

ACCOUNTABILITY IN GOVERNANCE

A Comparative Study of Athenian and Ghanaian Institutions of Accountability

BY



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DECLARATION

I declare that, apart from the works cited and acknowledged, this thesis is the result of my own research, and that it has neither in part nor in whole been submitted for any degree elsewhere.

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ABSTRACT

The ability of citizens to scrutinise officials is a long-standing power, and central to the strength of democracy. Consequently, it is of critical importance to the well being of any society, and the individuals who are a part of it, that their government, and the people who manage it, are held highly accountable for their actions or, in some cases, their failure to act, since this helps to minimise human deprivation and corruption. For ancient Athenians, making officials accountable through strengthened institutions of public accountability -- such as the *Heliaia* (the popular tribunal or the supreme court of the land), the *dokimasia* (an investigative body constituted either by the *boule* or in the *heliaia*, to test whether a man was formally qualified to hold an office), the *euthyna* (the body that examined the accounts of every public official), the *boule* (the popular council or the council of citizens appointed to run daily affairs of the city) and the *ecclesia* (the principal assembly of the Athenian democracy) -- was the key to good government. This thesis concentrates on the systems and procedures two institutions of accountability in the oldest established democratic government in the world (Athens), the *dokimasia* and the *euthyna*, and attempts to establish a correlation between the two institutions of accountability aforementioned with two institutions of accountability for public officials (the appointments committee of parliament and the audit service) in one of the first country to achieve independence in sub-Saharan Africa (Ghana).

The *euthyna* was the companion of the *dokimasia*. *Dokimasia* and *euthyna* were ways of ensuring the proper public behaviour of politicians. The *dokimasia* was an obligatory procedure by which a jury checked that those voted in or drawn by lot for a particular official position were entitled to hold it. The *euthyna* occurred at the end of the official's tenure, and was compulsory for all citizens elected or allotted to perform public duties, bar jury members. The procedure of *euthyna* came in two parts. First, there was a financial audit to ensure that the official had not embezzled money (*klopê*), or accepted bribes (*dora*). Second, the official faced investigation in the open agora, at which any citizen who wished (*ho boulomenos*) might bring forward accusations of neglect of duty or improper use of power. An in-depth study of the appointments committee of parliament and the audit service of the present Ghanaian democratic dispensation reveals that these state institutions of accountability share some similarities and dissimilarities with the *dokimasia* and the *euthyna*, respectively, of the ancient Athenian democracy. The backgrounds of the Athenian and the Ghanaian societies also concede that these institutions of public accountability under the democratic governance of Athens and Ghana have lessons for each other. This raises the important question of what enduring lessons can be derived from the Athenian experience for advancing the emerging democratic culture in Ghana.

DEDICATION

This work is dedicated to:

Emmanuel Kofi Ackah and J Adekannbi

who helped me enormously

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For all people will walk, everyone in the name of his god, but we will walk in the name of the Lord our God forever and ever.

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CHAPTER ONE

Introduction

1.0 Background of the Study

The concept that no magistrate is above the law was a major tenet of Greek political theory and practice. For the men of ancient Athens (hereinafter Athens), to have officials accountable was the key to responsible government. Unaccountability meant lawlessness (Roberts 1982:6). Hence, one of the numerous ways which helped the Athenians in ensuring that magistrates avoided this lawlessness was to hold them accountable and to subject their conduct to a formal process of review. Thus, in the fifth and the fourth centuries, the democratic government of Athens used numerous legal institutions to work, in diverse ways, to publicly regulate the behaviour of all magistrates. These measures went a long way to ensure that public officials maintained *εὐνομία* (*eunomia*—good order).

Modern scholars on the development of accountability in ancient Greece have focused on democracy's ascent in Athens from the fifth century B.C.E. onward (Roberts 1982:4-5; Ober 1989:392). Roberts opines that "the principle of accountability was closely tied up with that of democratic government" (Roberts 1982:79,). The operating assumption of this scholarship is that accountability is a product of democracy. Dornum, however, has used archaic (750 to 500 B.C.E) Greek literary texts to demonstrate that accountability, rather than being a creation of classical (500 to 300 B.C.E) democracy, predated democracy as a political and cultural value by several centuries in Athens (Dornum 1997:1484). He claims that accountability of officials, irrespective of the period in

question, can be seen as a feature of good governance in any form, whether it is monarchical, aristocratic, oligarchic, tyrannical or democratic.

Since the term “governance”, from the Australasian Council of Auditors-General’s (ACAG) viewpoint, is about the manner in which power is exercised in the management of the state's affairs, accountability becomes an indispensable concept in statecraft. The inadequacy of accountability resulting from weak institutions of state and bad governance has been some of the major causes of human deprivation in developing countries. Some academics and policymakers now readily accept that good governance and accountability are necessary preconditions for successful economic development (Ackerman 2004:447) Although economic development is not attained on a silver platter, the picture below demonstrates the need for public institutions to put state officials in check to ensure that the nation’s resources are used for the betterment of the citizenry.

Inadequate institutional mechanisms for ensuring and encouraging accountability leads to human deprivation and inadequate income and deny a section of the citizenry basic necessities of life such as food, clothing, shelter, health, education and other services. Since there are different classes of poor people—subsistence farmers, landless labourers, urban squatters, slum dwellers, for example—reasons for their deprivation are different. In the case of the rural poor inadequate access to land, irrigation, agricultural extension services and adequate pricing for the agricultural produce are key reasons for their poverty. The urban poor, however, have different concerns. For them, living in slums and squatter settlements and inadequate employment opportunities are the key constraints to their ability to improve their living. These lapses make economic development a hard row to hoe and sometimes an illusion.

Some of the critical factors that influence the positive and negative changes in developing countries, in addition to the challenges mentioned above, are lack of democracy and good governance. Cheema (2003:13) argues that democratic governance is the most human-development-friendly system of governance because it can help to increase life expectancy, improve adult literacy and school enrolment, and raise per capita income by providing a system of government that responds to the needs of the people. When governance is democratic, it is infused with the principles of participation, rule of law, transparency and accountability, among other things. These things go a long way towards improving the quality of life and the human development of all citizens. In sum, functional accountable institutions of state can help bring about sustainable development and help reduce poverty, especially in developing countries.

It is in the challenges of national and human development that this thesis focuses on issues of democratic accountability in governance, since there is an essential link between (good) governance and accountability, and the ability to achieve sustained personal, economic and social development.

The term accountability, as related to governance, has gained widespread use in recent years. In general terms, it denotes the mechanisms through which people entrusted with power are kept under check to make sure that they do not abuse it and that they carry out their duties effectively. The importance of accountability for public officials in many current political discourses has been necessitated by the need for better stewardship to the citizenry, for limits official abuse of power and for making official action visible. Visibility, in turn, increases citizens' knowledge of, and confidence in, government; and it encourages citizen participation in government (Harrison 1993:62-88).

1.1 A Brief History of the Origins of Athenian and Ghanaian Accountability

As already indicated, the concern with ensuring that government is responsive to the governed is not exclusively a contemporary American or European phenomenon. Accountability has an ancient pedigree: as one scholar of democratic Athens has noted, "the hall-mark of the Athenian state was its concern for the accountability of its officials (Roberts 1982:4-5)."

The evolution of the Athenian democracy was as a result of several reforms which began with Draco, after the "Cylonian taint"—when Cylon attempted to take the city and become a tyrant of Athens in 624 BC. The Athenians had their first written law under Draco. There were other reforms under Solon, Peisistratus, Cleisthenes and Ephialtes and Pericles. All reforms contributed in diverse ways towards building the institutions of state that propelled the Athenian democracy for which accountability was a major player.

Through the various reforms mentioned above, Athenians created numerous legal institutions that publicly regulated official behaviour of state appointees (Roberts 1982:4-5). The Athenian experience in terms of seeking to ensure a high degree of public accountability of its government officials was very substantial and goes back to the origins of the state around the eighth century B.C.E. Thus, the Athenians were obsessed with keeping their officials legally accountable for their actions in office (Dornum 1997:1484). The obsession, coupled with suspicion of defective behaviour of elected, selected or appointed official(s), the citizenry were constantly concerned that those in authority or those at the helm of everyday affairs of the state might overstep the bounds of their circumscribed political and financial responsibilities, hence, all procedures of

state activities allowed participation by a broad group or sometimes the entire citizenry (Roberts 1982:6-7).

The Athenians strove towards accountability by developing stringently regulated procedures for the control of all officials. Elections by *χειροτονία* (secret ballot) were considered potentially undemocratic, since they favoured those with demonstrated ability; accordingly, the vast majority of public officials at Athens were selected by lottery (Aristotle, *PolEitics* 1273b40-41) for one-year term, (Roberts 1982:6) non-renewable, but for the office of *στρατηγός* (*strategos*—the board of ten generals, one elected from each of the *φυλαί*, tribes, who led the military forces of the state and served as respected political advisors). The elected offices, as mentioned earlier on, worked collaboratively on executive boards, not individually. Similarly, the most significant court cases were decided by juries consisting of hundreds of Athenians, selected at random from a pool of 6,000 potential jurors each year. The potential monopolisation of resources by a few, whether political, economic, or judicial, was thus slim (Aristotle, *Ath.Pol.* 63-65). Likewise, executive boards were tasked with explicit charges by the *δῆμος* (*dēmos*—in Athens, all able-bodied adult male citizens of 18 years or more); although they might have a certain amount of discretion in how they fulfilled their charge, the members of a board nevertheless tended to have effectively little discretionary power of their own.

Finally, the Athenians heavily legislated on bribery, creating no fewer than six legal processes for prosecuting gift or the receipt of bribes, whether generally or involving specific officials in specific contexts (Conover 2009:3). By modern standards, the penalties attached to these laws—a tenfold fine, disfranchisement, or death—would be considered extreme and, one might imagine, effective deterrent. Athens had no formal

public prosecutor; private citizens were responsible for charging officials with misconduct or crimes against the state (Ostwald 1986:209). Again the Athenians possessed a variety of legal resources to prevent an unqualified individual from becoming an official, to obtain redress for any malfeasance of a public official in office or simply to remove offending official from his post. These methods included the accusations against the magistrate at his *δοκιμασία* (*dokimasia*—scrutiny or an audit of their fitness to serve); depositions by the *αποχειροτονια* (*apocheirotonia*—in Athens, rejection by show of hands) (Ostwald 1986:209); impeachments by *εσαγγελία* (*eisangelia*—impeachment, usually entailing the accusation of grave wrongdoing); and the accountings of an institution known as the *εὐθύναι* or *εὐθυνή* (*euthynai* or *euthyne*—an annual assessment of outgoing magistrates).

Before any official could assume his chosen post, he had to undergo a comprehensive examination of his legal qualifications and personal probity: the *δοκιμασία* (Sinclair 1988:77). Ten times during the year, each official might be deposed from his office by a vote of the *ἐκκλησία* (*ekklesia*—was the regular gathering of male Athenian citizens), called *αποχειροτονια*. At the *ἐκκλησία* of each *δῆμος* executive committee officials presented reports, and their conduct was reviewed. The floor would then be opened to complaints from any citizen. If the *ἐκκλησία* was satisfied with the way in which the officials were conducting their duties, a citizen would make a motion to enter a vote of confidence in the officials. If any official did not receive a vote of confidence, he was deposed from office; a deposed official did stand accused, and would receive a jury trial. If acquitted, the official would resume his office.

An official could also be indicted by the procedure of *ε σαγγελία*, which usually entailed an accusation of grave wrongdoing (Roberts 1982:15). A complaint might be lodged by *ε σαγγελία* not just against officials, but also against any citizen whose actions gravely compromised the welfare of the state. If a complaint by *ε σαγγελία* was brought to the meeting of the *ἐκκλησία*, the case would be tried either by the *ἐκκλησία* or by a jury.

The combination of multiple rotating offices with a comprehensive programme of scrutiny was designed to ensure that political power would remain in the hands of the people (Sinclair 1988:68-69). It is difficult to ascertain exactly how frequently the Athenians employed this elaborate machinery of accountability. In fact, these Athenian legal institutions of accountability, by including the whole citizenry and imposing stringent regulations, did preserve democracy (Roberts 1982:7; Sinclair 1988:69). These legal institutions ensured that officials "would take care to follow the policy of the people, whatever it might be, thereby maintaining the democratic government which the Athenians had chosen over all other constitutions" (Roberts 1982:179).

The Ghanaian situation is quite different. Ghana was the first sub-Saharan country in Africa to gain independence from colonial rule. Africa and the rest of the world followed the creation of the new state with high anticipations. After a little over three decades of both civilian and military rule with its consequent excesses, Ghanaians looked forward to multiparty democracy in the early 1990s. Ghanaians were encouraged by the touted benefits of material progress, guaranteed universal freedoms and economic freedom under multiparty democracy. The elections held in 1992 in Ghana crystallised the desire of Ghanaians to return the country to a constitutional rule, and to be governed by a democratically elected government.

Because of the country's historic concerns with public accountability, virtually all levels of government in Ghana have developed a variety of institutional structures that are designed to encourage openness, citizen participation and public accountability. Accountable governance also requires the creation and sustenance of a variety of cross-cutting institutions and processes. Hence, the present Ghanaian democratic dispensation (January 7, 1993—January 7, 2010) of Ghana has spelled out how the citizenry should be governed and how the governed can hold the governor accountable in the Constitution. Thus, public officials will often be under a formal obligation to render account on a regular basis to specific public agencies such as supervisory boards, courts, or auditors. In the event of administrative deviance, policy failures, or disasters, public officials can be forced to appear in administrative or penal courts or to testify before parliamentary committees.

The challenge of strengthening public accountability through the institutions of state which remained a conundrum under unconstitutional regimes has been checked under the present democratic dispensation. The present Ghanaian constitutional regime requires that power should be commensurate with responsibility and the holders of public office should be accountable to the people for the exercise of authority. It again defines accountability as the requirement to record, report, explain and justify actions to a superior officer, to the government, to parliament, the public accounts committee of parliament, or to the public. Towards achieving these objectives, the Constitution has spelled out the code of conduct to be observed by public officials in carrying out their legitimate duties (Articles 284-287).

1.2 Statement of the Problem

The centrality of issues of public accountability to any discussion of ancient and contemporary governance cannot be overemphasised. One way to ensure that magistrates obeyed the laws of Athens, around the fifth and fourth centuries, was to hold them accountable and to subject their conduct to a formal process of review.

Elsewhere in the world, the achievement of accountability in government has been mixed. Whereas many democratic countries have moved decisively to reduce corruption and introduce concepts of accountability, many other countries remain mired in dictatorship and crime. Corruption and the lack of accountability have been some of the important factors in world events, especially, in governance systems. It is equally important to point out that accountability is different from performance. In sum, accountability involves performance of responsibilities and commitments regularly communicated to those on whom the organisation or the state has an impact and to enable their participation in identifying issues and finding solutions.

Inadequate or lack of government accountability undermines all forms of governance, especially democratic governance, and gives rise to cynicism and mistrust. Since accountability challenges face every government administration, it is obviously useful to explore the experience of Athens and Ghana with different means and approaches to holding public officials accountable to the citizenry.

