boards, local authorities and agencies concerned for the purpose of corrective actions and monitor those actions.

Established in 1971 the PCB is now attached to the Prime Minister's Department and its functions are supervised by PCPC. The PCB is considered as the focal point for the public to forward their complaints and seek redress on any alleged administrative lapses and abuse in dealing with public bureaucracy. Several changes have recently been

introduced to strengthen public complaints management system and the members of the public are able to lodge complaints by using a variety of tools including letters, emails, telephones and fax, circuit programs, websites and personal visit to PCB counters.

*Table 3: Number of Complaints Received and Acted Upon by PCB, 1995-2002*

<b>Year</b>	<b>No. of Complaints Received</b>	<b>No. of Complaints Investigated</b>	<b>No. of Complaints Resolved</b>
1995	4573	2526	1429
1996	3847	1847	1311
1997	3697	1385	932
1998	3621	1328	967
1999	3564	1264	847
2000	3721	2695	2028
2001	2769	2549	1821
2002	4204	3454	2753

Source: PCB, Prime Minister's Department, 2003

Data obtained from the PCB shows that the bureau does serve as an important channel to allow the members of the public to ventilate their grievances about the administrative lapses and excesses. As demonstrated above, the PCB has not only received varying number of cases from the members of the public annually, it has also investigated an increasing number of complaints received. This indicates the popularity of the PCB among the citizenry as a channel to ventilate public dissatisfaction with administration. It also shows greater activism on part of PCB in that the number of cases investigated and resolved in recent years is considerably higher than those in the past. However, the PCB as an adjunct of the PM's office falls short of Ombudsman; it also suffers from insufficient authority to take actions against errant officials. The PCB can only investigate and forward its report to PCPC for further deliberations and decisions on recovery actions. Nonetheless, mere existence of the PCB is said to provide a passive check on administration.

### **AUDITOR GENERAL'S OFFICE**

Another potent instrument for oversight is the Office of the Auditor General (AG) which occupies a center-stage of fiscal control and discipline. Appointed by the *YDP Agong*, the AG enjoys a considerable authority in matters of public financial

management. Among other things, the AG is empowered to undertake a detailed audit of all government accounts, accounts of ministries and state owned enterprises, local government bodies and companies whose majority share is owned by the government. The AG or any person authorized by him has access to all records, books, vouchers and documents to the possession of any person in the service of the nation. Therefore, he is expected to detect, during the course of his audit, any financial irregularities or non-compliance or deviation from rules and regulations pertaining to fiscal management and reflect it in the report which is eventually submitted to the parliament.

In the Westminster system such as Malaysia, the AG is seen as an important arm of the legislative oversight. The AG is to serve as an Ombudsman in financial matters, inform the lawmakers about financial management. More importantly, the AG report forms the basis on which the members of the parliament especially those in the PAC are to rely for making their review and assessment. A glance of AG's Report reveals a variety of inconsistencies, irregularities and non-compliance of rules and regulations by various agencies of the government. For example, in a recent report the AG noted that internal control on the collection of revenues within the government was not satisfactory, agencies had withdrawn funds without prior approval from concerned authorities and disbursed money for which there were no provisions. The report also observed that 33 statutory bodies did not comply with the international accounting standards, 20 such agencies did not keep complete accounting records, several statutory bodies acted in breach of law in forming subsidiaries (Auditor General's Report, 1998). The 1999 report also shows various anomalies in financial management within the government. In particular, the report shows that the federal statutory bodies have failed to comply with laws, regulations and government circulars (Auditor General's Report, 1999: 156-160)

While the AG has performed seemingly well in detecting irregularities and various kinds of anomalies in financial management especially within statutory bodies and local government agencies, it also suffers from several weaknesses and limitations. The AG is unable to undertake a timely and detailed audit of all public sector agencies. The huge size of the public sector with a large number of state-owned enterprises and government companies means that the AG is to rely on sample checks. Auditing based on samples is convenient, though it suffers from limitations as it fails to reveal the true nature and extent of frauds involved. Though the AG is authorized to appoint private firms for audit exercises, experience shows that there are too many agencies to allow surveillance; government owned companies rarely come to closer scrutiny and audit reports are almost invariably late (Chee, 1991), which reduces the effectiveness of the exercise. With the passage of time, not only do the faults highlighted in the audit report lose significance, but people involved in the process may no longer be in their positions, making the possibility of rectification remote and difficult. Secondly, the audit can broadly be regarded as compliance audit, the purpose being to see whether the relevant rules and procedures have been observed. Even though 'performance audit' has been introduced lately it has remained difficult for the auditors to establish whether a particular expenditure was truly in public interest, whether policy goals were achieved and whether expenditure was done in the most efficient manner. Finally, the AG's Office is not an executive agency, it can only detect the problems and lapses and inform the relevant agencies to initiate actions. Experience shows that in the absence of effective measures many agencies, including ministries, departments, statutory bodies

and local government units, have shown a persistent tendency to ignore audit observations and queries (Ho, 1999). Needless to say, such a tendency has rendered the audit exercise ineffective to a large extent.

