

# AG Bulletin 13.

Printed in *New Agenda* 78, December 2020:

Kimi Makwetu  
(1966 – 2020)

Auditor-General of South Africa from 2013 to 2020

We mourn the death of a committed public servant who served South Africa with unfailing integrity and did all he could to rescue this country from corruption and the abuse of public funds.

## **Notes from an interview with the Auditor General, Mr Kimi Makwetu, 10 am Tue 7 July**

[NOTE: This is an interpretation of the conversation for use in the Checks and Balances project – it is not a verbatim account and it inserts reflections from other engagements. Square brackets indicate words NOT spoken by the interviewee. As with the other project bulletins, it is not intended for publication.]

Martin missed the first five minutes of the discussion due to unfamiliarity with Microsoft Teams. He missed the moment when Kimi recognised Bruce as a co-student from the 1985 UCT sociology class. This explains why Bruce was saying Kimi this and Kimi that as opposed to the more respectful “AG”.

Martin came in to the meeting (via Moira’s phone) just as Mr Makwetu was commenting that the Zondo Commission is expressing the same concerns as those voiced by Prof Turok – [Why does Parliament not act when confronted by evidence that expenditure of public funds is not properly controlled?]

Martin found it hard to hear the AG, even when Microsoft Teams suddenly admitted him to the meeting. So these comments need to be viewed critically – and amended by Bruce and Moira where necessary.

To start with, the AG outlined the extensive engagements that are held regularly between the AG and Parliament.

The AG meets with Portfolio Committees [from the start of the oversight process] when they supervise the implementation of [Departmental] strategic plans [for the coming year and the five year electoral term]. The PC’s are in frequent contact with the AG and hear the AG’s views on performance in the previous year and the steps take to address any problems. The

AG outlines the remaining issues and these [usually find a place in the ] committee resolutions.

The role of SCOPA is to scrutinise departmental management using the reports provided by the AG. “We present to SCOPA twice and also to the NCOP every year. In our experience, there is no lack of alignment between what we say and what the politicians understand about what is broken.”

There is an “annual ritual”. The AG makes a presentation to SCOPA and the Committee chooses entities for their specific oversight. (All entities are attached to particular ministers and departments, each already reporting their progress to NA portfolio committees. So the SCOPA attention repeats scrutiny that should have already been part of a PC’s work.) The AG explains the issues about the entity [e.g. PRASA or a Water Board or whatever]. The AG outlines the past commitments made by the entity and its management and there is open engagement on the issues. The politicians reflect and [their findings and recommendations are framed as] SCOPA resolutions which are then tabled in the House.

The crux of the problem however is what process do those resolutions get subjected to after they have been tabled? **Not much follow-up is seen**, even if a resolution calls attention to cumulative irregular expenditure of billions of Rands. Is the National Assembly an effective instrument?

Back in 2009-10, SCOPA members asked what had happened to the resolutions?<sup>1</sup> The oversight model had no follow-up mechanisms. SCOPA then acknowledged they must go back and look at the oversight model. How does that Parliamentary instrument go forward?

**Martin** asked the AG if he had any insights to share from the experiences of other countries who are members of INTOSAI and AFROSAI-E, the international and continental organisations of Supreme Audit Institutions which SA participates in. Do other AG’s experience the same problems with follow-up on audit recommendations? How have they tackled what must be a common issue?

Mr Makwetu said there are two extremes. On the one extreme are countries where the [government] auditors do the work, but their reports simply never come into the public domain. [There is no follow-up at all from the Parliament, because they don’t get the audit information. ] {no member states were mentioned: Russia, China, ...Kenya, Mozambique, Tanzania, ....?}

On the other extreme are countries where it is as we experience it. [Reports go through Parliament and there may be resolutions] but follow-up does not come.

But there are countries, such as Australia, where there is enough follow-up research to take it forward. Technical analysts are attached to committees [whose expertise and research is] at the disposal of the committee.