In the light of the above this thesis concentrates on two institutions of accountability in Athens and two institutions of accountability in Ghana to demonstrate that they have strengths and lapses in procedures of accountability, which when addressed, could advance accountability in governance.

1.3 The Scope of the Study

The ambit of this comparative work is to present a balanced view of how accountability functions as part of political life. It will concentrate on the mechanisms of two public institutions, each, in Athens and Ghana. The first is that of the Athenian State in the Classical period and the approaches and procedures which it established to ensure that public officials remain accountable to its citizenry. The Classical period corresponds to most of the 5th and 4th centuries BC (the most common dates being the fall of the last Athenian tyrant in 510 BC to the death of Alexander the Great in 323).

The Athenian case is of interest in this regard since it was the oldest established government in the world that was created as a result of the discontentment of its citizenry, and the desire to limit the aristocratic government. The thesis will broadly sketch Athenians' history from the sixth to the fourth centuries B.C.E., with particular attention paid to the fifth and fourth century's Athenian legal institutions of accountability. Then, these would be narrowed down to the *δοκιμασία* and the *ἐθουλή*. Under these two institutions, the focal point will be on the mandates and procedures employed by these state institutions in discharging their duties to the benefit of the citizenry.

The second case examined comes from Ghana. It is equally interesting in that Ghana has undergone transformations from having oppressive systems of governance to possessing a quite, lively and flourishing, though not perfect, democratic system. After becoming the first country to achieve independence in sub-Saharan Africa in 1957, Ghana's political history entails a series of alternations between authoritarian and notional democratic rule, with three periods of elected government and three of military rule between 1957 and 1992. With the exception of the First Republic under Dr. Kwame

Nkrumah, the interludes of civilian government under the Second (1969-72) and Third Republics (1979-81) have been short-lived, unable to endure for longer than 30 months (Crawford 1993:3).

Under the Ghanaian situation this work focuses on a concise political history from pre-colonial era to the Fourth Republican Constitution—from 1810-2010 AD. This time frame is important because the Athenian democratic dispensation ran for about two hundred years BC; this gives the researcher a sound basis for comparison. This work identifies the contributions of all the regimes towards accountability with emphasis placed on institutions of accountability. The focus is then narrowed down to the Appointments Committee of Parliament and the Audit Service of Ghana. It provides an excellent sense of how and the extent to which systems and institutions of public accountability can be rapidly established in a society in transition.

1.4 Significance of the Study

Since the purpose of academic research is to gain a better understanding of and/or perspective on a certain subject, this work is grounded in the understanding that tackling the core challenges associated with democratic development will require the transformation of the structures, processes and accountability mechanisms associated with governance. Hence, this research is of significance to the domain of political accountability, as it will extend the knowledge base that currently exists in that field. It will also contribute to the body of literature on accountability.

Finally, this research will help advance democratic governance, because it will explore the advantages of having stronger accountability institutions, and this will help to raise

awareness among those who are in government. The findings which have resulted from the study of the chosen institutions have the capacity to impact upon the method by which public officials are scrutinised before and after they leave office.

1.5 Purpose of the Study

The purpose of this study is to address the challenges of institutions of public accountability under democratic governance in Athens and Ghana. This work attempts to explain the relationship between accountability and governance; and how the two work together towards human development.

The study will examine the institutions of *δοκιμασία* and the *εὐθυνή* in Athens into details and bring to limelight how these institutions worked to achieve accountability in Athenian society; it will identify the strengths as well as the limitations of these institutions. It will proceed to throw more light on what these Athenian institutions could have done differently, learning from their Ghanaian counterparts and how these lessons could have transformed their institutions of accountability.

The Audit Service of Ghana and the Appointments committee of the Parliament of the Republic of Ghana have their strengths and weaknesses as well. These two institutions of accountability, like the *δοκιμασία* and *εὐθυνή*, play important roles in controlling the behaviour of public officials. When the similarities and the differences between these institutions are clearly drawn out, it will give Ghanaians the opportunity to also identify what lessons they can draw from the Athenians to help sharpen their accountability institutions.

1.6 Limitation of the Study

Though the institutions and mechanisms of accountability are many and varied, this research concentrates on *δοκιμασία* and *εὐθυνή*, two institutions of accountability in Athens in the classical period. The reason for limiting the work to these institutions is that the mechanisms that these institutions subject public officials through open avenues for the citizenry to hold their leaders accountable. These would be compared with the workings of the Appointment Committee of Parliament and Audit Service under the fourth Republican Constitution of Ghana. These institutions were chosen because they have some resemblances with their Athenian counterparts.

There are two noteworthy limitations of this study that need to be acknowledged and addressed. The first limitation concerns the scope of accountability in Athens and Ghana covered in this research work. Although Ghana has a broader scope, in terms of the number of state institutions, of ensuring accountability than Athens, the scholarly works such as books, articles, journals, magazines and other published materials on Athenian institutions of accountability far outstrip what has been done on Ghanaian institutions. Hence, there was great difficulty in gathering enough materials for the accountability institutions in Ghana.

The second limitation has to do with the extent to which the findings could be generalised beyond the studied institutions. The number of institutions of accountability in Athens was too limited for broad generalisations. Accountability cannot be said to exist in situations where judgement and sanction do not operate. The need for sanction arises because it is in the general interest that useful actions be encouraged and their opposite discouraged. Application of sanction to acts of authority forms part of the

conditions essential for accountability. However, the institutions of state examined by this thesis do not have the power to sanction people they found culpable, they only recommend what should be done to another body to take action.

1.7 Research Methodology

This research is conducted in order to determine the contributions of state institutions of accountability to democratic governance from Athenian and Ghanaian perspectives. The descriptive and qualitative methods of research were used for this study.

The research was based on primary and secondary sources by the following authors: Aeschines, Aristotle, Demosthenes, Solon and Pindar; the rest are R.K. Sinclair, Jennifer Tolbert Roberts, Josiah Ober, J.B. Bury and others. Historical works as well as journals and periodicals that deal with accountability and institutions of accountability and governance were also used. Finally, internet materials, especially JSTOR, were also used.

Chapter one, which includes this section, identified the various essential links between governance and accountability and briefly examined how these concepts contribute to achieving sustained economic and social development. It also talked about the beginnings of Athenian and Ghanaian pasts and the roles of these past political systems on accountability.

The second chapter takes a detailed look at the various literatures on accountability and governance. The terms "accountability and governance" mean different things to different people. As the ethos, experience and interests of people vary, so too do their perceptions of what constitutes accountability or governance. Among the many

definitions of "accountability and governance" that exist, the one that appears the most appropriate from this thesis' viewpoint is clearly established.

Chapter three follows with the histories of the development of democracy in Athens and in Ghana. This chapter establishes a historical and political background of Athens and Ghana. The emergence of the Athenian *δημοκρατία* (*dēmokratia*—democracy or popular government) and the emergence of the rule of law are well discussed. The key event for the beginning of *δημοκρατία* is the evolution of tyranny at the end of the sixth century, followed by the reforms of Cleisthenes. However, only with the removal of the Areopagus' accrued powers under the reforms of Ephialtes did *δημοκρατία* fully emerge. The *δῆμος* then had the necessary and sufficient control over its own affairs to become truly democratic. Nevertheless, leaders such as Pericles continued to derive power from traditional leading families, creating a useful dialogue between mass and elite. After the death of Pericles, a new breed of politician emerged who took the Cleisthenic route of ignoring political cliques and appealing directly to the desires of the *δῆμος* in a much more explicit fashion.

Ghana also went through similar transitions before attaining a stable democracy. Before her democracy, the various tribes in Ghana were ruled by their chiefs and kings. The British, after some wars with the various tribes, especially, the Asante, united the tribes under the banner of Gold Coast. After independence, the name was changed to Ghana. The nation Ghana also went through turbulent times before it returned to democratic rule in 1992. The loopholes in the various forms of governance helped to build the institutions of accountability.

Chapter four takes a detailed look at the Athenian *δοκιμασία* and the Ghanaian vetting of state official. These two institutions of accountability— the *δοκιμασία* and the vetting by the Appointments Committee of Ghana’s Parliament—ensure that people elected or appointed to hold public office are scrutinised before they assume duty. These checks or examinations help to know the background of people, and also put people with certain ambitions on alert.

The focal point of Chapter five, the *εὔθνη* and audit of Athens and Ghana, respectively, is a discussion of the procedures for maintaining control over officials during their terms of office and after they leave office. Many kinds of magistrates in Athens were subject to this kind of control, but those involved in financial matters underwent the most scrutiny. In Ghana, the Audit Service of Ghana undertakes detailed audit of all public officials, at least once in a year, to ascertain their financial propriety or otherwise.

The last chapter, chapter six, analyses the similarities and the differences between the institutions under discussion. In this case the comparison is between *δοκιμασία* and vetting, on the other hand, and *εὔθνη* and audit on the other. As a concluding chapter, it expresses opinion on the strengths and deficiencies of the institutions in focus.

Chapter Two

Literature Review

2.1 Introduction

The word “accountability” is derived from late Latin “*accountare*” (to account), (Oxford English Dictionary 2nd Ed.) a prefixed form of “*computare*” (to calculate), which in turn derived from “*putare*” (to reckon) used in the money lending system developed in Ancient Greece and Rome. The greek word 'υπεθυνότητα', meaning accountability (Liddle and Scott's Greek-English Lexicon) is a concept in ethics and governance with several meanings. It is often used synonymously with such concepts as responsibility, answerability, blameworthiness, liability and other terms associated with the expectation of account-giving. Accountability is the acknowledgement and assumption of responsibility for actions, products, decisions, and policies within the scope of the designated role (Weber 2009:154). In this review five types of accountability are generally recognised: organisational, political, legal, professional and moral/ethical. Each type of accountability has its own methods of working.

2.2 Defining Accountability and Governance

The concept of accountability is not new. Public expectation of the need for auditing of official expenditure, one form of accountability, was evident in Athens as long ago as 400 BC (Bergman 1981:53). Since accountability is a pervasive concept encompassing political, legal, philosophical and other aspects, each context casts a different shade on the meaning of accountability. However, one sense of ‘accountability’, on which all are agreed to, is that associated with the process of being called ‘to account’ to some authority for one’s actions (Jones 1992:73). Indeed, this sense may fairly be designated

the original or core sense of 'accountability' because it is the sense with the longest pedigree in the relevant literature and in the understanding of practitioners (Finer 1941: 338; Thynne and Goldring 1987:8).

The term is often used synonymously with concepts of transparency, liability, answerability and other ideas associated with the expectations of account-giving. As a consequence, various factors involved in discussions on accountability often have different perceptions of this concept. The literature on accountability reflects these many different perspectives. Discussion tends to focus on one or other element of accountability, and this has influenced the course of the debate on accountability.

In politics, accountability is used as a synonym for many loosely defined political desiderata such as good governance, transparency, equity, democracy, efficiency, responsiveness, responsibility, and integrity (Behn 2001:3–6; Mulgan 2000:555). In leadership roles, accountability is the acknowledgment and assumption of responsibility for actions, products, decisions, and policies including the administration, governance, and implementation within the scope of the role or employment position and encompassing the obligation to report explain and be answerable for resulting consequences.

In the context of a democratic state, the key accountability relationships in the core sense are those between the citizens and the holders of public office and, within the ranks of office holders, between elected politicians and bureaucrats. Core accountability has thus commonly covered issues such as how voters can make elected representatives answer for their policies and accept electoral retribution, how legislators can scrutinise the actions of public servants and make them answerable for their mistakes, and how

members of the public can seek redress from government agencies and officials (Mulgan 2000:556).

But more recently, in academic usage at least, ‘accountability’ has increasingly been extended beyond these central concerns and into areas where the various features of core ‘accountability’ no longer apply. For instance, ‘accountability’ now commonly refers to the sense of individual responsibility and concern for the public interest expected from public servants (‘professional’ and ‘personal’ accountability), an ‘internal’ sense which goes beyond the core external focus of the term.

Secondly, ‘accountability’ is also said to be a feature of the various institutional checks and balances by which democracies seek to control the actions of the governments (accountability as ‘control’). Thirdly, ‘accountability’ is linked with the extent to which governments pursue the wishes or needs of their citizens (accountability as ‘responsiveness’) regardless of whether they are induced to do so through processes of authoritative exchange and control. Fourthly, ‘accountability’ is applied to the public discussion between citizens on which democracies depend (accountability as ‘dialogue’), even when there is no suggestion of any authority or subordination between the parties involved in the accountability relationship.

One of the reasons for these varied definitions is that in both political discourse and scholarly debates, various concepts of accountability are used interchangeably.

2.2.1 Bovens’ Definition

According to the analysis of Bovens, accountability can be defined as a social relation in which an actor feels an obligation to explain and to justify his or her conduct to some

significant other. This is a widely accepted, generic, non sector-specific definition that can be adopted in a broad range of social contexts. That simply defined relationship contains a number of elements in the process of the account-giving. It includes an individual or organisation that needs to render an account to its stakeholders (Bovens 2010:946).

2.3 Types of accountability

In classifying types of accountability, five main types are outlined and their functions and limitations examined. In doing this, it is equally important to discuss the key elements and stages of accountability processes. Research and professional literature provide several types of accountability. These include administrative accountability, professional accountability, moral accountability, political accountability, market accountability, legal accountability and managerial accountability (Rhodes 1988:404). The criteria used to distinguish between these types are based on (i) the form of accountability relationship between particular actors and (ii) the type of data required by these actors to make informed judgements about conduct. These types of accountability each have their own strengths and blind spots. The five types of accountability discussed below are the most commonly agreed on in the literature.

2.3.1. Organizational accountability

The first and most important accountability relation for public managers is organisational. Organisational or bureaucratic accountability is the most common form of accountability publicly administered in services. Under this type of accountability, the

superiors, both administrative and political, will regularly, sometimes on a formal basis, such as with annual performance reviews, but more often in daily informal meetings, ask subordinates to account for their assignments.

This usually involves a strong hierarchical relationship and the accounting may be based on strict directives and standard operating procedures, but this is not a constitutive element (Bovens 2000:187). It is worth noting that even when actors have a considerable amount of autonomy in their conduct, they may still feel the pressures of organisational accountability.

2.3.2 Political Accountability

Political accountability is exercised by elected and appointed politicians and is mainly about achieving democratic control. The mechanisms of political accountability are implemented in three dimensions: (1) election of representatives or political parties, (2) ministerial, when accountability is implemented indirectly through ministers that are held accountable for every affair in their ministry, and (3) legislation expressed in constitutional or other equivalent documents. Because political agendas and norms are often fluid and of ambiguous character, political accountability assessments are commonly contestable and contested (Bovens 2000:187).

2.3.3 Legal Accountability

It is the type of accountability where public managers can also be summoned by courts to account for their own acts, or on behalf of the agency as a whole. Legal accountability usually will be based on specific responsibilities formally or legally

conferred on authorities. Therefore, legal accountability is the most unambiguous type of accountability as the legal scrutiny will be based on detailed legal standards, prescribed by civil, penal, or administrative statutes, or precedent.

2.3.4 Professional Accountability

Professional accountability focuses on conformity to standards and codes of conduct for professional behaviour, checked by peers, through their professional institutions. Professional bodies lay down codes with standards for acceptable practice that are binding on all members. These standards are monitored and enforced by professional bodies of oversight on the basis of peer review. This type of accountability relation will be particularly relevant for public managers who work in professional organizations, such as hospitals, schools, police departments, or fire brigades (Bovens 2000:188).