The government has sought to support the operations of these institutions through a variety of other initiatives. A cabinet committee on government administration has been established to improve ministerial oversight of the public service. The government has issued directives to establish management integrity panels at all levels and agencies, and to hold conventions on management integrity that serve as platforms to discuss ways and means for enhancing integrity and accountability. The *Mesra Rakyat* (Meeting the Clients) Program has been lately introduced that requires heads of departments and senior officers of various agencies to make themselves available once a month to meet their clients and receive complaints/feedback from them directly. Other recent developments include the introduction of national integrity plan, and establishment of the Institute of Integrity and Anti Corruption Academy. Although some of these initiatives are quite new and any serious assessment of their impact is still awaited, generally these are seen as steps in the right direction. They are indicative of the government's commitment to strengthen the system of accountability and responsiveness of its administration.

## **STRATEGIES TO PROMOTE PROFESSIONALISM AND ETHICAL CONDUCT**

As elsewhere, the government in Malaysia has sought to promote accountability and responsiveness by enhancing professionalism and ethics among public officials. It has issued various guidelines from time to time aimed at helping public officials to discharge their responsibilities in an efficient, effective and responsive manner, made sustained efforts since early 1980s to inculcate positive values and work ethics among them through a variety of programs... Important efforts in this regard include the introduction of clock-in system (1981), leadership by example (1983) use of name-tags (1985), campaign on 'clean, efficient and trustworthy government' (1989) and 'excellent work culture movement' (1989). Realizing the influence the religion has on the development of values and ethics, attempts were also made to instill Islamic values and morality among the public servants. A total of eleven Islamic values namely trustworthiness, responsibility, sincerity, dedication, moderation, diligence, cleanliness, discipline, cooperation and gratitude have been selected in 1985 for assimilation in the public service (Noor and Mohamed, 1999). The inculcation of values and ethics among public officials received further boost when INTAN introduced its 'twelve pillars' - a similar list of fundamental values to be practiced by all public officials.

Concerted efforts have been made to ensure that the members of the public service internalize these universal values and work ethics. The civil servants have been encouraged not only to uphold integrity and discharge official duties with highest ethical standards but also to be proactive, innovative and to take responsibility for the delivery of services that would meet public expectations. Even though some of the efforts may appear to be petty and rather trivial, one must understand the rationale

behind them and the benefits they are expected to produce. Name-tags, for example, were introduced with the aim of ensuring that the public servants deal with public in a helpful and courteous manner or risk having their names reported to their superiors. Thus name tags are expected not only to impose an indirect control on each and every civil servant by making him/her transparent to the public but also serve as a measure whereby a civil servant may start to observe and scrutinize him/herself and his/her actions vis-à-vis the public (Triantafillou, 2002).

The public service has also witnessed a series of other measures that sought to alter old bureaucratic culture and establish a new service ethos that emphasizes, among others, efficiency, quality, productivity and responsiveness towards clients. The introduction of Quality Control Circles (QCC), Quality Assurance Unit, Total Quality Management, Strategic Planning and the Client's Charter are among the notable efforts made to this effect (Sarji, 1996). The public sector has also adopted the internationally recognized ISO 9000 series. Even though Malaysia has chosen to implement its own version of ISO 9000, it is the first country in the world to embark on ISO for the entire government machinery (Common, 2001). It must be noted that although the immediate objective of these measures was to promote efficiency, productivity and quality in the public service, they were seen supportive of accountability goals by ensuring that the public get efficient and better services. Perhaps, the most important effort in this regard is the Client's Charter introduced in 1993. The Charter is a written commitment made by all government agencies pertaining to the delivery of outputs or services to their respective customers. It is an assurance by the agencies that outputs/services will comply with the declared quality standards that are in consonance with expectations and requirements of the customers (Sarji, 1996). Charters were to be formulated and implemented by government agencies at all levels, statutory bodies, district authorities and local bodies, and displayed in prominent places within the agencies/offices. In cases where an agency fails to comply with the quality standards stated in its charter, the public can lodge complaint for non-compliance. Thus the agency is made accountable, at least in theory, to its customers in a way that is more explicit and specific than ever before.