The global community [of government audit institutions] do more research but they still are in two divisions: In the first, no one finds out, and in the second, most are like us [with weak follow-up]!

---

<sup>1</sup> See AG Bulletin 11, the interview with Jan van Schalkwyk, which talks about this.

The research is valuable because it keeps committees alert to the problems.

It was the repeated experience of **Parliament’s lacklustre reactions to audit recommendations** that led to the amendments to the Public Audit Act (PAA) which came into effect in 2019. If you are the accounting officer [defined in the PFMA as the official responsible for accounting for departmental expenditure – this is the Director-General or CEO], and you sit and do nothing [when the audit has shown there to be problems], you are at risk [personally]. Because you can be issued with a “Certificate of Debt” making that liability yours.

The PFMA clarifies the division of responsibilities between the head of department (the accounting officer) and the political head (called the ‘executive authority’ – either a Minister or an MEC). The executive authority is responsible for policy choices and outcomes, while the accounting officer implements the policy and achieves the outcomes by taking responsibility for delivering the outputs defined in the departmental budget. In this way, the Act empowers accounting officers by unambiguously conferring on them a clear set of responsibilities. The accounting officer prepares the departmental budget (specified in terms of measurable objectives) for the Minister or MEC to approve and present to the legislature for voting. The accounting officer is then responsible for implementing and managing the budget.

—National Treasury: *Guide for Accounting Officers - Public Finance Management Act*. October 2000.

The amendments to the PAA narrow that space where some accounting officers under the PFMA and the MFMA hope there will be no follow-up. Both of these laws attach responsibilities to accounting officers. They have to put in place a risk management system. The accounting officer must follow up on misconduct [within their department, municipality or entity]. If, during the audit process, **material irregularities** are identified, we will look to you to fix these issues. If you do not, there is a process now to attach the liability to you personally, as the designated accounting officer.

#### **What is a material irregularity?**

Definition<sup>2</sup>

any **non-compliance** with, or contravention of, legislation, **fraud, theft** or a breach of a fiduciary duty **identified during an audit** performed under this Act that resulted in or is likely to result in a **material financial loss**, the misuse or loss of a material public resource or **substantial harm** to a public sector institution or the general public.

So here **Moir**a asked a question. I thought she was going one way and then suddenly she switched and asked a different question which made no sense to me. But the AG made some interesting responses. If you ask an unclear question, this can be a great tactic. (Maybe Moira’s question was different, in which case, please correct me!)

So this is what I thought Moira was saying: Prof Turok was frustrated that Parliament did not act to make changes to allow it to intervene effectively when public money was being

<sup>2</sup> <https://www.agsa.co.za/Portals/0/What%20is%20material%20Irregularity.pdf>

misspent. Surely that is indeed the role of Parliament? [And I thought she was then going to ask “Exactly what should Parliament do to intervene?” but instead the question was this:]

Now how does it help [in the amended Public Audit Act] to make the accounting officer responsible? [But the Accounting Officer has ALWAYS been responsible. That is why they are called that. The origin of the responsibility does not lie in the PAA but in the nineteenth century, when the British Parliament first gave accounting officers this role.<sup>3</sup> Colonies, like SA, simply copied!]

The AG came back like a sling-shot, saying there were two levels to consider:

First, the accounting officer is assigned under the legislation to protect the public purse with measures [such as internal audit, which will enable the accounting officer to be more proactive and to deal with problems in good time.] You [the AG] only ask the accounting officer the question of why money was misspent, where they are responsible for regularly correcting what went wrong. If the government is over-charged for a service or a product, that is the accounting officer’s area of responsibility.

The accounting officer [imagine a DG] may say “I am just the administrator and I get instructed” [by a Minister]. They may not give any push back when the department is charged for wrong amounts. The accounting officer may not take ownership and protect the public purse from those above them.