2.3.5 Moral or Ethical Accountability

Ethical or moral accountability has a central place in a professional's conduct. It is based on an accommodation between the competing requirements of individual and collective benefits. Ethical or moral accountability builds on the ordinary moral responsibilities of people as citizens in a civil society and on the established ethical obligations and rights internalised by individuals. Ethical or moral accountability is driven by internal values and often linked to an external code of conduct and formalised by a professional organisation.

The main difference between ethical or moral and professional accountability is the degree to which it has been incorporated in the official standards. While professional

accountability is binding on members of professionals associations, ethical or moral accountability relies on an informal code of proper conduct (Ferlie et. al. 2005:189).

2.3.6 Limitations Associated with the Accountability Types

Although accountability arrangements are intended to lead to positive benefits, too much accountability or accountability that is inappropriately exercised can have negative effects. The literature indicates that while political accountability is prone to punishing an innocent person, organisational and legal accountability carry the risk of facilitating proceduralism and perverse incentives. The blind spot of professional accountability is its lack of responsiveness to organisational or political demands, or to the needs of the service user. In addition, excessive democratic control can develop into an obsession with rules, while strong emphasis on performance improvement can lead to rigidity that fixates on one particular aspect of performance (Ferlie et. al. 2005:189).

2.3.7 Stages of Accountability Processes

Accountability is not a one off process. To be able to achieve the desired results from any kind of accountability certain processes need to be followed. The processes that are expected to be followed are in three stages. The three stages identified include defining accountability to whom and for what, informing the stakeholders, and judgement (General Teaching Council for England (*GTC*) *Research Brief 2*).

In the first stage, stakeholders define accountability requirements and agree on the scope of accountability. Actors inform stakeholders about their conduct, providing

various sorts of data about the performance of tasks, about outcomes, or about procedures (Bovens 2000:184-185).

In the next stage, stakeholders stake their claims to hold the actor to account. Stakeholders can determine their scope of this accountability by asking actors to give further details and explanations of their actions and behaviours, in order for the stakeholders to understand how the actors seek to legitimise or justify their conduct (Bovens 2000:184-185).

The third stage constitutes a judgement or a decision on the actor's conduct. When the result of the conduct assessment is positive, the actor can expect affirmation of his or her actions from the stakeholders. The consequence of a negative judgement may be the introduction of sanctions. The ultimate punishment, in cases of professional misconduct, may be dismissal and loss of opportunity to work further in the profession (Bovens 2000:184-185). The three stages of the accountability process define roles, responsibilities and relationships between actors and their stakeholders.

2.4.1 Accountability in modern societies

According to Mulgan, accountability as a word which a few decades or so ago was used only rarely and with relatively restricted meaning but now the word crops up everywhere performing all manner of analytical and rhetorical tasks and carrying most of the major burdens of democratic 'governance' (itself another conceptual newcomer) in these words:

The scope and meaning of ‘accountability’ has been extended in a number of directions well beyond its core sense of being called to account for one’s actions. It has been applied to internal aspects of official behaviour, beyond the external focus implied by being called to account; to institutions that control official behaviour other than through calling officials to account; to means of making officials responsive to public wishes other than through calling them to account; and to democratic dialogue between citizens where no one is being called to account. In each case the extension is readily intelligible because it is into an area of activity closely relevant to the practice of core accountability. However, in each case the extension of meaning may be challenged as weakening the importance of external scrutiny (Mulgan 2000:555).

Government is the most powerful institution of every society. This institutional power manifests itself in the rights embedded in the institution (that give it a legitimate right) to take away the citizens’s property, liberty and even their life. Consequently, it is of critical importance to the well being of any society, and the individuals who are a part of it, that their government, and the people who manage it, are held highly accountable for their actions or, in some cases, their failure to act (Rosenbaum 1). For this reason, there is no issue more central to good governance than accountability generally and the accountability of those in government to their citizenry in particular.

While discussing accountability and society, Ackerman (2004:448) identifies good government as one of the key components—that is the end result—of the concept of accountability in practice. He suggests that good government emerges as a result of a tough, and often conflict-ridden, process of institutional design. The principle element that assures good government is the accountability of public officials. In this work, accountability is explained to include answerability and enforcement. Naturally, some individual officials may never need institutional structures to assure their commitment to the public good but most do need it at some of the time. Ackerman emphatically states that the only way to guarantee good government is by institutionalising powerful

accountability mechanisms that hold every public official responsible for his/her actions as a public servant.

In 1997, however, Dornum undertook research into the Athenian institutions of accountability. This work employed archaic poetic texts to trace the development of accountability from the eighth to the sixth centuries B.C.E. Concentrating on one accountability institution, the "*εὐθυνή*," the author also traced the shifts in the ideology of "straightness" and "crookedness" of officials over three centuries through thematic and dictional links. He again showed the evolution of legal accountability from its pre-democratic archaic form, an informal aristocratic reckoning, to its democratic form, a stringently regulated mechanism in which the entire citizen body could participate. The work also identified the immense contributions of the *δοκιμασία* and the *εὐθυνή* towards the development of the government-enabled democracy at Athens. This work, thus, agreed with Roberts on the role of accountability but it was so much concerned with the origins of accountability, hence delved little into its strengths and weaknesses (Dornum 1997:1483-1518).

Taylor (2001), writing on accountability in Athens, concentrated on how the Athenian *δῆμος* reacted to an unsavoury feature (bribery) on their political system, both legally and intellectually. One of his principal aims was to find out the means through which direct legislation to deter and punish wrongdoers were achieved and how the preventative measures designed to make it difficult to successfully give or receive bribes yielded results. This article concentrated so much on the laws—but not the institutions—passed and used as the main instrument of checking bribery and corruption (*Greece & Rome* 154-172).

Later Conover (2009:2-3) also did some work on bribery and corruption in Athenian society. He suggested that the shift from *ad hoc* to automatic auditing or the regularisation of *εἰσθύνοι* for all magistrates can be seen as an extension of the practice developed for holding officials accountable for bribery. Above and beyond bringing justice to corrupt politicians, bribery trials played a crucial role in the development of Athenian political institutions. Perhaps the automatic scrutiny of many officials' financial accounts was thought to have successfully curbed bribery, or perhaps the Athenians wanted to ensure that officials were held strictly accountable for misconduct—either way, the recent shift from *ad hoc* to automatic auditing in order to address bribery seems to have served as a model for action.

From the above discussion there seems to be general agreement that accountability and state institutions of accountability have a relationship (for example Roberts 1982, Dornum 1997 and Conover 2009), but Taylor sees accountability as a consequence of the *ἐκκλησία* exercising its legislative prowess. While Conover (2009) sees the regularisation of the *εἰσθύνη* as justification for holding officials better accountable for bribery, Taylor (2001) opines that the annual *εἰσθύνη* provided an important arena for bribery against low level officials. This view also runs counter to that of Roberts and Dornum.

As noted at the very outset of this review, there is no issue more central to good accountable governance than insuring that those who lead and manage governments are constantly accountable by their citizenry.

2.4.2 Accountability in Classical Athens

Classical Athens was a model of democratization and development. The democracy preserved political and legal equality, fostered cooperation and collective action, and promoted public accountability. One of the hallmarks of the Athenian democracy, public accountability, arose in response to purported misconduct in office. Athenians being suspicious that their elected officials may use their offices for personal gains and cause detriment to the polis and its allies, put in stringent measures to ensure that officers did not over-step their prescribed bounds. These checks and balances on officials were embedded in their established state institutions. These institutions of state included the decision-making organs of government namely the *ἐκκλησία* and *νομοθέται* (*nomothetai*—legislators), jury-courts (*δικαστήρια*—*dikasteria*), *δοκιμασία* and *εὐθυνή*.

Despite the undisputed success of these institutions, many important fundamental problems and questions remain unanswered, especially, with the *δοκιμασία* and *εὐθυνή*. Athenian public officials were scrutinised or prosecuted according to the regular process of accountability (*δοκιμασία* or *εὐθυνή*), in which the Areopagus or any willing citizen indicted a public official before the Areopagus. Without doubt these two institutions remain the most widely discussed. Like most fundamental issues in accountability, this question of official scrutiny leads to challenges at several levels of thought. Moral accountability is often tied with questions of bribery and corruption. The *paredroi*, assigned by lot, were those who examined the officials' moral or general conduct in office, including their private offences. At the political level we are forced to examine the various legal mechanisms of accountability; there were ten *συνήγοροι* (*synegoroi* – men selected by lot one per tribe were entrusted with any public

prosecutions that resulted from the *εὐθυνή*). At the financial level many questions are raised about the completeness and competence of the *λογίσται* (*logistai* 'accountants' a panel of ten chosen by lot from members of the *ἡ βουλή οἱ πεντακόσιοι* (*he boule oi pentakosioi*—The Council of 500 who represented the full-time government of Athens) who examined magistrates' financial ledgers in each *πρυτανίς* (*prytany*—each *prytany* was one tenth of the year (Aristotle, *Ath. Pol.* 43.3)); or a panel of ten (chosen by lot from all Athenian citizens) who examined the same ledgers for thirty days after a man left office; ten *εὐθύνοι* (also chosen by lot from all citizens, and each assisted by two 'assessors' who helped the *λογίσται* in any prosecution.

An important instance in which all of these challenges of accountability and governance converge or occur is when an official is exiting office. The subject of accountability institutions in their totality has been studied closely by Roberts (1982). He intimated that the two institutions—the *δοκιμασία* and the *εὐθύνη*—despite the limitations that they were sometimes faced with, strove in diverse ways towards achieving accountability. The rejection of some official at their *δοκιμασία*, and refusal or the inability of some magistrates to submit their stewardship to the *εὐθύνη* (a major weakness of the institution) will be well examined. What this work has discovered is that, looking at the premium the Athenians placed on these institutions, the Athenians had so much confidence in their institutions of accountability.

2.5 Governance: Some Common Definitions

The concept of governance is equally not new. The actual meaning of the concept depends on the level of governance one is talking about, the goals to be achieved and the approach being followed. Since the term "governance" means different things to different people, it is useful, therefore, for this thesis to clarify, at the very outset, the sense in which the word is understood. Before this is done it is important to ascertain some definitions of governance by leading institutions and studies.

Simply put, governance refers to a process by which power is exercised. Other definitions of governance are laconically elucidated below. According to the UNDP (The United Nations Development Programme), governance is viewed as the exercise of economic, political and administrative authority to manage a country's affairs at all levels. It comprises mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences (UNDP 1997).

The World Bank: Governance is defined as the manner in which power is exercised in the management of a country's economic and social resources. The World Bank has identified three distinct aspects of governance: (i) the form of political regime; (ii) the process by which authority is exercised in the management of a country's economic and social resources for development; and (iii) the capacity of governments to design, formulate, and implement policies and discharge functions (*World Bank 1994 p2*);

The OECD (Organization for Economic Cooperation and Development): The concept of governance denotes the use of political authority and exercise of control in a society in relation to the management of its resources for social and economic development. This

broad definition encompasses the role of public authorities in establishing the environment in which economic operators function and in determining the distribution of benefits as well as the nature of the relationship between the ruler and the ruled (OECD DAC, 1995);

The DFID: (The Department for International Development) adopts the same approach to governance as that provided by the OECD's Development Assistance Committee (DAC), which identifies some key elements in governance: legitimacy of government (political systems), accountability of political and official elements of government, competence of governments to formulate policies and deliver services (public administration and economic systems, and organizational strengthening).

The DFID believes that the DAC conceptualization is seen to reflect the broad degree of convergence in bilateral donor thinking on good governance. Since the good governance agenda has a strong normative content, it has led to calls for an approach more sensitive to the particular historical contextual realities within recipient countries.

The Asian Development Bank (ADB): The definition of governance that is adopted by the ADB is that provided by the World Bank. Hence, the Bank regards good governance as synonymous with sound development management. It involves both the public and the private sectors. It is related to the effectiveness with which development assistance is used, the impact of development programmes and projects (including those financed by the Bank). Thus, irrespective of the precise set of economic policies that find favour with a government, good governance is required to ensure that those policies have their desired effect. In essence, it concerns norms of behaviour that help ensure that governments actually deliver to their citizens what they say they will deliver.

The USAID (United States Agency for International Development): Governance encompasses the capacity of the state, the commitment to the public good, the rule of law, the degree of transparency and accountability, the level of popular participation, and the stock of social capital. Without good governance, it is impossible to foster development. No amount of resources transferred or infrastructure built can compensate for or survive bad governance (USAID, Promoting Democratic Governance).

The Institute of Governance, Ottawa: Governance comprises the institutions, processes and conventions in a society, which determine how power is exercised, how important decisions affecting society are made and how various interests are accorded a place in such decisions. (*Institute of Governance 2002*);

Commission on Global Governance: Governance is the sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and co-operative action may be taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interest. (*Commission on Good Governance, 1995*).

According to the British Council, ‘governance’ is a broader notion than ‘government’, in that “governance”, but not government’, “involves interaction between the formal institutions and those in civil society”. Governance also refers to a process whereby elements in society wield power, authority and influence and enact policies and decisions concerning public life and social improvement. Governance, therefore, not only encompasses but transcends the collective meaning of related concepts like the state,

government, regime and good government. Many of the elements and principles underlying "good government" have become an integral part of the meaning of "governance" (kendoonpaper, 1)

Since the focus of this thesis is on accountability in governance, much emphasis will be laid on democratic governance – the type of governance described in the UNDP report. Democratic governance is chosen and discussed because it is the type of governance that promotes human development, seeks efficient institutions, and a predictable economic and political environment necessary for economic growth and effective functioning of public services (*UNDP Human Development Report 2002*, p vi). At its core, democratic governance means a political regime that guarantees civil and political liberties as human rights, and that ensures participation of people and accountability of decision makers.

The above elaborations clearly reveal to the mind or the senses or judgment that though accountability and governance have different meanings in different contexts, they are central to democratic governance and to ensuring that the holders of the public trust are acting effectively and fairly.

CHAPTER THREE

The Development of Democracy in Athens and Ghana

Both Athens and Ghana have chequered political histories. The political and historical contexts are critical to understanding the development of accountability institutions (Murray 1986:5-15). This Part of the work will discuss Athenian history from the eighth to the fifth centuries B.C.E. and the history of pre-colonial Ghana from AD 1700 to the post colonial era (2005). It will then narrow the discussion to two key features of Athenian and Ghanaian democracy, the legal institutions of political accountability, and describe the monitoring of the conduct of public officials and various procedures of censure.

3.1 Athens under Kings: The Era of Popular Accountability

The political history of Athens begins with the earliest history of the Greek world. As far as anyone can tell, the political landscape consisted of small-time “kings” ruling over their own homes and immediate surroundings. In certain places, individual kings acquired power over larger territories and influence over neighbouring kings. This is what the world depicted in the Homeric epics looks like (*Thucydides* 1.3).