Another landmark in the public service is the introduction of e-government. The Malaysian government has undertaken elaborate programs on e-government seeking to dramatically enhance the performance and quality of public services by harnessing IT and multi-media. While the drive began with the establishment of the Multimedia Super Corridor (MSC) in 1996, significant progress has already been made towards the implementation of e-government at national, state and local levels. The e-government in Malaysia is ambitious in that it seeks to redefine how the government relates to its citizens, to businesses as well as how the various components of the government relate with one another. The schemes like e-services, e-procurement, and My-Kad have offered enormous promise for the future. E-Services scheme allows the members of the public to access services like driver registration, licensing, summons and the payment of utility bills -all electronically. E-PEROLEHAN is the official secure online marketplace for suppliers and government agencies. MYKAD has become a vehicle of convenience: apart from serving as national identification document and facilitating cashless financial transactions, it allows efficient entry and exit of Malaysians at immigration checkpoints and quick retrieval health and personal data during emergencies (Karim, 2003). Currently a number of services are available online, but attempts are underway to ensure greater networking and integration so as to bring more services under e-government.

The government is confident that with the full implementation of e-government, more and more services could be provided online where agencies at federal, state and local authority will collaborate relating to services and present them as one public service portal. Therefore, the services will be accessible to the members of the public at any time and from any place without being constrained by agency working hours and distance.

## **PARADOXES OF PUBLIC ACCOUNTABILITY:**

### **INSTRUMENTS AND THEIR LIMITATIONS**

The preceding section has examined the institutional mechanisms available to enforce accountability and some contemporary initiatives and strategies that seek to promote professionalism, quality and productivity in the public service. It is evident that while the institutional mechanisms and strategies available to enforce public accountability offer great promises, however, in reality they are often handicapped by a set of constraints and inherent limitations. As such, public accountability has remained rather weak and public bureaucracy has been the cause of increasing concern as manifested in the level of complaints made by members of the public. In addition to complaints received by particular ministries/agencies, PCB alone received a total of 4207 complaints directly from the members of the public in 2002. A look at the nature of these complaints reveals that delays in service provision, unfair actions/decisions on part of administrators, abuse of power, misconduct of officials, and failure to enforce rules are among the common complaints made to and regularly received by the PCB (PCB, 2003). More serious is the problem of corruption in government administration. Corruption is believed to be rampant particularly at lower levels in such agencies as police, roads and transportation, land, immigration, customs and excise and local government (*New Straits Times*, 15 April, 2002). The most recent survey of ACA also confirms that corruption in the public agencies is fairly high with 31.6 percent of the respondents reporting the occurrence of corruption in their own agencies (ACA, 2003). This is also reflected in Malaysia's standing in Transparency International (TI)'s Corruption Perceptions Index (CPI). With CPI ranking of 37 and CPI score of 5.2 in 2003 Malaysia has not only remained far behind many developed and several developing countries; the country's CPI score is still below the initial scores of 5.28 and 5.32 during 1995 and 1996 respectively. More disturbing is the most recent CPI ranking released by TI. Malaysia has remained 39<sup>th</sup> in world ranking with scores of 5.0 and 5.1 in 2004 and 2005 despite the much publicized war against corruption declared by the new Prime Minister Abdullah Ahmad Badawi. Thus the evidence shows that existing institutions and mechanisms have performed poorly in arresting the erosion of moral values in the society and administration. What explains this?

Clearly, the institutional mechanisms and strategies have failed to live up to expectations for not only the conditions for the effective functioning are missing, they also suffer from a number of paradoxes and contradictions. The performance of the Malaysian legislature has been far from satisfactory in keeping the government on its toes. One has to understand the complex context of the Malaysian society where

legislative instruments are often more of form than substance (Chee, 1991). Thus public accountability has not operated as usually hypothesized. The problem has been compounded further by the inherent weaknesses of the political system. Since the opposition is almost negligible and gets marginalized further by the machinations of the ruling party MPs, the kind of informed scrutiny of the government, as one finds in advanced parliamentary democracies, is lacking. The weak and fragmented opposition coupled with 'yes mentality' among those on the treasury bench who perceive their role as merely endorsing cabinet decisions means that there is hardly any objective debate and scrutiny of administration and hence answerability of public officials. This is however, nothing unique to Malaysia; many other countries with Westminster tradition of government suffer from similar paradoxes (see, Jain, 1998). But in this case, such weakness has been compounded further because of the fact that the legislative committees are also in the firm grip of the government. Not only are such committees headed by ruling party MPs, but most members happen to be their party colleagues who are usually less enthusiastic in scrutinizing the activities of the government and its bureaucracy.