Second, when the AG reports to Parliament, these are general reports that allow Parliament to maintain a line of sight on accountability. Parliament will be told: “The AG has issued three certificates of debt.” Parliament’s oversight role relates to determining if the certificates of debt are responded to [by the accounting officer, who takes steps to recover the overcharged amount and puts in new controls to stop this happening again.] The misspending of money is not Parliament’s responsibility in a direct sense.<sup>4</sup>

So here again, my notes are defective, because the AG definitely did talk about a bridge. But I could not understand Moira’s next question, which referred to this same bridge. The AG said: “The accounting officer implements policies as instructed by the executive authority [i.e. the Minister], but, when reporting on projects and their implementation, the accounting officer also goes to portfolio committees to allow them to scrutinise [the department’s operations] on an ongoing basis. [This is seen every year, indeed every quarter, when the DG reports on Departmental performance against the Annual Performance Plan that was previously approved by Parliament.]

**Bruce** asked if the AG was satisfied with the extent of the new powers granted by the amended PAA?

Mr Makwetu responded that most people never do the stuff recommended in the audit reports as they know there will be no action against them if they just ignore it.

It is an open secret that auditors are wary. They issue the disclaimer “fraud is not our responsibility”. Now the PAA gives the AG responsibility to look at pointers to fraud –

---

<sup>3</sup> See <https://www.nao.org.uk/about-us/our-work/history-of-the-nao/>

<sup>4</sup> The AG does not know Parliament! Members, told there are 3 certificates of debt will respond differently. They will ask why there were only three? Nothing more.

which is always complex, by its nature – if we come across material irregularities during the audit.

The beauty of the Act is that we don't have to wait for a whistle-blower. We can go [ourselves whenever the audit results show that there are weak internal controls that could allow fraud] and this will work in favour of the public purse. We go further than the fair presentation of public finances. We say if the environment has been tested for fraud possibilities. If material irregularities are identified, these might be that there is no audit evidence for the proper expenditure of R2 million. Auditors can now say there is a mechanism to stop material irregularities. There is a process to get money back if it was paid without required evidence. Auditors will make specific recommendations to refer material irregularities to an investigative body, such as the Special Investigations Unit.<sup>5</sup>

The AG explained the process required before a Certificate of Debt is issued (I may have missed some aspects, it is set out in the PAA and its regulations – See *Bulletin 02*). If, after being made aware of material irregularities, an accounting officer fails to act, the AG will tell them that issuing a certificate of debt is being considered. Principles of natural justice require a fair process. So a **material irregularities committee** has been set up, independent of the AG, to recommend whether a certificate of debt should be issued. The person will fight back on the process or on matters of fact. The independent committee will look at the AG's case and the accounting officer's case or response. The committee will then make a recommendation to the AG on whether the AG should proceed to issue the certificate of debt or not.

The process is used as an inducement to activate the accounting officer towards transparent financial discipline. It is a written notification in which the AG will set out the issues. The accounting officer has 20 working days in which to respond. It is a matter of high risk for an accounting officer to ignore a notice about material irregularities.

If the auditors make 10 recommendations and nothing has happened, the auditors will be in trouble!

If an accounting officer has R20-billion to spend, say on a major infrastructure programme, they need to fortify the environment in which the money is spent to minimise the possibility of material irregularities.

The AG believes that we won't see results from the expanded mandate immediately – it may take 24 months – but in the long term, [the PAA and its amendments should have a major impact.]

**Bruce** asked whether the AG had concerns about the independence of the AG in practice. Staff have experienced intimidation and interference with their audit work. How do you address this?