In this Homeric world, however, popular accountability was a part of the essential background for the political drama of the epics. This is demonstrated by Sarpedon's speech (*Homer* 12.310-28), where the primary reference for the epic is the aristocracy of honour, but also in the secondary references, the un-heroic, democratic characteristics of the relationships between the people and their rulers can be seen (Sutherland 1979:512). Again, popular accountability can clearly be seen in Telemachus' address to the popular

assembly in the second book of the *Odyssey*, and careful examination of the address will indicate the shared character of political authority in Ithacan society (Sutherland 1979:502).

The Athenians thought that the mythological hero Theseus was their first king, and they attributed to him the birth of the Athenian state. Before Theseus, the peninsula of Attica was home to various, independent towns and villages, with Athens being the largest. Theseus, when he had gained power in Athens, abolished the local governments in the towns; the people kept their property, but all were governed from a single political centre at Athens. The Greeks called this process of bringing many settlements together into a political unity *συνουικισμός* (*sunoikismos*, *Thucydides* 2.15.1-2)). Whether or not Theseus had anything to do with this the fact remains that when the Greek world moved from prehistory into historical times, the Attic peninsula was a unified political state with Athens at its centre.

The significance of this unification was that it successfully integrated all political units of Athens under one leadership. Thomas (1966:388), using the *Odyssey* as evidence, traces the decline of Homeric kings and kingship in general to the growth of the *πόλις* (*polis*—one's city or country), in which decisions were made in an *ἐκκλησία*. This is very significant, because the changes in political atmosphere equally affected the phase of accountability in Athens.

3.2 The Reign of the Aristocrats

In early seventh century Athens moved from being ruled by a king to being ruled by a small number of wealthy, land-owning aristocrats. Power laid in the hands of a few large aristocratic families, whose claim to power was based on noble bloodlines and extensive property. Outside this small group, the rest of the population played little direct role in the political life of Athens (Ober 1989:127-8). Aristotle's *Constitution of the Athenians*, a description of Athenian government, says that the status of "King" (*basileus*) became a political office, one of three "rulers" or "archons" under the new system, and Athens came to be governed by the king archon, the war-lord, and the archon (this last sometimes called the eponymous archon, because the year was identified by his name). "Appointment to the supreme offices of state went by birth and wealth; and they were held at first for life, and afterwards for a term of ten years" (Aristotle, *Ath. Pol.* 3).

Later, six other archons were added to the role. These were six legal officials who managed the Athenian judicial system, interpreting the laws and keeping records of judicial decisions (Bury 1966:106). These nine archons ruled the Athenians, along with the Council of the Areopagus, which consisted of all former Archons, serving on this board for life (Aristotle, *Ath. Pol.* 3). The aristocratic reign also marked another milestone in Athenian politics. Around this time power shifted from the hands of one person to the hands of a more transparent committee-like leadership. A very important institution (judicial system) which supports accountability processes changed hands from the king to the six archons.

Since Athenian laws required that only Athenian males went through the *dokimasia*, citizenship was not conferred on the poor, the women and the aliens; hence,

accountability to the citizenry was limited to only the aristocrats. The aristocrats were so much linked with each other that they would elect magistrates from among themselves and involved only themselves in setting government laws, justice, military service, religious occasions, and discussion of state affairs. The non-accountability of the aristocrats coupled with non-transparency in government are some of the factors that led to uprising and reforms in Athenian government.

3.3 Political Reforms in Athens

There is evidence that the common citizens of Athens began to assert themselves politically in the middle of the seventh century (Martin 1966:60-62). As trade with other city-states grew, and the economy shifted from strictly agricultural to include mercantile and commercial elements, non-aristocrats began to accrue wealth and to challenge the traditional agrarian elite (O'Neil 1995:7-8).

Political unrest grew. In the latter part of the 7th century, perhaps in the 630s, an Athenian named Cylon won the double foot-race at the Olympic Games and became a celebrity. Through his earned fame he attempted to regard himself as a champion of popular discontent, but it had little evidential support. To achieve his ulterior motive of becoming a tyrant of Athens, Cylon gather a group of supporters, seized the Acropolis, and attempted to make himself tyrant of Athens. The attempt was a complete failure and ended with Cylon and his party hiding by the statue of Athena, surrounded by an angry mob. Lured out by promises of their safety, Cylon and his men were killed by members of the aristocratic family called the Alcmeonidae (*Herodotus* 5.71). This was a political crisis, both because of the attempted coup by an upstart and because of his murder by the

aristocrats—he had claimed the goddess’s protection, which ought to have been respected. Whether this crisis brought about subsequent political changes we cannot tell, but it certainly left its mark on Athenian politics. The old families could no longer be confident in ruling at will forever, and the stain on the reputation of the Alcmeonidae lasted for hundreds of years. This incident marks the beginning of political, economic and social reforms in Athenian society. The law-makers who were subsequently appointed after this incident to address the concerns of the other aristocrats and the masses passed several laws, some which contributed to the building of accountability institutions to improve and ensure proper stewardship of state officials.

3.3.1 Draco

About ten years after the Cylonian crisis, the Athenians appointed the aristocrat Draco to codify and rectify the existing law, apparently in an effort to reinforce the old aristocratic system (Murray 1986:182). According to Aristotle’s description of these laws, the new constitution gave political rights to those Athenians “who bore arms,” in other words, those Athenians wealthy enough to afford the bronze armour and weapons of a hoplite (Aristotle, *Ath. Pol.* 4).

In 621 B.C.E., Draco published the first Athenian legal code. The laws were written upon marble plates, the so-called *θεσμοι* (*Thesmoi*—laws or ordinances) and placed in the Agora, where everyone could read. Draco’s laws were most notable for their harshness: there was only one penalty prescribed, death, for every crime from murder down to loitering (Plutarch, *Solon* 17.1). Draco’s *θεσμοι* which were described as harsh did not avert the political troubles in Athens, which pitted the wealthy against the poor. Poor

citizens, in years of poor harvests, had to mortgage portions of their land to wealthier citizens in exchange for food and seed to plant. Having lost the use of a portion of their land, they were even more vulnerable to subsequent hardships (Aristotle, *Ath. Pol.* 2.1-2).

These written codes of Draco helped to establish procedural as well as substantive laws, facilitated the process and often enabled parties to reach extra-judicial settlements on a reasonable basis where appropriate. This foundation was a very important step towards the building of the institutions of accountability. With the laws written, officials had an insight into the sort of penalty that awaited them if they were found culpable. Under Draco, the *βουλή* (*boulē*—a Council of citizens over 30 years old, selected by lot to sit for a full term of a year, which dealt with the government of the *πολις*) consisted of 401 members selected by lot (Aristotle, *Ath. Pol.* 4.3). Although the *βουλή* was not part of the reforms, its existence at this time in Athenian history is worth acknowledging. As one will soon discover, the contributions of the *βουλή* towards the strengthening of accountability institutions were indispensable. Eventually, many of these Athenians lost the use of their land altogether, and became tenant-farmers, virtually (or perhaps actually) slaves to the wealthy. This means that the reform of Draco did not address the concerns of the masses. The resulting crisis threatened both the stability and prosperity of Athens.

3.3.2 Reforms of Solon

In response to continuing unrest, Solon was appointed in 594 B.C.E and given autocratic power to reform the Athenian constitution, as well as to make changes to the economy and introduce new laws. He appears to have been an eponymous archon, but these extraordinary powers would have supplemented his authority as archon. His law code abrogated Draco's and remained in effect until it was officially revised at the end of the fifth century (Pomeroy et. el. 2008:185-200).

The internet site *Care2.com* wrote on the character of Solon. This website described Solon as a sincere, kindly person and generous. He was characterised by moderation and his constant motto was *Μηδὲν ἄγαν* (*Meden agan*—nothing in excess). He was one of the seven wise men of antiquity. His wisdom and his noble patriotism marked the first true example of humanism. He also wrote ethical elegies and his poem "the exhortations to himself" belongs to this category, as also the often-quoted line: "*Γηράσκω δ' αἰεὶ πολλὰ διδασκόμενος*" ("I am getting old, but still I am learning a lot).

Two of Solon's key socio-political reforms are well documented: the abolition of personal debt-bondage and a change in the prerequisites for holding major government offices (Plutarch, *Solon*. 15.2-16.4, 16.5-.19). Solon instituted prerequisites for office holding based directly on economic class, having divided the Athenian populace into four census classes, defined by an individual's wealth, with specific political privileges falling to each class (Bury 1962:110-11). An elite based on wealth thus replaced the birth nobility, effectively breaking the traditional aristocracy's monopoly on high office (O'Neil 1995:17). This means that more people would now be made to tell the populace how they had conducted themselves in office.

Solon also gave all citizens the right to attend and vote in the Assembly regardless of land ownership (Aristotle, *Ath. Pol.* 7.3). Solon's socio-political reforms apparently were designed to alleviate social tension by redefining the rights and privileges of different groups in society. Solon strove to re-establish equilibrium in the distribution of political and economic power, in order to prevent political upheaval (Ober 1989:60-63). It was Solon's goal to involve the common people in the working of the *πολις* without allowing them to gain control. By so doing he ensured that an elite group remained in power (O'Neil 1995:31).

Solon also made important procedural changes in the law. First, he established a new category of non-personal legal actions, in which any citizen could prosecute a claim in the public interest (Pomeroy et. el. 2008:185-200). Second, Solon instituted a right of appeal from an official's decision to a popular jury court. Aristotle also attributes the introduction of the *εὐθύνη* at Athens to Solon (Aristotle, *Politics*, 1274a; 1281b).

Finally, Solon established an impeachment procedure, *eisangelia*, to deal with aspiring tyrants (Aristotle, *Ath. Pol.* 8.4). According to Herodotus, after formulating these new laws for a new Athenian Constitution, Solon made the people swear to obey them, unchanged, for ten years, then went abroad from Athens to avoid being badgered into changing anything (*Herodotus*. 1.29.1).

So Athens under Solon had many institutions that would later be a part of the radical democracy—democratic juries, an Assembly and a Council, selection of officials by lot rather than by vote—while retaining many oligarchic elements in the form of property qualifications and a powerful Council of the Areopagus. This means that many of

Athens's internal structures that regulated the conduct of public officials evolved under Solon.

3.3.3 Tyranny in Athens

Solon's constitution did not solve all of Athens' problems, and the city descended back into a state of strife, with various factions, each with its own interests, vying for power (*Herodotus* 1.59; Plutarch, *Solon*.29). This state of affairs continued from about 595 BCE down to 546 BCE, when an Athenian named Peisistratus, after several failed attempts, finally established himself as Tyrant over the Athenians.

The rule of Peisistratus may be described as a "constitutional tyranny" (Bury 1962:117); the tyrant controlled the revenues and foreign policy, but the Assembly continued to meet, presumably advised by the council of elders, and the courts continued to arbitrate legal disputes (Bury 1962:117-118)

The 5th century BCE historian Thucydides concluded his brief account of Peisistratus by saying, "the city was left in full enjoyment of its existing laws, except that care was always taken to have the offices in the hands of some one of the family" (*Thucydides* 6.54.6). Like all tyrants, Peisistratus depended to a certain extent on the goodwill of the people for his position, and by ensuring that both rich and poor Athenians received fair treatment, he was able to rule for almost twenty years and died of natural causes (*Aristotle, Ath. Pol.* 17.1).

After Peisistratus died in 528 B.C.E., his sons Hipparchus and Hippias took over and continued the tyranny for another seventeen years. Hipparchus was assassinated in 514 BCE, and in 510 BCE the aristocratic Alcmeonidae family with an army from Sparta

helping them, expelled Hippias and brought an end to tyranny in Athens (*Herodotus* 5.62; *Thucydides* 6.59.4).

The civil war that broke out between 508 and 507 turned out to be one of the most influential revolutions in the history of western civilization: the citizens of Athens successfully rose against a ruling clique of Athenian aristocrats and the Spartan army of occupation that supported them (Ober & Vanderpool 1993:127). The reign of the tyrants seems to have been relatively benign, since they maintained the Solonian institutions.

3.3.4 Athens under Cleisthenes

After the end of the tyranny, two factions competed for power to reshape the government of Athens. One was led by Isagoras, whom others called a “friend of the tyrants” (Aristotle, *Ath. Pol.* 20.1). The other was led by Cleisthenes, who was an Alcmeonid aristocrat (*Herodotus* 5.61). Isagoras won a minor victory by getting himself chosen as Archon in 508. But Cleisthenes used the support of the lower classes to impose a series of reforms (Aristotle, *Ath. Pol.* 20.1). Isagoras, using the example of recent history, called on the Spartan king Cleomenes to help him evict Cleisthenes and seven hundred prominent families into exile (Ober & Vanderpool 1993:129). While that had worked well for the Alcmeonidae earlier, it failed this time; when Isagoras and the Spartans occupied the city and tried to disband the government and expel seven hundred families, the Athenians rose up against them, drove them out and returned Cleisthenes to power (*Herodotus* 5.72).

So Cleisthenes was free to impose his reforms, which he did during the last decade of the 6th century. These mark the beginning of classical Athenian democracy, since (with a

few brief exceptions) the Athenians organised Attica into the political landscape that would last for the next two centuries.

His reforms, seen broadly, took two forms: he refined the basic institutions of the Athenian democracy, and he redefined fundamentally how the people of Athens saw themselves in relation to each other and to the state. Since the Introduction to Athenian Democracy is devoted to its various institutions, the focus here will be on the new Athenian identity that Cleisthenes imposed.

Cleisthenes's reforms aimed at breaking the power of the aristocratic families, replacing regional loyalties (and factionalism) with pan-Athenian solidarity, and preventing the rise of another tyrant. Cleisthenes made the *δῆμος* or village into the fundamental unit of political organization and managed to convince the Athenians to adopt their deme-name into their own. So, where formerly an Athenian man would have identified himself as "Demochares, son of Demosthenes" (*Demosthenes* 57), after Cleisthenes's reforms this would change, he would have been more likely to identify himself as "Demochares from Marathon". Using "demotic" names in place of "patronymic" names de-emphasized any connection to the old aristocratic families and emphasized his place in the new political community of Athens (Aristotle, *Ath. Pol.* 21.4).

Each *δῆμος* had a "demarch", like a mayor, who was in charge of the *δῆμος*' most important functions (Aristotle, *Ath. Pol.* 21.5): keeping track of new citizens—these were young men who came of age (*Demosthenes* 57.60); keeping track of all citizens from the *δῆμος* eligible to participate in the *ἐκκλησία* (*Demosthenes* 44.35), and selecting citizens from the *δῆμος* each year to serve on the *βουλή* (Aristotle, *Ath. Pol.* 21.5). Thus,

the *δῆμος* was the Athenian citizen's link to the Athenian national government: each *δῆμος* sent representatives to *ἡ βουλή οἱ πεντακόσιοι*. The *δῆμος* representatives were selected by open lottery, in which every citizen could enter his name. This advisory council was the supreme administrative authority in Athens and handled the daily business of government: it controlled financial officials, acted as a ministry of public works, and initiated lawmaking (Bury 1962:129).

