

# Money is the Problem

9<sup>th</sup> July 2014

One of the big unanswered questions arising out of the recent ‘grand corruption’ cases in relation to the Public Sector remains – ‘How can we lawfully punish those wrongdoers who are looting our country?’

Most discussions proceed along the lines of what I call the ‘bag of money’ idea, in which we are looking for the actual stolen money. The belief being that the stolen loot can actually be located and linked to the thieves, who will then face a harsh penalty. My preferred solution is for full disgorgement of all the stolen monies as a starting-point, even if that is a remote goal.

In re-examining the issue practically, one has to ask “Why do we persist in these ‘pipe-dreams’, while ignoring the ‘low-hanging fruit’ all around us?” So I am considering a new strategy for action on these critical issues.

‘Public Money’ is the term used to describe money due to or payable by the State, including those sums for which the State would be ultimately liable in the event of a default. Public Money is sometimes called Taxpayers’ Money, it is our Money.

As I stated in [‘Everything but the Truth’](#), published in this space on 10 June 2014, in relation to Public Money – “The leading learning from which we have drawn serious lessons is Lord Sharman’s 2001 Report to the British Parliament [‘Holding to Account’](#), which was a thorough examination of the definition, role and need for control of ‘Public Money’. We expanded on Sharman’s definition of ‘Public Money’ so as to capture the full range of possibilities, but we have accepted his key finding as to the requirement that ‘Public Money’ is to be managed to a higher standard of Accountability and transparency than Private Money – see 2.23 on pg 15. The contemporary, best-practice position in respect of the management of and accountability of Public Money being that the private sector rules are the bare minimum.”

There have been many critical statements on the findings of the 2013 Auditor General’s Report and those need to be taken as part of a long-term pattern of mismanagement and disregard which are against the public interest. The Auditor General is responsible for auditing the accounts of Ministries and Government Bodies, but in this article, I am looking at the State Enterprises and the Statutory Bodies which are both responsible for most of the transactions in Public Money.

The State Enterprises and Statutory Bodies have long been the scene of large-scale theft and waste of Public Money, so successive political administrations have had to grapple with similar issues.

Here is Mariano Browne, then a PNM Minister in the Ministry of Finance (with responsibility for State Enterprises), [speaking to a June 2009 conference](#) on the issue –



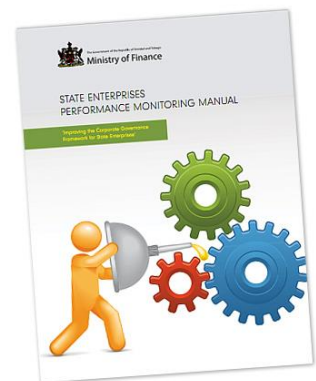
*"...The ministry has mandated all State enterprises to establish audit committees to access (sic) the effectiveness of internal controls of these companies...As corporation sole, the Ministry of Finance is responsible for the managing of all State enterprises. However, it is apparent that there is reluctance by some companies to comply with these basic monitoring requirements..."*

Here is Winston Dookeran, then Finance Minister in the Peoples Partnership, [delivering his first budget statement in September 2010](#), speaking on this issue –



*"...Mr. Speaker, no coherent, co-ordinated planning or strategy for state enterprises exists. As a result we have begun to rationalise the state enterprises, including the special purpose companies, which will incorporate a new accountability system that goes beyond the presently operating company ordinances. It is these loopholes in public accountability that resulted in the UdeCOTT scandal. This must never again happen in Trinidad and Tobago..."*  
(pg 22)

The Ministry of Finance has now published a [State Enterprises Performance Monitoring Manual 2011](#) to guide the operations of these important companies – at page 30 of that 168-page Manual, we read –



*"...3.2.5 AUDITED FINANCIAL STATEMENTS  
State Enterprises are required to submit the following:*

- 1. Audited Financial Statements (2 originals and 120 copies) to the Minister of Finance within four (4) months of their financial year end. These reports are to be laid in Parliament and subsequently submitted to the Public Accounts and Enterprises Committee for consideration;*
- 2. Copies of their Management letters issued by Statutory Auditors..."*

At this time, there are no audited accounts for Caribbean Airlines Ltd (since 2008) or UDECOTT (since 2005) or Housing Development Corporation (since its inception in 2005). That is the serious situation we are all in, with some of the largest State Enterprises and Statutory Bodies failing to publish the basic accounts as required by the Ministry of Finance or their own statutes.