The AG remarked that these incidents took prominence as the amendments to the PAA were accelerating and as our tools of scrutiny started to stretch into new areas. The vigilance of audits has been sharpened over the years. Accounts that in the past were never reconciled are

---

<sup>5</sup> The AG could do this in the past of course, but the PAA amendment requires the investigative body to make a report back to the AG on progress. This follow-up requirement is new {check which section} – it was referred to by Jan van Schalkwyk.

now under deep scrutiny. People were saying “These audit findings will make me lose my bonus – or even my job.” They tried to use hush-hush intimidation – sending unsolicited messages to audit teams when they arrive at the audit office. The staff open a strange envelope and find (as they did in PE) a press report [with stories about corruption and the murder of a city official]. The most daring incident was at Emfuleni (BnB incident) which was reported to the Mayor and the accounting officer [by the AG?].

The Ghana Audit Service<sup>6</sup> pioneered the concept of the certificate of debt in government auditing. They use the language of “surcharge” and “disallowance of expenditure” by auditors. This came from an old provision in the law which was activated when citizens wanted push-back in 2016. This approach has already changed things in Ghana. It is a strong instrument but it needs to be protected so people won’t take it lightly.

**Bruce** commented that the AG has said he has a good relationship with Parliament.

[The AG agreed but said that ] some silly things have come out. You give a presentation and [the Members] ask what are *you* (the AG) going to do about it. Now we are trying to make [clear that it is] *their* problem.

We are also human. We do get our fingers twisted when we present a difficult report. But we have standards, oversight and supervision. We have technical teams that give advice on what is the appropriate audit opinion. The opinion is never the ‘view’ of one person, it is the result of a process with multiple teams with different members. It is hard for one person to make an audit conclusion go away.

**Bruce** said that this expressed a positive reflection of the title of our project “checks and balances”.

The AG said that the AG has a staff of 3,500 all over the country. No less than 700 are chartered accountants. There is no other institution in the public sector that can boast that number of professionals. All of them have signed a code of professional conduct. [This can stand them in good stead] for the next 30 years of their careers [so they would not accept bribes or inducements because this could jeopardise their professional status.]

The culture of the whole office projects a mood that is proactive and responsive if someone tries to get an audit team to change an opinion. Auditors are the first to raise a flag when ethical issues are raised and [outside] people try to change audit opinions.

[MN query, not asked properly, does the PAA take any responsibility away from Parliament? Does Parliament have less of a role now – or is it a different role?] **Martin** stated that the AG had said that the PAA amendments will motivate accounting officers to act properly, but they will not take responsibility away from Parliament.

The AG said he hopes and prays this will be the case. If a management system has not invested in preventative controls [there will be problems]. [Our systems are in the joint] hands of accountants, Parliamentarians, and other stakeholders. Together they have a whole suite of preventative controls available. Some are technical. If you supervise the controls well, the system will run well and there will be no need to all these repeated investigations.

---

<sup>6</sup> <https://ghaudit.org/web/>. Search for the “Special Audit Report of the Auditor-General on Disallowance and Surcharge” of 30 November 2018.

More emphasis from all stakeholders on the value of [internal, preventative] controls will help.

The AG has proceeded in stages. It piloted [the expanded mandate (?)] in 9 municipalities last year and there will be 59 this year. In the PFMA it will be applied to 16 entities to start with, rising to 70% [of auditees] in 2020. They started slowly, but they have done training on how to apply methods.

We will see these matters being dealt with. The AG is looking forward to watching the first certificate of debt on TV { Mr Makwetu's seven year term as AG ends in November 2020 }

He advised us to follow the AG's appearance at the Zondo Commission at the end of August.

The meeting ended after 65 minutes at just after 11am.

*I have not been able to identify clear "take aways" from this engagement. I was surprised at Mr Makwetu's emphasis on the expanded mandate and how this will solve the problems. Jan van Schalkwyk had a supportive view of the AG and the preventative nature of the expanded mandate, but he opened more of a role for Parliamentary action in his interview. Maybe it is just a matter of emphasis, not substance?*

This was **Martin's Big Question** - which I could not ask because sociologist Kimi covered it at the outset:

Budgetary Review and Recommendation Reports (BRRRs) often repeat the recommendations of the AG in the audit reports.