One of the fundamental functions of the *βουλή* was the preparation of the agenda for the national Assembly (Ober & Vanderpool 1993:130). The *ἐκκλησία* was the key decision-making body of the Athenian state. The *ἐκκλησία* handled all of the important business of Athens: taxes were levied, alliances with other states were made or broken, and war was declared. The *ἐκκλησία* held meetings approximately forty times each year, and acted as a forum where all citizens could debate and decide governmental policy (Ober 1989:7-8.). Any citizen could address the Assembly (Ober & Vanderpool 1993:130). Six thousand to eight thousand men regularly attended, approximately twenty to twenty-five percent of the total citizenry. After debate, the assembled citizens voted on specific proposals, with simple majorities determining the state's policies (Ober 1989:8).

The citizens also came to dominate the courts under Cleisthenes's system (Ober & Vanderpool 1993:131). The members of the courts, the judges, were selected by lot from the citizen body (Ober & Vanderpool 1993:131). A jury, usually consisting of two hundred to five hundred men, would be chosen from the list of approximately six thousand available jurors. These courts not only decided particular disputes between citizens, but also reviewed legislation passed by the *ἐκκλησία* (Dornum 1997:1483).

The peninsula of Attica consisted of three more-or-less distinct geographical areas: the coast, the countryside, and the urban area around the city of Athens itself. Traditionally residents of these areas had their own concerns, and often conducted politics according to regional interests. To counteract this tendency, and to encourage Athenian politics to focus on interests common to all Athenians, Cleisthenes further organised the population. The existing 139 demes were reorganised into thirty trittyes (τριττῦες), or “Thirds”. Ten of the Thirds were coastal, ten were in the inland, and ten were in and around the city. These Thirds were then grouped into ten φυλαί (phylai, tribes), in such a way that each φυλή (singular for φυλαί) contained three Thirds, one from the coast, one from the inland, and one from the city. Each of these ten φυλαί sent 50 citizens each year to serve on the new βουλή of 500. So, while local politics, registration of citizens and selections of candidates for certain offices, happened in the demes, the tribes were the units of organization that figured most prominently in the overall governing of Athens. Citizens from all parts of Attica worked together, within their tribes, to govern the city (Aristotle, *Ath. Pol.* 21.3).

To prevent regionalism from creeping back into the system as people changed their address, Cleisthenes decreed that a citizen, once assigned to a δῆμος, must retain that deme-affiliation even if he moved to another part of Attica (Aristotle, *Ath. Pol.* 42.1). Evidence from the 5th and 4th centuries show many people living in the city of Athens, but identifying themselves with rural δῆμος. In fact, even the rural demes often held their meetings in Athens itself (*Demosthenes* 57.10).

Again, there was a tendency for deme-level politics to be dominated by people who had not moved into the city, but for national politics—service on juries, in the βουλή, and

the magistracies—to be dominated by Athenians who, although members of *δῆμος* located all over the peninsula, were full-time residents of the city and its immediate environs.

To help legitimise this new division or to give this division the aura of antiquity, Cleisthenes named each *φυλή* after a legendary hero of Athens; the selection of heroes was handled by the Oracle at Delphi, that is, by the god Apollo himself. The ten “eponymous heroes or *φυλαί*” of Athens selected by Cleisthenes were: Ajax (Aiantis), Aegeus (Aigeis), Acamas (Akamantis), Antiochus (Antiochis), Erechtheus (Erechtheis), Hippothoon (Hippothontis), Cecrops (Kekropis), Leos (Leontis), Oeneus (Oineis), Pandion (Pandionis). Their statues stood in downtown Athens, watching over the place where important public documents were published on billboards.

All of these reforms constituted a remarkable re-shaping of Athenian society along new lines. Thus, by doing these things old associations by region or according to families were broken. Citizenship and the ability to enjoy the rights of citizens were in the hands of immediate neighbours, but the governing of Athens was in the hands of the Athenian *δῆμος* as a whole, organised across boundaries of territory and clan. The new order was sealed as citizens adopted their deme-names into their own names, and as the god Apollo, speaking from Delphi, endorsed the new *φυλαί*. On accountability, the *φυλαί* contributed fifty representatives each to the *βουλή*. The *βουλή*, empowered this way, was a good step towards making governance more accessible to the populace, since it played an important role in the scrutiny of many officials before they assumed office.

But, with the *δῆμος* newly unified and the authority of the older, more aristocratic system undermined, the danger of tyranny remained. What led to this uncertainty was

that some relatives of Peisistratus survived, wealthy and still influential, in Athens, and (a new threat) the Great King of Persia was increasingly interested in bringing the Greek world into his empire.

Cleisthenes sought to avert this danger by means of his most famous innovation: ostracism. Every year the Assembly of Athenian citizens voted, by show of hands, on whether or not to hold ostracism. If the Demos voted to hold one, the ostracism took place a few months later, at another meeting of the Assembly. Then, each citizen present scratched a name on a broken piece of pottery; these, the scrap paper of the ancient world, were called ostraka (*ὄστρακα* in Greek), which gives us the word for the institution. If at least 6000 citizens voted with their ostraka, the names on the potsherds were tallied, and the “winner” was obliged to leave Athens for a period of ten years. He did not lose his property or his rights as an Athenian citizen, but he had to go (Aristotle, *Ath. Pol.* 22.6; 43.6)

The earliest subjects of ostracism were associates of Peisistratus and his sons (Aristotle, *Ath. Pol.* 22.6), but in later years the Athenian used the process to remove the leaders of various factions. Themistocles, regarded as champion of the democracy was ostracized sometime around 470 BCE (*Thucydides* 1.135). Cimon, who tended to favour more aristocratic controls on the power of the people, was also ostracised around 461 (*Andoc.* 4.33).

These reforms of Cleisthenes in Athens at the very end of the 6th century were radical and, it seems, thoughtful. The archons retained their administrative duties, but a new board of executives was created. The army was organised on the basis of the ten tribes. Each of the ten tribes elected a *ταξίαρχος* (*taxiarchos*—in Athens, an infantry

commander), a ἵππαρχος (*Hipparchos*—cavalry commander), and, most important, a στρατηγός (Pomeroy et al 2008:200). The elected officers, aristocrats and non-aristocrats, were compelled to undergo δοκιμασία before entering office and εὐθύνη after leaving office. Even στρατηγοί who sought re-election were scrutinised before they could do so. In sum, this new social order and political system gave a fair chance to every eligible Athenian to be chosen to serve the public at least once in a lifetime

3.3.5 Ephialtes and Pericles

One final major reform to the Athenian constitution remained before the government of Athens took the shape it would hold, more or less, for the next 150 years. In 462, Ephialtes led a movement to limit the power of the Council of the Areopagus. The role of this Council, sometimes called simply the “Areopagus”, in the fully-formed democracy is discussed below, but to understand Ephialtes’ reforms we need to see, briefly, its place in Athenian government before Ephialtes.

The Court of the Areopagus, named after the Hill of Ares in Athens, was an ancient institution. Aristotle says that in the time of Draco “The Council of the Areopagus was guardian of the laws, and kept a watch on the magistrates to make them govern in accordance with the laws. A person unjustly treated might lay a complaint before the Council of the Areopagites [the members of the Areopagus- Areopagitai], stating the law in contravention of which he was treated unjustly” (Aristot. *Ath. Pol.* 4.4).

The Areopagus was an aristocratic institution, composed of men who were of noble birth. It was composed of men who had held the office of archon (Plutarch, *Solon* 19.1). Members of the Court of the Areopagus held office for life (Aristotle, *Ath. Pol.* 3.6).

According to Aristotle, before the time of the lawgiver Solon—the middle of the 6th century BCE—the Areopagus itself chose the men who would be archons, and thus future members of the Areopagus (Aristotle, *Ath. Pol.* 8.1). The selection of archons was by wealth and birth (Aristotle, *Ath. Pol.* 3.6), so the court of the Areopagus preserved itself as a body of the aristocrats of Athens. As noted earlier, Solon changed the method by which Athenians became archons—forty candidates were elected, and from these forty, nine archons were picked by lot (Aristotle, *Ath. Pol.* 8.1). This was a good leap towards democracy and building of state institutions, since the power to govern was gradually spreading among Athenians, more and more people getting into politics; hence, there arose the need to build and/or strengthen institutions to monitor their stewardship.

Under the laws of Solon, the Court of the Areopagus retained its role as overseer of the constitution; it could punish citizens, fine them, and spend money itself without answering to any other governing body; and it oversaw cases of impeachment (Aristotle, *Ath. Pol.* 8.4). Aristotle describes the government of Athens under Solon as a blend of elements—the courts were democratic, the elected archons were aristocratic, and the Court of the Areopagus was oligarchic (Aristotle, *Politics* 1237b). The Athenian Court of the Areopagus seems to have enjoyed a return to its former glory immediately after the Persian Wars. Aristotle tells the story of how, during the chaos of the Persian invasion in 480 BCE, the *βουλή* of the Areopagus took a leading role in organising and financing the evacuation of all Athenians to Salamis and the Peloponnese, which raised the body's status considerably (Aristotle, *Ath. Pol.* 23.1)

Aristotle goes on to say that the *βουλή* of the Areopagus enjoyed pre-eminence in Athens for almost two decades after the Persian Wars until the time when Konon was the

archon for the year, and Ephialtes brought about his reforms in 462 BCE (Aristotle, *Ath. Pol.* 25.1). The reforms of Ephialtes brought about a reform of the Court of the Areopagus by denouncing the Court before the *βουλή* and the *ἐκκλησία* (Aristotle, *Ath. Pol.* 25.4). By means of Ephialtes' reforms, according to Aristotle, the *βουλή* of the Areopagus was "deprived of the superintendence of affairs" (Aristotle, *Ath. Pol.* 26.1). The reform was not finally the work of Ephialtes alone, but also an act of legislation by two of the democratic institutions in Athens.

By 462 BCE, when Ephialtes made his reforms, the archons (the future members of the Court of the Areopagus) were ultimately chosen by lot, not by vote (Aristotle, *Ath. Pol.* 22.5). It is possible that this change (choosing archons by lot) made the institution seem less prestigious, and thus worthy of holding fewer powers.

When Aristotle describes the *βουλή* of the Areopagus as it was in the 4th century, over a hundred years after Ephialtes, he says that the *βουλή* had authority over trials of murder, wounding, death by poison, and arson, but that other similar crimes such as involuntary manslaughter, murder of slaves or foreigners, accidental killings, or killings in self-defence—come before other courts, the Court of the Palladium or the Court of the Delphinius (Aristotle, *Ath. Pol.* 57.3). The Areopagus also conducted investigations into cases of political corruption, presenting its findings to the *βουλή* and *ἐκκλησία* for any further action (*Aeschines* 1.83).

From this, then, we can perhaps get a sense of how Ephialtes diminished the role of the Areopagus. The aristocratic body that once had the power to nullify laws and remove candidates from office was reduced to a murder court and investigative body, albeit a highly respected one. It must be emphasised that when Ephialtes stripped the Areopagus

of its accrued political powers, the polis of Athens became truly democratic (Laracy 2008:1). The *δημος* then held power over all aspects of the polis' affairs.

There are other things worth mentioning from the period. The office of *στρατηγός* was one of the few in the Athenian democracy that was elected rather than chosen randomly by lot. A general could introduce business for discussion in a meeting of the *ἐκκλησία* on his own authority, without going through normal channels (the evidence for this comes from inscriptions: SEG 10 86.47; IG II²27).

Pericles was elected repeatedly to the office of *στρατηγός* during the period from 454 to 429 BCE (though not for every year during that period, which is interesting). From within this office, he was able to address the Athenians meeting in the *ἐκκλησία* on matters he deemed important, and to persuade them toward policies of his own devising. The two most noteworthy results were the “Periclean Building Program”, which produced the monumental architecture that is seen today on the Athenian Acropolis, and the expansion of Athenian imperialism. The latter, eventually, brought about decades of protracted war between Athens and Sparta that, in one form or another, lasted (at least) from 431 BCE until Athens' defeat in 404 BCE).

3.4 Athenian Politics after Pericles

In 415, after an interlude of relative peace in the war between Athens and Sparta, the *δημος* of Athens undertook an invasion of Sicily. This adventure was an utter disaster, resulting in the destruction of an Athenian fleet and an army of Athenian citizens either killed outright or doomed to work to death in the quarries of Syracuse.

In the aftermath, certain citizens took steps to move the government of the city away from the radical democracy that—they thought—was leading the city to ruin. Their first step was to work, through constitutional channels, to establish a small body of “Preliminary Councillors”, who would limit the topics that could be addressed by the more democratic *βουλή* and *ἐκκλησία* (*Thucydides* 8.1, 3-4).

Shortly thereafter, in 411 BCE, the Athenians brought an end to their democracy and instituted an oligarchy by, first, appointing ten “Commissioners” who were charged with re-writing the constitution of Athens (*Thucydides* 8.67.1). Aristotle says that there were twenty of these, and that they were in addition to the ten Preliminary Councillors already in office (Aristotle, *Ath. Pol.* 29.2).

This new government claimed that a *βουλή* of 400 was “according to the ancestral constitution” (Aristotle, *Ath. Pol.* 31.1). This *βουλή* of 400 would have the power to choose 5000 Athenians who would be the only citizens eligible to participate in assemblies (Aristotle, *Ath. Pol.* 29.5). Thucydides describes how this new *βουλή* of 400 collected an armed gang, confronted the democratic *βουλή*, paid them their stipends, and sent them home (*Thucydides* 8.69.4; Aristotle, *Ath. Pol.* 32.1).

This oligarchic government lasted only four months before it was replaced by another government in which the power was in the hands of 5000 Athenians—more democratic, but still a far cry from the radical democracy defined by Cleisthenes (Aristotle, *Ath. Pol.* 33.1). This government in turn lasted only a short time before “the People quickly seized control of the constitution from them” (Aristotle, *Ath. Pol.* 34.1). The democracy was restored, but only briefly.

In 404 BCE, the Spartans caught the Athenian fleet on the beach at Aegospotamoi (“Goat Islands”) and destroyed it. After a period of siege, while the Spartans blockaded the harbours of Athens, the city surrendered, and its fortunes fell into the hands of the Thirty Tyrants. These were Athenians selected by the Spartans to form a puppet government (Plutarch, *Lysias* 9.4-11).

Like the Oligarchy of 411, the tyranny of the Thirty lasted only one year before pro-democracy forces regained control of the city’s affairs (Plutarch, *Lysias* 21). After the tyrants were overthrown and the city returned to democratic rule, Athens once again compiled and codified its old laws with the following decree, which summarises the accumulated law and tradition of the first century of the Athenian democratic experiment: “On the motion of Teisamenus the People decree that Athens be governed as of old, in accordance with the laws of Solon, his weights and his measures, and in accordance with the statutes of Draco, which we used in times past.” The Athenians also passed a law of general amnesty, to prevent an endless cycle of retribution for wrongs committed on both sides of the recent civil strife (*Xenophon Hell.* 2.4.43). This law says that in matters of war and peace, death sentences, large fines, disenfranchisement (that is, loss of citizenship), the administration of public finances, and foreign policy the *βουλή* cannot act without the approval of the *ἐκκλησία* of the People. With this restoration, Athens re-established a radically democratic government.

One of the most notable achievements of Athenian democracy in ancient times was its establishment of civilian oversight of public funds and the wealth and incomes of all public figures (including generals) so that they did not benefit from their public positions. Auditors, financial controllers of the treasury, and judges were chosen annually by lot.