Likewise, the principle of ministerial responsibility as seen in mature democracies is either weak or missing in Malaysia. The principle means that the minister accepts responsibility for any lapses or irregularities within his ministry and resigns from the office. Despite reports of numerous irregularities in various agencies at different levels, misappropriation of funds by individuals and groups and increasing volume of complaints received from the public on the quality of services and responsiveness, rarely has a minister chosen to accept responsibility for such irregularities. Obviously, in the present system the ministers are under no obligation to resign as long as they enjoy the PM's blessings. They can also avoid answering the questions in the House since very limited questions are accepted and discussed. Thus the ministers in reality enjoy a great deal of immunity from effective scrutiny; not even the parliament can unseat a minister through a vote of no confidence as long as party solidarity and discipline is emphasized. The more recent controversy surrounding the works minister is a case in point. In the face of public outcry over the poor quality of construction projects and the revelations made by the media and the ACA of serious anomalies, both government and opposition law-makers demanded resignation of the minister (*Borneo Bulletin*, 18 October, 2004). However, Mr Samy Vellu - one of the longest serving cabinet members - has not only rebuffed calls for him to step down, he practically took no responsibility for the defective projects and other anomalies, and has had no problem retaining his ministerial office.

Although the major watchdog bodies like the ACA and AG are presented as powerful institutions, in practice their power is limited and hence they encounter a host of problems in discharging their responsibilities effectively. Often the shortage of manpower and skills means that they are not in a position to handle the gigantic task of auditing all transactions by public authorities and investigating an ever-increasing number of cases. Of more significance is the constraint imposed on them; being adjuncts of the PM's office they do not enjoy the independence and operational autonomy required for effective discharge of their functions. The institutional location of the ACA under the Prime Minister's Department and its subordination to political office with regard to the opening of investigations against senior officials and important individuals in political circles is seen as an impediment to its task of vigilance. Even

though it is justified as a means to insulate the agency from the pressures of the ruling party and to accord the ACA a very high status within the administrative hierarchy, experience shows that elsewhere such an arrangement has facilitated the abuse of the agency by the executive to hide its misdeeds and those of its close allies (see Siddiquee, 2002; Hai, 2002). Thus, instead of helping curb malfeasance and abuse of power it may serve as a tool in the hands of the government.<sup>6</sup> Possibly, this explains the reluctance or failure on part of the ACA and AG to bring to light the high level political and bureaucratic corruption, believed to be widespread in Malaysia.

The new government under the leadership of Abdullah Badawi has vowed to crack down on corruption and as a first step cleared the way to investigate some sensational corruption cases. The two high profile arrests made by the ACA in February, 2004 and the ongoing trial of a former minister of land and cooperatives development, Mr Kasitah Gaddam, and the former managing director of state owned Perwaja Steel, Mr Eric Chia, has bolstered the image of the government in the eyes of the public. Widely seen as major steps in containing political and administrative corruption these steps have earned Prime Minister wide acclaim from both sides of the political divide. This also generated a lot of interests among the members of the public and the political analysts because of the fact that PM's own party UMNO has a long history of money-politics and vote buying, which became worse and so obvious in the party's annual convention in 2005. The unexpected win by some candidates and the failure of some veteran ministers to gain seat in UMNO supreme council has been attributed largely to vote buying and money-politics. Subsequent investigations confirmed the hypothesis and paved the way for punitive actions against those involved. One of the two top ranking party leaders to face the actions was Tan Sri Isa Samad, the Federal Territories minister who was initially suspended from party for six years and later removed from the cabinet for his involvement in money-politics. The other is Mr Azman Mahlan, a former state assembly man who has been sentenced to four years in jail and fine for being involved in bribery (*New Straits Times*, 23 August, 2005). While these steps have also been hailed by the government's supporters and critics alike, there is widespread view that the problem is so deep seated that it requires far more comprehensive approach and resolve to fight the evil. The recent police commission report has revealed the breadth and depth of the problem in the police department prompting demands for similar commissions on other agencies. The government has accepted the report and promised to implement the recommendations in phases. Therefore, the seriousness of Abdullah's regime is not so much in question, but to what extent it is able to tackle the perennial problem of money politics and administrative corruption in the future remains unclear, for he has resisted, like his predecessor, the demands for an autonomous ACA, a powerful AG and an Ombudsman. What is socially desirable may not appear to be politically feasible.