(They do include a lot of committee recommendations also – which I was not going to say).

To a degree, Parliament can say it does its job. It does try to hold the Executive to account—by its own BRR Reports.

These are then most often ignored by the Treasury, the department and the executive.

Do you have a view on what Parliament could do to ensure that *its own recommendations* are applied by the executive?

[Refuse to pass the budget; have public hearings ... both steps that put severe penalties on politicians' career paths]

The AG said:

“The crux of the problem however is what process do those resolutions get subjected to after they have been tabled? Not much follow-up is seen, even if a resolution calls attention to cumulative irregular expenditure of billions of Rands. Is the National Assembly an effective instrument?”

And I did not have the mental capacity to process this and ask the question without it sounding like I had not been listening!

## References

Ghana Audit Service [Internet] <https://ghaudit.org/web/>.

Ghana Audit Service (2018) *Special Audit Report of the Auditor-General on Disallowance and Surcharge*. 30 November [NOT SEEN YET]

National Treasury: *Guide for Accounting Officers - Public Finance Management Act*. October 2000. Available at: <  
<http://www.treasury.gov.za/legislation/pfma/guidelines/Accounting%20Officers%20Guide%20to%20the%20PFMA.pdf>>. Accessed 7 July 2020

Note by Martin Nicol, 0825549880, [mnicol@web.net](mailto:mnicol@web.net) draft 08 July 2020  
—awaiting reactions from Bruce and Moira!

*This is an unverified note compiled after the discussion. Anything in square brackets is not from the discussion, but added by me in interpreting the sense of the issue. This note and the other Project Bulletins are for internal IFAA use in assembling themes and perspectives for the planned stakeholder consultation. They are not intended for any other use.*

## List of internal AG Project Bulletins

- AG Project Bulletin 13. 07 July 2020 [Interview with Auditor General: Mr Kimi Makwetu]
- AG Project Bulletin 12. 26 June 2020 – revised 8 July [Checks, in theory – balances, not really: What the devil do we do? IFAA brief for a consultative meeting with informed colleagues – mainly from civil society on 28 July 2020]. – *DRAFT BEING FINALISED*
- AG Project Bulletin 11. 02 June 2020 [Interview with Jan van Schalkwyk, AGSA]
- AG Project Bulletin 10. 30 April 2020 [Notes from a conversation with Michael Acres]
- AG Project Bulletin 09. 16 April 2020 [Notes from a conversation with Murray Michel]
- AG Project Bulletin 08. 07 April 2020. [Parliament is an unlikely champion of the Auditor General]
- AG Project Bulletin 07. 19 March 2020. [MN Reflection on Parliament's lack of effective response to the intimidation of AG staff in Nelson Mandela Bay in November 2019 and on 18 March 2020 *City Press* article by Kimi Makwetu: *How SA can rid itself of wasteful, fruitless, unauthorised and irregular expenditure*]
- AG Project Bulletin 06. 29 March 2020 [Interview with Mr Wessel Pretorius, champion of the independence of Auditors General, 17 March 2020].

- AG Project Bulletin 05. 16 March 2020 [Notes from our Interview with Mr Mkhuleko Hlengwa MP, Chairperson of the Select Committee on Public Accounts (SCOPA)]
- AG Project Bulletin 04. 13 March 2020 [Reflection on AGSA 100 year legacy book]
- AG Project Bulletin 03. 10 February 2020 [Reflection on SCOPA's efforts to have former Prasa board members declared delinquent directors under the Companies Act]
- AG Project Bulletin 02. 12 November 2019 [Draft discussion paper - Auditor General project: Improving governance in South Africa: What checks and balances are missing?]
- AG Project Bulletin 01. 31 October 2019 [list of the relevant legislation related to the role of the Auditor General w r t reporting to Parliament; example of the information on AGSA reports on departments that is summarised by Parliament for the information of SCOPA]