This system of accountability stood in stark contrast with nearly all other governments in the ancient world, most of which were despotic and marked by corruption, personal enrichment, and aggrandisement.

Today, most democracies (presidential, parliamentary, or mixed) have established principles of accountability that ensure a high degree of public accountability to the citizenry.

3.5 The Independent States Before Modern Ghana

The political history of Ghana is not very different from that of countries in Europe and Asia. It is essentially the history of the rise and fall of states. The little disparity is that in many countries the number of component states tend to decrease as new and more powerful ones swallow up the older and weaker ones, whereas in Ghana a comparison between the political maps of AD 1629 (one of the earliest state maps of Ghana) and 1946 of the traditional states reveal an increase in the number of states from thirty to one-hundred and eight (Adu-Boahen 2000:7). This represents more than three times increase in three centuries.

The Dutch map of 1629 brings to the lime light that by the beginning of the seventeenth century some Akan migrants had moved southward and founded several nation-states including Kwahu, Akyem Abuakwa, Akyem Kotoku, Akwamu to the east, the Etsi states of Asebu, Fetu and Sunkwa to the west, the kingdoms of Fante and Agona to the south, and the Wassa, Sefwi and Aowin kingdoms to the south-west.

These states and kingdoms were under traditional governance institutions where chiefs or kings held a firm grip on the social, economic and political system. There were

systems in place to regulate behaviour, enforce rules and regulations to ensure a safe and orderly society. The revenue base of this traditional governance institution came through taxes, royalties, fines and donations by individuals and institutions. The revenues that accrued to traditional leaders were used to support their royal families and their societal obligations. However, there were no formalised institutions that were used to make traditional rulers accountable to their subjects.

From the Dutch map of 1629 neither the Ashanti state nor the Denkyera state is indicated. The absence of the two states supports both oral tradition and documentary sources that the two kingdoms emerged after the second half of the seventeenth century (Adu-Boahen 2000:11). Much of the area of modern day south central Ghana was united under the Empire of Ashanti, a branch of the Akan people by the 17th century.

The Akan people occupy practically the whole of Ghana south and west of the Black Volta. Historical accounts suggest that Akan groups migrated from the north to occupy the forest and coastal areas of the south as early as the thirteenth century AD. Some of the Akan ended up in the eastern section of Côte d'Ivoire, where they created the Baule community. The Akans, wherever they found themselves, were ruled by their kings. What this means is that democracy and accountability were either not existing or they were at their earliest formation.

3.6 Europeans in West Coast of Africa

At this point, it is important to point out that the first Europeans to come to West Africa were the Portuguese. The Portuguese began their trading activities in the second decade of the 15th century (Adu-Boahen 1979:54). Many inhabitants of the Gold Coast area

(modern Ghana) were striving to consolidate their newly acquired territories and to settle into a secure and permanent environment.

By 1471 the Portuguese had reached the area that was to become known as the Gold Coast, because it was an important source of gold. The aim of these Portuguese was to trade in gold, ivory and slaves. Initially, the Gold Coast did not participate in the export of slaves. The Portuguese in 1482 built their first permanent trading post on the western coast of present-day Ghana called *São Jorge da Mina* (later called Elmina Castle). The castle was constructed to protect the Portuguese trade from European competitors. The Portuguese position on the Gold Coast remained secure for over a century (Adu-Boahen 1979:103).

The Portuguese were soon followed by the Castilians or the Spaniards, but the Castilian gave up their West African interest when the Americas were discovered under their auspices between 1492 and 1504 (Adu-Boahen 1979:103). Lisbon sought to monopolise all trade in the region in royal hands, through appointed officials at *São Jorge*, and used force to prevent English, French, and Flemish efforts to trade on the coast. In spite of this opposition from the Portuguese, the English and the French also began to operate on the west coast from the last two decades of fifteenth century (Adu-Boahen 1979:104).

By 1598, the Dutch had also begun trading on the Gold Coast, and built forts at Komenda and Kormantsi by 1612. The Dutch captured Elmina and Axim (Fort St Anthony) Castles from the Portuguese in 1637 and 1642 respectively. The English and the French also intensified their trading activities in the west coast from 1650 onwards.

While Europeans quarrelled over access to the coastal trade, and despite the appalling depredations of the slave traders, which left whole regions destroyed and depopulated, the shape of modern Ghana was being laid down. At the end of the 17th century, there were a number of small states on the Gold Coast which had merged either by conquest or diplomacy, into two: the Asante Empire, and the Fante State (Adu-Boahen 1979:106).

3.6.1 Britain Takes Control

By the 19th century, the Asantes were seeking mastery of the coast, and especially access to the trading post of Elmina. The 19th century also saw a revolutionary change in the political and economic history of Ghana. Between 1806 and 1826 a number of battles took place between the Fante and the Asante, resulting finally in the conquest of the latter (Adu-Boahen 2000:21). The British formally established the British Crown Colony of the Gold Coast, "legalising" a colonial policy which had in fact been in force since the signing of the bond of 1844 (Adu-Boahen (2000:41). It is important to point out that the Chiefs never ceded their sovereignty to the British under the bond, though some of them allowed British intervention in judicial matters.

The British influence over the Gold Coast increased further in 1872, when they purchased Elmina Castle from the Dutch. This transaction made the Asante people lose their last trade outlet to the sea. It was to prevent this loss and to ensure that revenue received from that post continued that the Asante staged their last invasion of the coast in 1873. After early successes, the Asante came up against well-trained British forces that compelled them to retreat beyond the Pra River. Later attempts to negotiate a settlement of the conflict with the British were rejected by the commander of the British forces.

Major General Sir Garnet Wolseley. To settle the Asante problem permanently, the British invaded Asante with a sizable military force. The attack was launched in January 1874 by 2,500 British soldiers and large numbers of African auxiliaries and it resulted in the occupation and burning of Kumasi, the Asante capital. This final campaign in 1874 was that the vast Asante Empire shrunk to the Asante and Brong-Ahafo regions of Ghana (Adu-Boahen 2000:33).

The subsequent peace treaty required the Asante to renounce any claim to many southern territories. The Asante also had to keep the road to Kumasi open to trade. From this point on, the Asante's power steadily declined. The confederation slowly disintegrated as subject territories broke away and as protected regions defected to British rule. The warrior spirit of the nation was not entirely subdued. The enforcement of the treaty led to recurring difficulties and outbreaks of fighting. In 1896 the British dispatched another expedition that again occupied Kumasi and that forced Asante to become a protectorate of the British Crown. The position of Asantehene was abolished and the incumbent, Prempeh I, was exiled (Adu-Boahen 2000:74).

Adu-Boahen (2000:28-30) opines that three principal reasons contributed to the decline and disintegration of the once famous empire between 1824 and 1874. The first was the weak structure of the empire itself. The second was the incompetence of the Asante kings during that period, and the third and most decisive was the defeats that the Asante suffered in the wars they fought with the British during that period. It took a series of military campaigns over some 50 years before the British were finally able to force the Asante to give up sovereignty over their southern possessions (Adu-Boahen 2000:29).

From Asante, the British focused their expansionism on the Northern Territories north of Asante. They sought to forestall the advances of the French and the Germans. After 1896 protection was extended to northern areas whose trade with the coast had been controlled by Ashanti. In 1898 and 1899, European colonial powers amicably demarcated the boundaries between the Northern Territories and the surrounding French and German colonies. The Northern Territories were proclaimed a British protectorate in 1902. The Northern Territories were also placed under the authority of a resident commissioner who was responsible to the governor of the Gold Coast. The three territories created—the Colony (the coastal regions), Asante, and the Northern Territories—became a single political unit known as the Gold Coast (Adu-Boahen 2000:30).

British Togoland, the fourth territorial element eventually to form a nation, was part of a former German colony administered by the United Kingdom from Accra under a League of Nations mandate after 1922. In December 1946, British Togoland became a United Nations Trust Territory, and in 1957, following a 1956 plebiscite, the United Nations agreed that the territory would become part of Ghana when the Gold Coast achieved independence. The four territorial divisions were administered separately until 1946, when the British Government ruled them as a single unit. Thus, the Gold Coast had eventually been taken over by the British. What this means is that the British system of governance crept into the Gold Coast. The British institutions of accountability and governance found their way into the Gold Coast. To ensure that public officials gave good accounts of their stewardship the British created institutions to facilitate this process. The Gold Coast Audit Service was created in London, in 1910, as a colonial

audit department and reserved the power to apply sanctions on offending officials through the courts.

3.6.2 The Independence Struggle

Although political organizations had existed in the British colony, the United Gold Coast Convention (UGCC), founded by J.B Danquah and some educated Ghanaians, who later became known as The Big Six, was the first nationalist movement whose aim was to ensure 'that by all legitimate and constitutional means the direction and control of government should pass into the hands of the people and their chiefs in the shortest possible time (Adu-Boahen 2000:158). This movement called for the replacement of chiefs on the Legislative Council with educated persons. The UGCC also demanded that, given their education, the colonial administration should respect them and accord them positions of responsibility.

From January 1950 Kwame Nkrumah (leader of the Convention People's Party (CPP)) organised a campaign of non-violent protests and strikes, which landed him in gaol for a second time. In 1951, a constitution was promulgated that called for a greatly enlarged legislature composed principally of members elected by popular vote directly or indirectly. An executive council was responsible for formulating policy, with most African members drawn from the legislature; it included three ex officio members appointed by the governor. The colony's first general election was held in February 1951, the CPP won convincingly even in the absence of its leader. Nkrumah is released from prison to join the government. This election was a major turning point in the Ghanaian

political history. By this feat, the Gold Coast was gradually breaking up from colonial rule and heading towards self-rule.

The significance of this history to democracy, and for that matter accountability, is that the exercise of free and fair elections is one of the most powerful pro-accountability mechanisms in existence. As it happens in every democratic dispensation, through periodic elections, political leaders who work for the common good are supposed to be re-elected, and leaders who abuse public office are supposed to be removed from office. So, with this transition, the anticipation was that corridors of governance would become more accessible to public scrutiny. Since democracy usually comes with a constitution in place, all institutions are supposed to function in order to achieve accountability in governance.

In 1952 Nkrumah accepted an invitation to form a government. He was made the "leader of government business," a position similar to that of prime minister. In May 1956, Nkrumah's Gold Coast government issued a white paper containing proposals for Gold Coast independence. The British Government stated it would agree to a firm date for independence if a reasonable majority for such a step were obtained in the Gold Coast Legislative Assembly after a general election. The 1956 election returned the CPP to power with 71 of the 104 seats in the Legislative Assembly. Finally, the United Kingdom relinquished its control over the Colony; Ghana became an independent state on March 6, 1957 (Adu-Boahen 2000:163), to arrest and detain key political opponents.

3.6.3 Ghana Under Kwame Nkrumah

Nkrumah, well aware of his status at the head of the first West African nation to emerge from colonialism, dreams of leading the continent into a united future. This required a republic, which Ghana became in 1960 with Nkrumah as president. It also needed only one political party, the CPP. The CPP's control was challenged and criticized, and Prime Minister Nkrumah used the Preventive Detention Act (1958), which provided for detention without trial for up to 5 years (later extended to 10 years) to arrest and detain key political opponents (Adu-Boahen 2000:195-6).

On July 1, 1960, a new constitution was adopted. This constitution changed Ghana from a parliamentary system with a prime minister to a republican form of government headed by a powerful president. In August 1960, Nkrumah was given authority to scrutinise newspapers and other publications before publication. This political evolution continued into early 1964, when a constitutional referendum changed the country to a one-party state. The CPP became the only party in Ghana. After some time the CPP flag of red, white and green became the flag of Ghana. Ghana was the CPP and the CPP was Ghana (Fynn 84).

Although Nkrumah came to power on the wings of democracy, he turned his back on the process. He did not allow the institutions of governance to function as they ought to. By turning Ghana to one party-state, he defeated the purpose of multi-party democracy. On February 24, 1966, the Ghanaian Army and police overthrew Nkrumah's regime, when he was away in China (he went into exile in Guinea). Nkrumah and all his ministers were dismissed, the CPP and National Assembly were dissolved, and the constitution was suspended. The new regime, the National Liberation Council (NLC), cited Nkrumah's

flagrant abuse of individual rights and liberties, his regime's corrupt, oppressive, and dictatorial practices, the rapidly deteriorating economy as the principal reasons for its action (Adu-Boahen 2000:222-6).

The NLC set up several commissions to probe the affairs of the Nkrumah's regime. Under these commissions startling disclosures of greed, waste and corruption were made by CPP functionaries. The Apaloo Commission, for instance, revealed that Nkrumah had assets worth £2.3 million at the time of his overthrow. The Jiagge Commission's report recommended the recovery of about £750,000 from twenty-one top members of the CPP. These commissions' reports vindicated the NLC's accusation of lack of accountability and corruption against Nkrumah's government. Thus, lack of accountability resulting from weak institutions of accountability contributed to regime change in Ghana (Adu-Boahen 2000:228-9). This was the first of several such coups in Ghana's short history, but the nation remains true to the hope of democracy. In four decades Ghana has established many new republics.

3.6.4 The Governments of the National Liberation Council and the Second Republic

The leaders of the February 24, 1966 coup pledged an early return to a duly constituted civilian government. Members of the judiciary and civil service remained at their posts and committees of civil servants were established to handle the administration of the country. These moves culminated in the appointment of a representative assembly to draft a constitution for the Second Republic of Ghana. Political parties were allowed to operate beginning in late 1968.

Ghana's government returned to civilian authority under the Second Republic in October 1969 after a parliamentary election in which the Progress Party, led by Kofi A. Busia (university professor with a long track record in Ghanaian politics as an opponent of Nkrumah) won 105 of the 140 seats (Fynn 89). Until the mid-1970, a presidential commission led by Brigadier A.A. Afrifa held the powers of the chief of state. In a special election on August 31, 1970, former Chief Justice Edward Akufo-Addo was chosen President, and Dr. Busia became Prime Minister.

Busia was unable to improve Ghana's economic performance (weakened by low cocoa prices), but faced with mounting economic problems, Busia's government undertook a drastic devaluation of the currency in December 1971. The government's inability to control the subsequent inflationary pressures stimulated further discontent, and military officers seized power in a bloodless coup on January 13, 1972.

One significant hallmark of the Busia's regime is that it extended financial and administrative autonomy to the audit agency. This means that information on the stewardship of public appointees would freely be available and made directly accessible to serve all stakeholders, especially, for the purposes of probity and accountability.

3.6.5 The Reign of the Second Junta

The coup leader, Colonel Ignatius Kutu Acheampong, announced the coup in a radio broadcast in these words:

"I bring you good tidings; Busia's hypocrisy has been detected. We, in the Ghana Armed Forces, have today taken over the Government from Busia and his Progress Party. With immediate effect, the Constitution is withdrawn, Parliament is dissolved, the Progress Party and all political parties are banned" (*Jubilee Ghana* p. 171).

The significance of this statement is that the institutions of accountability that had parliamentary oversight, like the Public Accounts Committee or the Appointments Committee, were severely affected. The coup leaders formed the National Redemption Council (NRC) to which they admitted other officers, the head of the police, and one civilian. The NRC promised improvements in the quality of life for all Ghanaians and based its programmes on nationalism, economic development, and self-reliance.