**But the wider reality of official disregard and mismanagement is worse, much worse.**

Just consider this extract from Parliament's [Public Accounts Enterprises Committee \(PAEC\) Report of 18 February 2013](#) – at para 4.1 on pg 12 –

*"...Non-receipt of up-to-date audited financial statements by State Enterprises: At present, the non-submission of up-to-date audited financial statements continues to be the most severe impediment to your Committee in being able to effectively execute its Constitutional mandate. In February 2011, your Committee wrote to the Heads of all State Enterprises by circular letter,*

*asking that their respective audited reports be updated and submitted to the Parliament as a matter of urgency. Your Committee received responses from less than 10% of the number of State Enterprises on file....”.*

## **Scale of the State Enterprises in 2011**

To give some context as to the scale of the State Enterprises, these are some of the facts stated in [Winston Dookeran’s June 2011 speech](#) on the issue –

- Total annual revenues – TT\$48 billion;
- Total profit is in the vicinity of TT\$3 billion;
- Total dividends are in the order of TT\$1.2 billion;
- Total assets – TT\$120 billion;
- The Government (sic) of the Trinidad and Tobago’s equity is TT\$7 billion;
- Number of persons employed is 16,000, and
- Total debt of State Enterprises is TT\$13 billion.

This PAEC met during 2011 to examine CAL’s 2008 audited accounts. I tell you.

S.99 of the [1995 Companies Act](#) created duties of care and diligence which now require an application of ‘best-practice’ standards by Company Directors. So how can mega-companies, like the ones I cited, be operated without audited accounts, when that is the bare minimum in the private sector? The CEO of a privately-owned company could not explain the failure to produce proper accounts to its owners year after year. That failure to account would be a dismissible offence, by the most basic of standards.

In the case of the Beetham Water Recycling Project, a contract exceeding \$1.0 Billion was awarded in March 2014 via a questionable procurement process, but the point being made here is that the 2014 Budget contains no mention of that huge project. That is a complete failure of our system of Public Financial Management. The Minister of Finance has not responded at all to the several calls, from the JCC and its Kindred Associations, to give a public accounting for the project.

S. 24 (3) of the [Integrity in Public Life Act \(IPLA\)](#) is also relevant – “...(3) No person to whom this Part applies shall be a party to or shall undertake any project or activity involving the use of public funds in disregard of the Financial Orders or other Regulations applicable to such funds...”.

My conclusion is that there are compelling grounds to take action now, under either the Companies Act or the IPLA, against offending Directors of the State Enterprises and Statutory Bodies. Low-hanging fruit are all around us, so we do not have to spend time hunting that elusive ‘bag-of-money’. The Integrity Commission and the DPP need to investigate the improper actions of these officials. The DPP must prosecute these offending Directors, given the inescapable facts of the matter, this can be done swiftly.

These matters are detrimental to the public interest, so I am calling on the Institute of Chartered Accountants of Trinidad & Tobago (ICATT) and the Caribbean Corporate Governance Institute (CCGI) to take a stand.

As I wrote in 2007 in [‘Reflections on Republic Day’](#), being strongly critical of the Manning administration and its mega-projects – “...One cannot help wondering if another country, with less resources, would be as careless as we are. It might seem a bizarre reversal of Dr Eric William’s 1976 statement but, in our case, it is probably true that money is the problem...”.