Even the non-state actors have failed to play an effective role because of numerous restrictions imposed on the media and other civil society organizations. As already noted, both the electronic and print media are virtually under the government's control. This, along with various coercive legislations and restrictions on the press and civic groups have greatly undermined the media's prospect and suppressed public opinion as a force in checking official excesses. Neither the media nor whistle-blowers, investigators, interest groups, anti-corruption or opposition activists are able to present government documents as evidence of corruption and malfeasance as they risk severe



penalties under Official Secrets Act and other legislations. They are handicapped further by the absence of freedom of information act and absence of transparency in public decision making. Since much of the information is kept out of public eye and the public servants operate behind a veil of secrecy, it is easier for them to abuse their authority and discretion. At times, accountability is difficult to enforce for the government in Malaysia continues the policy of allocating resources based on political rather than market criteria, grant large contracts without competitive bidding and the line between public, party and private roles is blurred. Clearly, such policies and practices are hardly consistent with the values of good governance. Even though pressures of globalization has forced the government to move away from its traditional interventionist roles in the economy and relax ethnic quotas in business, commerce etc, the governmental role in the economy has remained significant which, in turn, creates scopes for corruption and abuse.

One of the paradoxes of public accountability in Malaysia is that even though the ministers are generally capable and experienced to control bureaucrats within their respective ministries, they are unable to enforce bureaucratic accountability in actual situations. This is due largely to the increasing trend of politicization of the higher echelons of the civil service (Crouch, 1996), which has led to the erosion of the notion of apolitical bureaucratic institution. Theoretically, public servants in Malaysia subscribe to the principle of political neutrality; however, in practice, they are never separated from politics. This is particularly true of those working in state-owned Radio Television Malaysia (RTM), Ministry of Information, Ministry of Rural Development, National Civics Bureau (BTN), who are required to act virtually as passive members of the ruling coalition (Chee, 1991: 116; Funston, 2001: 175). Understandably, when civil servants become enmeshed in politics, political leaders are either unable or unwilling to enforce vigorous accountability. This explains the growing evidence of ministerial indulgence of public bureaucracy in recent years (for more see Hai, 2002: 190). The Malaysian experience also shows that though the public servants supporting the opposition have faced disciplinary actions, those loyal to the government receive rewards.

Even the internal control within administration appears to be weak, whereby senior officials within the official hierarchy lack motivation and willingness to control their subordinates strictly and take punitive actions against them (Ho, 1999). They tend to ignore many failures and deviations of their subordinates and seek explanations only for the most glaring lapses. Efforts to inculcate universal values and promote professionalism in the public service seem to have produced very little impacts. There is little to indicate that the level of public officials' commitment and job performance has improved as a result of such efforts. On the contrary, observers are of the opinion that despite all such efforts and constant reminders to this effect by senior bureaucrats and political leader's level of professionalism among public servants is on the decline. There is this feeling that the civil servants often fail to initiate timely response to tackle emergencies, they remain too pre-occupied with meetings, ceremonies and routine administrative works which adversely affect their main task of serving the public (Ahmad et al., 2003). The numerous complaints made by citizens through letters to editors of national dailies indicate the current state of professionalism, bureaucratic highhandedness and slack of different kinds. Though laws require stern actions against public servants who themselves or whose dependants are in possession of resources

disproportionate to their known sources of income or assume a lifestyle beyond their ostensible means, hardly anything is done. Very few public officials had their property acquired through dubious means confiscated. The law requiring the public officials to declare their assets annually has so far not been enforced. The present chief secretary to the government has lately made it a point and asked public servants to declare their assets or else they risk losing their promotions.

Though innovations in the area of public management like Clients' Charter, QCC, ISO 9000 and e-government are increasingly seen as viable tools for enhancing governmental responsiveness and accountability, their impact in Malaysia has so far remained limited. This is because of the gap between theory and practice: evidence shows that many public agencies are yet to formulate their Clients' Charters and those with Charters often fail to abide by them or deliver what is promised in those charters (Siddiquee, 2002). The e-government has offered enormous prospect for enhancing public sector efficiency in service provision and reducing opportunities for corruption. Since services are offered online and there is very little or no contact between providers and their clients, the scopes for graft are reduced considerably. Benefits already claimed in this area by various agencies of the government cannot be disputed. However, given that only limited number of services are now available online and Malaysia is still lagging behind many other countries in terms of her e-maturity and e-readiness index (UN, 2004) benefits of e-government have remained far below its potentials. The future in this area looks bright: the ongoing drives of e-government and other reforms have the elements that are likely to overcome many of the limitations of the traditional tools of accountability.