In 1975, government reorganisation resulted in the NRC's replacement by the Supreme Military Council (SMC), also headed by General Acheampong. Unable to deliver on its promises, the NRC/SMC became increasingly marked by mismanagement and rampant corruption. In 1977, General Acheampong brought forward the concept of union government (UNIGOV) (*Jubilee Ghana* p. 200), which would make Ghana a non-party state. Perceiving this as a ploy by Acheampong to retain power, professional groups and students launched strikes and demonstrations against the government in 1977 and 1978 (*Jubilee Ghana* p. 198).

The steady erosion in Acheampong's power led to his arrest in July 1978 by his chief of staff, Lt. Gen. Frederick Akuffo, who replaced him as head of state and leader of what became known as SMC-2. Akuffo abandoned UNIGOV and established a plan to return to constitutional and democratic government (*Jubilee Ghana* 210). A Constitutional Assembly was established, and political party activity was revived (*Jubilee Ghana* p. 213). Akuffo, however, was unable to solve Ghana's economic problems or reduce the rampant corruption in which senior military officers played a major role.

One major feat of this junta towards making accountability in governance a reality, through institutions and processes, was the promulgation of the Audit Service Decree,

1972 (NRCD 49). This Decree established the earlier Audit Agency as the Ghana Audit Service (GAS) and strengthened its independence by establishing a seven-member Audit Service Board as its governing body. The board consisted of the chairman, four representatives appointed by the president acting in consultation with the Council of State, the auditor-general, and the head of the Civil Service. This military administration's commitment towards accountability was further demonstrated by the promulgation of the Financial Administration Decree, 1979 (SMCD 221). This was to regulate the method of operation of the Auditor-General and to provide for related matters.

3.6.6 Jerry John Rawlings Enters Ghanaian Politics

On June 4, 1979, Akuffo's government was deposed in a violent coup by a group of junior and non-commissioned officers—the Armed Forces Revolutionary Council (AFRC)—with Flt. Lt. Jerry John Rawlings as its chairman (*Jubilee Ghana* p.216).

The AFRC executed eight senior military officers, including former heads of state Acheampong and Akuffo (*Jubilee Ghana* pp.218-219); established secret Special Tribunals that tried dozens of military officers, government officials, and private individuals for corruption, sentenced them to long prison terms and confiscated their property. Through a combination of force and exhortation the AFRC attempted to rid Ghanaian society of corruption and profiteering. At the same time, the AFRC accepted, with a few amendments, the draft constitution that had been submitted; permitted the scheduled presidential and parliamentary elections to take place in June and July;

promulgated the constitution; and handed over power to the newly elected President and Parliament of the Third Republic on September 24, 1979 (*Jubilee Ghana* pp. 218-222).

3.6.7 The Third Republic

The 1979 constitution was modelled on those of Western democracies. It provided for the separation of powers between an elected president and a unicameral Parliament, an independent judiciary headed by a Supreme Court, which protected individual rights. Other autonomous institutions, such as the Electoral Commissioner and the Ombudsman, were established.

The new President, Dr. Hilla Limann, was a career diplomat from the north of Ghana and the candidate of the People's National Party (PNP), the political heir to Nkrumah's CPP. Of the 140 members of Parliament, 71 were PNP. The Popular Front Party led by Mr. Victor Owusu won 42, the United National Convention led by Mr. William Ofori Atta won 13, Col. George Bernasko's Action Congress Party won 10 seats, the Social Democratic Party sponsored by the Trades Union Congress won 3 seats in the Northern Regions, while the remaining 1 seat (in Sunyani) was won by an independent candidate. The PNP government established the constitutional institutions and generally respected democracy and individual human rights. It failed, however, to halt the continuing decline in the economy; corruption flourished, and the gap between rich and poor widened (*Jubilee Ghana* pp. 219, 222, 246).

3.6.8 Rawlings and the Provisional National Defence Council

On December 31, 1981, Flt. Lt. Rawlings and a small group of enlisted and former soldiers launched a coup that succeeded against little opposition in toppling President Limann. Rawlings explained that the action of the soldiers did not amount to a coup d'état but a holy war (*Jubilee Ghana* p. 248).

Rawlings and his colleagues suspended the 1979 constitution, dismissed the President and his cabinet, dissolved the Parliament, and proscribed existing political parties. They established the Provisional National Defence Council (PNDC), initially composed of seven members with Rawlings as chairman, to exercise executive and legislative powers.

The existing judicial system was preserved, but alongside it, the PNDC created the National Investigation Committee to root out corruption and other economic offenses; the anonymous Citizens' Vetting Committee to punish tax evasion; and the Public Tribunals to try various crimes. In 1984, the PNDC created a National Appeals Tribunal to hear appeals from public tribunals; changed the Citizens' Vetting Committee into the Office of Revenue Collection and replaced the system of defence committees with Committees for the Defence of the Revolution (*Jubilee Ghana* pp. 250, 252, 259, 260).

The PNDC also created a National Commission on Democracy (NCD) to study ways to establish participatory democracy in Ghana. The official inauguration of the NCD in January 1985 signalled PNDC's determination to move the nation in a new political direction. According to its mandate, the NCD was to devise a viable democratic system, utilizing public discussions. The commission issued a "Blue Book" in July 1987 outlining modalities for district-level elections, which were held in 1988 and early 1989, for newly created district assemblies (*Jubilee Ghana* p. 264).

The government appointed one-third of the assembly members. Under international and domestic pressure for a return to democracy, the PNDC allowed the establishment of a 258-member Consultative Assembly made up of members representing geographic districts as well as established civic or business organizations. The assembly, under the chairmanship of Mr. Justice D. F. Annan, was charged to draw up a draft constitution to establish a Fourth Republic, using PNDC proposals. The PNDC accepted the final product without revision (*Jubilee Ghana 303*), and it was put to a national referendum on April 28, 1992, in which it received 92% approval (*Jubilee Ghana pp. 309, 310*).

3.6.9 The Fourth Republic

On May 18, 1992, the ban on party politics was lifted in preparation for multi-party elections. The PNDC and its supporters formed a new party, the National Democratic Congress (NDC), to contest the elections. The NDC chose Flt.-Lt. Rawlings as its flag bearer (*Jubilee Ghana pp. 312, 315*).

Presidential elections were held on November 3, and parliamentary elections on December 29, 1992. Members of the opposition boycotted the parliamentary elections, however, which resulted in a 200-seat Parliament with only 9 opposition party members and two independents.

The NDC also won an overwhelming majority of the seats (189) while eight went to the NCP and one to the EGLE. The two other seats were won by independent candidates. The opposition parties—the New Patriotic Party (NPP), the People’s National Convention (PNC), National Independence Party (NIP) and the People’s Heritage Party

(PHP)—withdrew from the parliamentary elections, citing acts of violence and electoral malpractices as some of their reasons for the boycott (*Jubilee Ghana* p. 318).

The Fourth Republican Constitution went into force on January 7, 1993. Ft. Lt. Jerry John Rawlings was inaugurated as President and members of Parliament swore their oaths of office. In 1996, the opposition fully contested the presidential and parliamentary elections, which were described as peaceful, free, and transparent by domestic and international observers. In that election, President Rawlings was re-elected with 57.4% of the popular vote, John Agyekum Kufour of the NPP and Edward Mahama of PNC had 39.6% and 3% respectively. In addition, Rawlings' NDC party won 133 of the Parliament's 200 seats, just one seat short of the two-thirds majority needed to amend the constitution. The NPP, PCP (People's Convention Party) and the PNC won 61, 5 and 1 seats respectively (*Jubilee Ghana* p. 378).

The Constitution of the Republic of Ghana, 1992, upon which the present democratic experiment in Ghana is founded, makes provisions for the institution of the audit service and the appointment of the auditor-general. The powers conferred on these institutions by the 1992 constitution demonstrate the commitment of this democratic regime towards the building and strengthening of institutions of accountability.

3.7 President J. A Kufuor Takes Over

Presidential elections were held on 7 December 2000 with a second ballot on 28 December 2000. These elections ushered in the first democratic presidential change of power in Ghana's history when John A. Kufuor of the New Patriotic Party (NPP) defeated the NDC's John Atta Mills – who was Rawling's Vice President and hand-picked

successor (*Jubilee Ghana* 394). Kufuor defeated Mills by winning 56.73% of the vote. The elections were declared free and fair by domestic and international monitors. After several by-elections were held to fill vacated seats, the NPP majority stood at 103 of the 200 seats in Parliament. The NDC held 89 and independent and small party members held eight.

In December 2004, eight political parties contested parliamentary elections and four parties, including the NPP and NDC, contested the presidential elections. This election was reported to have a remarkable voter turnout of 85.12% according to the Election Commission. Despite isolated incidents of election-related violence, domestic and international observers judged the elections generally free and fair (*Jubilee Ghana p. 424*).

John Agyekum Kufuor was re-elected president with 52.75% of the vote against three other presidential candidates, including John Atta Mills of the NDC (44.32%), Edward Mahama of PNC (1.93%), and George Aggudey of (Convention People's Party) CPP obtaining 1% (*Jubilee Ghana p.463*).

The Ghanaian political history, since independence, brings to the fore numerous initiatives to address issues of democratisation, accountability, and governance. The authoritarian rule that dominated the greater part of the post-independence Ghanaian politics until the re-emergence of constitutional rule in 1992 instituted policies that curtailed citizens' civil liberties and democratic rights, hence political and public office holders became less accountable. Such regimes lacked the institutions for self-reform: public debate, a free press, protest movements, opposition political parties, and competitive elections. However, the democratic periods somehow counterbalanced these

shortcomings, and made citizens more active in demanding accountability from their leaders.

The current democratic dispensation has, comparably, deepened the processes for the demand and supply of accountability. Democracy based on a much more realistic view of the human nature has increased. As Armah-Attoh (2006:2) puts it, Ghanaians' involvement in political discourse, election processes and community action has created an "active political participation" environment that demands either positive or negative response from political and public office holders. While a positive response sends appropriate signals and feedback to the citizenry and enhances political accountability (which subsequently feeds back into the political participation processes to deepen the democratic culture of the country), a negative response does otherwise. Experience clearly shows that only democracy produces good government over the long haul (Huntington 1971:12-13).

Finally, the past political and constitutional difficulties, especially the repetitive military coups and following dictatorships, informed the 1992 Constitution that ushered in the Fourth Republic as it laid the foundation for stability and the promotion of good governance and also gave hope for a sustainable political and economic system (Oertel 2004:1).

CHAPTER FOUR

The Examination of Public Officials in Athens and Ghana

4.0 Introduction

It has been mentioned earlier that public accountability connotes the democratic process through which those holding public office are rendered accountable to the ordinary people. It, therefore, follows that the prevention of corruption in the public sphere has become a critical value which no regime will officially or even consciously shirk (Olowu 2007:2). The essence of this process of accountability is the maximization of the effectiveness of government and the ability to eliminate or curb abuse and waste. This explains why democratic governments in Athens and Ghana put their appointees through some form of scrutiny before proceeding to office.

4.1 The Athenian Experience on *Δοκιμασία*

The word *δοκιμασία*, a first declension feminine singular noun, has three meanings. First, *δοκιμασία* is generally defined as an assay, examination, scrutiny of, first, a magistrate, to see if the candidates fulfil the legal requirement; second, before admission to the rights of manhood and finally, a process to determine the right to speak in the *ἐκκλησία* or law-courts (Liddell and Scott 1889: 208, 7th edition).

4.2 Election of Officials

The Athenian *ἐκκλησία* was faced with a large responsibility of electing public officials, both civil servants and military officers. According to Aristotle, the Athenian *ἐκκλησία* had the mandate to elect the *στρατηγοί* and also elected officials with civic and

military responsibilities, the cavalry commanders, and τῶν πρὸς τὸν πόλεμον ἀρχῶν (other war leaders). Aristotle uses the expression below to describe how the elections were conducted καθ' ὃ τι ἂν τῷ δήμῳ δοκῆι (in whatever manner seemed good to the people). These elections happened at a meeting of the ἐκκλησία held as soon as possible; weather permitting, after the 6th πρυτάνις (Aristotle, *Ath. Pol.* 44.4). The ἐκκλησία elected ten στρατηγοί and voted on which general would assume which specific duty: one commanded heavy infantry on foreign expeditions; one took charge of the defence of Attica; one managed the military harbour at Munychia and another also took charge of the harbour at ες τὴν Ἀκτὴν (the Point); then there was a fifth στρατήγος who was also assigned to the συμμορίαί (Symmories), which were made up of a group of citizens, who were called τριήραρχοι (the trierarchs); these were responsible for the maintenance of the warships. Others were dispatched to wherever their services were needed (Aristotle, *Ath. Pol.* 61.1). The ἐκκλησία, also elected ten ταξιάρχαι (Aristotle, *Ath. Pol.* 61.3). Demosthenes mentions that he was himself, once, elected a ταξιαρχία (taxiarch- the singular form of ταξιάρχαι) (*Demosthenes* 40.34). The ἐκκλησία, again elected two ἵππαρχοι (Aristotle, *Ath. Pol.* 61.4), and a special ἵππαρχος for the island of Lemons (Aristotle, *Ath. Pol.* 61.5). The ἐκκλησία elected ten φύλαρχοι (*phylarchs*), each of whom commanded the cavalry units contributed by one of the Athenian φυλαί (Aristotle, *Ath. Pol.* 61.4).

In addition to these officials, the ταμίας (*tamias*- stewards) were elected by the ἐκκλησία. They were responsible for the ships Paralus and Ammon, which were used for special official functions (Aristotle, *Ath. Pol.* 61.7). The ἐκκλησία could dispatch these ships on missions and establish their budgets (*Demosthenes*.21.173). There were

ἀρχιτέκτονας ἐπὶ τὰς ναῦς (naval architects) who were also elected by the ἐκκλησία (Aristotle, *Ath. Pol.* 46.1). According to the records, Demosthenes on one occasion proposed that the ἐκκλησία meet on a certain date to elect officials to oversee the maintenance of the city walls (*Aeschines* 3.27). According to Aristotle, one time the ἐκκλησία also elected an official to manage the parade featuring a thirty-oared ship that carried young people through the streets of the city of Athens during the festival of the Dionysia (the god of wine and fertility, son of Zeus - the king of the gods - and Semele, a very beautiful mortal woman who was one of the daughters of King Cadmus of Thebes), (ἀρχιθέωρον τῷ τριακοντορίῳ τῷ τοῦς ἠθεοῦς ἄγοντι) (Aristotle, *Ath. Pol.* 56.4).

The ἐκκλησία also chose a treasurer of Military Funds, the Controllers of the Theoric Fund, and the Superintendent of Wells. All of these officials held office from one Παναθήναια (*Panathenaea*—All Athens Festival) to the next; this means their term of office is four years (Aristotle, *Ath. Pol.* 43.1). Again, there were ten sacrificial officers in Athens called τοῦς ἐπὶ τὰ ἐκθύματα (superintendents of expiations), tasked with the responsibility of making sacrifices to appease the gods (Aristotle, *Ath. Pol.* 54.6), and ten τοῦς κατ' ἐνιαυτὸν (yearly Sacrificial Officers), who performed sacrifices to the gods and other deities, and they administered all the four-yearly festivals of the Athenians, except the *Panathenaea* (Aristotle, *Ath. Pol.* 54.7). The accusations of Demosthenes against a man named Meidias of demanding to be elected an overseer of the festival of the Dionysia, might suggest that a certain amount of campaigning went on for these offices (*Demosthenes* 21.15).