## CONCLUDING REMARKS

Generally, public bureaucracy in Malaysia fares well when compared with its counterparts in other developing countries. It has played a key role in the country's advancement by planning and implementing programs of socio-economic development. Notwithstanding such roles and recognitions, the Malaysian bureaucracy has attracted adverse comments and low ratings internationally in terms of good governance indicators. Malaysia's poor showing in Transparency International's corruption perceptions index has been a subject of continuing debate in academic and political circles. This paper argues that although there is no shortage of institutional mechanisms and strategies, the present system of public accountability has been largely ineffective as it suffers from a multitude of constraints and deficiencies. While some of these constraints emanate from the unique political system of the country the others reveal the institutional weaknesses and gap between theory and practice characteristic of many developing societies. The paper further shows that although a considerable progress has been made over the years to tackle the problems through innovative and pragmatic measures, the overall scenario is still far from satisfactory. This is partly because those bent on maintaining *status quo* are still able to do so notwithstanding some innovations in place and partly because the reforms and innovations fall far below the planned standards. In other words, despite some improvements, the recent changes have not been able to mark any radical departure in transforming administrative culture and ethos.

As the importance of good governance is more and more pronounced, attempts must be made to address the paradoxes and constraints outlined above. Efforts must be geared towards building and nurturing professionalism in the public service – for it is the key to the development of an efficient and responsive public administration. In this regard, Singapore provides a good example: despite sharing many of the features with Malaysia (e.g., Westminster model of government, dominant party and absence of independent oversight bodies), Singapore has a highly efficient administrative machinery with a robust system public accountability due mainly to professionalism among the civil servants. Therefore, alongside current drives, ethics should be taught at academic institutions as part of curriculum to enlighten the prospective public servants on the importance of values and morality and the negative consequences of immorality and corruption. More stringent screening mechanisms be introduced to ensure that only those with positive values and virtues get hired and promoted. This should also be supported by raising pay and perks in the public service to make it comparable with those in the private sector. It is also important to revamp and further strengthen the existing mechanisms. For many, the introduction of Ombudsman is long overdue in Malaysia. Parliament should play the role of watchdog and regulator and be at the center stage of the struggle for promoting good governance and fighting corruption. All-party parliamentary committees should have powers to hold public hearings and monitor the performance of the ACA. Also needed is a truly independent, professional and authoritative ACA answerable to the parliament. Equally important is an alert, vigilant and independent media backed by access to information act. Greater transparency in public administration, especially in public procurement and decision-making is of vital significance. The most important, however, is the political will to initiate necessary changes.

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## NOTES

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<sup>1</sup> A similar typology was, however, advanced earlier by Dwivedi and Jabbra 1989 who distinguish between/among administrative, legal, political, professional and moral accountability.

<sup>2</sup> A series of statutes and laws put in place over the years e.g. the emergency ordinance, the official secrets act, the police act, the sedition act, the printing and publications act have not only enhanced the government's power vis-à-vis its political opposition but also severely restricted the rights of individuals, media, civic associations and political parties.

<sup>3</sup> Headed by a Director General, the ACA is attached to the Prime Minister's Office. Apart from its headquarters at Putra Jaya each of the states has its own ACA office and there are another 9 branches in five larger states.

<sup>4</sup> In fact, the most recent corruption perceptions survey of the ACA has demonstrated that corruption is more serious in political parties, with 46% of the respondents reporting corruption in their own parties. For public sector agencies and private organizations the scores were 31.6% and 28.5% respectively ACA, 2003.

<sup>5</sup> The high powered committee is headed by the Chief Secretary to the government and includes the Director General of Public Service Department, the Director General of ACA, and the Director General of MAMPU as its members.

<sup>6</sup> A good example in this regard is that although lately the ACA was supplied with strong evidence that implicated the former transport minister who allegedly favored his son through corporate dealings, ACA did not show any seriousness to investigate the matter. Despite assurance on part of the government to this effect, the investigation did not go far; after two years of lapse the complainants came to know that the case was quietly closed.

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