Aristotle also describes how the ἐκκλησία elected by χειροτονία, a clerk to read document at meetings of the Assembly and of the βουλῆ; at one time a special

γραμματέα τὸν κατὰ προτανείαν (Clerk of the Presidency) was also elected, but later came to be chosen by lot (Aristotle, *Ath. Pol.* 54.3-5). These clerks enjoyed free meals in the Tholos (*Demosthenes* 19.249).

Demosthenes, again, mentions a law that no σύνδικος (commissioner) elected by the ἐκκλησία was permitted by this law of the land to serve more than once in office (μηδέξεῖναι ὑπὸ τοῦ δήμου χειροτονηθέντα πλεῖν ἢ ἀπαζσυνδικῆσαι). But he also claims that the ἐκκλησία elected Miedias to the offices of ταμίας of the Paralus, hipparch, and superintendent of the Mysteries, sacrificer, and buyer of victims, which certainly suggests that there was no limit to the number of different offices a man could hold (*Demosthenes* 20.152 & 21.171).

Ἡ βουλὴ οἱ πεντακόσιοι were all chosen by lot. Each of the ten Athenian φυλαί contributed 50 βουλευταῖται (*Aristotle, Ath. Pol.* 43.2). A citizen had to be 30 years old to serve on the βουλή. The 500 places on the βουλή were divided up not only into 50 for each of the ten φυλαί, but further within each φυλή, so that each δῆμος had a specified number of 50 βουλευταῖται on the βουλή.

From the above, one realises that Athenians did not use one method in selecting candidate to fill out positions in public services. Some officers were elected, either by lot, or χειροτονία.

Before taking their seats on the βουλή, newly selected βουλευταῖται had to undergo δοκιμασία, an audit of their fitness to serve (*Aristotle, Ath. Pol.* 45.3). The nine Archons underwent scrutiny before taking office (*Aristotle, Ath. Pol.* 55.2), as did the ten στρατηγοί (*Lysias* 15.1-2) and priests, advocates, heralds, and ambassadors (*Aeschines* 1.19-20). According to Aeschines, any citizen could call upon any other citizen to

undergo scrutiny at any time, to determine whether he deserved the privilege of speaking before the *ἐκκλησία* (*Aeschines* 1.32). Furthermore, every young Athenian man underwent a scrutiny before the members of his deme before he was enrolled in the list of citizens (*Demosthenes* 44.41; *Lysias* 26.21).

4.3 The *βουλή* and the *Δοκιμασία*

In the early history of the Athenian Democracy, Aristotle tells us that the *βουλή* was a very powerful institution. It had the power to impose fines, imprison people, and even order them to be executed; but this same Aristotle goes on to say that after the *βουλή* had condemned a certain Lysimachus to death, the Athenians objected to this decision and saved his life. Aristotle also says that the *ἐκκλησία* then decreed that only a law-court would have the power to execute (*Aristotle, Ath. Pol.* 45.1). From what has been discussed so far, it seems that in the 4th century the *βουλή* did not have complete power of life-and-death over Athenians, and as Blackwell puts it, there is no particularly good evidence that it ever did. So either Aristotle knew of some evidence that no longer survives or his description of the early powers of the Council is inaccurate.

According to Blackwell (2004) surviving law from the beginning of the 4th century shows the limits to the authority of the *βουλή* in matters of war and peace, death sentences, large fines, disenfranchisement (that is, loss of citizenship), the administration of public finances, and foreign policy. In short the *βουλή* could not act without the approval of the *ἐκκλησία*.

Nevertheless, the *βουλή* did play an important role in maintaining the wellness of the democracy, apart from its management of the agendas for meetings of the *ἐκκλησία*. Its

job was to watch over the more important public officials of Athens, to ensure that they were fit for their office and that they conducted their duties properly (Aristotle, *Ath. Pol.* 45.2).

4.3.1 Types or Forms of Δοκιμασία

The “Scrutiny” or δοκιμασία was one of the main process by which the βουλή watched over some of the officials under the Athenian democracy (Aristotle, *Ath. Pol.* 59.4). The δοκιμασία procedure for the various magistrates differed somewhat. It seems that archons (the most powerful magistrates) faced a double scrutiny, first in the βουλή and then by a popular court βουλή members faced a scrutiny by the βουλή with the possibility of appeal to a court. All other magistrates were subject simply to a public hearing in court (Aristotle, *Ath. Pol.* 45.3; 55.2-4). At this point it is important to point out that the δοκιμασία by the βουλή was not limited to officials alone, hence, the discussion of the scrutiny here is extended to all the parties who were involved in the process.

To begin with, one of the scrutinies to which the βουλή attached much importance was ὁ δοκιμασία τῶν ἐφήβων (the scrutiny of young men). Young men could become citizens when they turned eighteen, if they were the legitimate sons of two Athenian citizens (Aristotle, *Ath. Pol.* 42.1). Young men would be inspected in their villages, initially, and added to the roll as new citizens if their fellow demesmen found that they met the requirements. The final inspection of citizen-roll was the business of the βουλή, which conducted a δοκιμασία of them to make sure that each was actually eighteen years old (Aristotle, *Ath. Pol.* 42.2). If the βουλευται found that any candidates for citizenship were too young, they would fine the members of the δῆμος who put the candidate on the

list (Aristotle, *Ath. Pol.* 42.2). After this scrutiny, all these new candidates were sent off for two years of military training at the hands of selected instructors (Aristotle, *Ath. Pol.* 42.3-4).

Another significant thing worth discussing on δοκιμασία by the βουλή is ὁ δοκιμασία τῶν ἵππων (the “Scrutiny of the Horses”). Athenians who were to serve as cavalry in wartime were listed on a roll (Aristotle, *Ath. Pol.* 49.1), and the state paid them a salary and pay for their horses’ feed. If the Councillors found that a horse was not in good condition, or that it was improperly trained, they could fine its owner to recover the cost of its feed and deny him his cavalry pay (Aristotle, *Ath. Pol.* 49.1-2). This process ensured that the state did not lose revenue unnecessarily.

To ensure that state resources did not go waste, the βουλή also conducted a “Scrutiny of the Helpless”, ὁ δοκιμασία τῶν ἀδυνάτων (Aristotle, *Ath. Pol.* 49.4):

“The Council also inspects the Helpless; for there is a law enacting that persons possessing less than three *minae* and incapacitated by bodily infirmity from doing any work are to be inspected by the βουλή, which is to give them a grant for food at the public expense at the rate of two obols a day each.”

This function of the βουλή is well-attested. The orator Lysias wrote a speech for a man defending his right to receive the pension due to the Helpless. The speech begins with an address, not to a jury (as so many speeches begin), but ᾧ βουλή (Council!!) (*Lysias 24.1*).

Again, the Athenian law demanded that *rhetoires*, public speakers or “politicians,” underwent a δοκιμασία if they belonged to one of the following groups: those who maltreated their parents; those who failed to perform military service or threw away their shield; those who prostituted themselves or squandered their patrimony or inheritance (Harrison 1971:2.171-172; Dover 1994:20-23). If one of the above spoke in the

assembly, anyone might challenge him there, calling upon him to undergo a scrutiny. If the accused was convicted by a jury, he was disfranchised (*Demosthenes* 19.257 and 284, Harrison 1971:2.204-205).

Aristotle's description of the *δοκιμασία* of the nine Archons (which was made up of the six *θεσμοθέται* plus *ὁ ἄρχων*, *ὁ ἄρχονβασιλεύς* and *ὁ πολέμαρχος*), who were the most important officials of the democracy (Aristotle, *Ath. Pol.* 55.1-4) brings to the limelight the actual procedure of the process for magistrates. Using the description of the *δοκιμασία* of the nine Archons by Aristotle as a guide, the procedure is described as follows: first, the qualifications of these officials are first checked in the *βουλή* of five hundred, except the Clerk. The nine Archons, as stated above, are checked in the *βουλή* and in the Jury-court. Formerly any official not passed by the Council did not hold office, but later there was an appeal to the Jury-court and with this rests the final decision as to qualification.

Finally, there were substitute *βουλευῆται* chosen in addition to the 500 *βουλευῆται*. A fragment from a comic play by the comic poet Plato (not Plato the philosopher), suggests that each Councilor chosen by lot (*λαχών*) had a corresponding substitute (*ἐπιλαχών*) assigned to replace him if he proved ineligible for the office.

4.3.2 The *Δοκιμασία* session

The questions put in examining qualifications were, first, 'Who is your father and to what *δῆμος* does he belong, and who is your father's father, and who is your mother, and who is her father and what is his *δῆμος*?' Then the candidate was also asked whether he had a Family Apollo and Homestead Zeus, and where these shrines are; then

whether he has family tombs and where they are; then whether he treats his parents well, and whether he pays his taxes, and whether he has done his military service (Bonner 1993:12-13). In addition to these questions, the ten στρατηγοί were also required to demonstrate at their δοκιμασία that they were fathers of legitimate children and they owned property in Attica (Roberts 1982:14). Again, a candidate was examined to find out whether he belonged to a particular census-class; and whether he was not precluded from one office because he had held it before, or he was holding another, or being under some form of *atima* (It denotes loss of civic rights including the right to go to court to protect one's personal rights).

And after putting these questions the officer says, “call your witnesses to these statements”. And when he has produced his witnesses, the officer further asks, ‘Does anybody wish to bring a charge against this man?’ The accusation(s) could border on the issues discussed above but the δοκιμασία orations of Lysias show that a man’s whole life—private and public—was subjected to examination (Aristotle, *Ath. Pol.* 55.1-4).

And if any accuser was forthcoming, he was given a hearing and the man on trial an opportunity of defence, and then the official puts the question to ἀποχειροτονία in the βουλή or to a vote by χειροτονία in the Jury-court. If, however, nobody brought a charge against him, the χειροτονία followed at once. Formerly, if a candidate came up for approval, and no one spoke out against him, the βουλή (or jury, as the case may be), conducted a symbolic vote, a mere formality, with one person only placing his ballot-pebble to signify acceptance. Later, according to Aristotle, this was changed to require a serious vote, with all members participating; this would ensure that people could vote

against a candidate secretly, in case they were afraid to speak out openly (Aristotle, *Ath. Pol.* 55.1-4).

Comparatively few candidates were rejected at this scrutiny since at the time it was held they had not yet had the opportunity to abuse their offices, and in the case of newly elected generals, such a swift drop in popularity was not likely (Roberts 1982:14). Lysias' writings, however, bring to the fore several examples of accusations at *δοκιμασία*. A would-be *στρηγοί* in 405, Theramenes, was rejected at his *δοκιμασία*. The nature of complaints brought against him was not clear, but it is believed that they might have something to do with the condemnation of the victors of Arginusae (Roberts 1982:20).

The data provided by Lysias further revealed that there was no question on a man's fitness for the office in terms of his age and wealth, since this was taken care of at the *προκρισις* (*prokrisis*). The *προκρισις* was a Cleisthenic democratic device first used in 487/6. It was a preliminary election that preceded the *sortition* of ten candidates (for the board of archons) from each tribe, out of whom nine winners were drawn. The *προκρισις* was later conducted by lot, thereby producing a double *sortition* (McGregor 1987:119). Consequently, the alleged purpose of the *δοκιμασία* was ignored. It did exclude military slackers, tax dodgers, undutiful sons and men of recent citizenship, and those unconnected with the cult especially associated with the family.

On conclusion of the enquiry anyone was free to show cause in a court of law why the official-elect should not be confirmed in his office. It was incumbent upon each member of the *βουλή*, when the *δοκιμασία* of a new member took place before the body, to disclose any evidence that he might have that the candidate was unfit for the position (Bonner 1933:12).

4.3.3 The βουλευται Oaths

Upon passing their δοκιμασία, the new βουλευται swore the so-called “βουλευται Oath.” According to Aristotle, this practice dates back to the eighth year of the Cleisthenic reforms, that is after Cleisthenes established the democracy in 501/500 BCE (Aristotle, *Ath. Pol.* 22.2). After the scrutiny was completed, the βουλευται who had passed were ceremonially sworn into service:

And when the matter has been checked in this way, they go to the stone on which are the victims cut up for sacrifice (the one on which Arbitrators also take oath before they issue their decisions, and persons summoned as witnesses swear that they have no evidence to give), and mounting on this stone they swear that they will govern justly and according to the laws, and will not take presents on account of their office, and that if they should take anything they will set up a golden statue. After taking oath they go from the stone to the Acropolis and take the same oath again there; and after that they enter on their office (Aristotle, *Ath. Pol.* 55.5).

The work of Lysias has two passages that suggest that the new βουλευται were made to swear the βουλευται oath, and the details include swearing: “to advise what was best for the city” (τάβέλτιστα βουλευέσθαι τῇ πόλει) (Lysias 31.2;30.10). Demosthenes also mentions that the βουλευται, when given the mandate to serve the people swore that they would advise “what was best for the People” (τάβέλτιστα βουλευέσθαι τῷ δήμῳ Ἀθηναίων) (Demosthenes 59.4)

According to Demosthenes, the βουλευται included this clause in their oath:

Nor will I imprison any Athenian citizen who provides three people to guarantee his debt, guarantors who are in the same tax-bracket, except anyone found guilty of conspiring to betray the city or to subvert the democracy, or anyone who has contracted to collect taxes, or his guarantor, or his collector who is in default. (οὐδὲ δῆσω Ἀθηναίων οὐδένα, ὅς ἂν ἐγγυητὰς τρεῖς καθιστῇ τὸ αὐτὸ τέλοςτελοῦντας, πλὴν ἂν τις ἐπὶ προδοσίᾳ τῆς πόλεως ἢ ἐπὶ καταλύσει τοῦ δήμου συνιῶνάλῳ, ἢ τέλος πριάμενος ἢ ἐγγυησάμενος ἢ ἐκλέγων μὴ καταβάλλῃ) (Demosthenes 24.144).

The above clause would prevent a creditor from having an Athenian citizen arrested for indebtedness, assuming that the citizen could provide three other citizens who would sign his debt together; the exceptions are traitors, and “tax-farmers,” that is, men who had paid for the privilege of collecting taxes on behalf of the Athenian government. A few sentences later in the same speech, Demosthenes claims that Solon, the law-giver of the 6th century BCE, was responsible for this provision (*Demosthenes* 24.148).

Again, there is a passage from a speech which has been attributed to the work of Andocides. This passage gives a new dimension to the whole process with the claim that the “oath of the People and the βουλή” (τῷ ὄρκῳ τοῦ δήμου καὶ τῆς βουλῆς) included a promise that they (the people) will “not to exile, nor imprison, nor execute anyone without a trial” (μηδένα μήτε ἐξελᾶν μήτε δῆσειν μήτε ἀποκτενεῖν ἄκριτον) (*Andoc.* 4.3).

Roberts (1982:20), writes on the data provided by Lysias on Athenian δοκιμασία. Though the details it brings to the fore are limited, they demonstrate that the alleged purpose of the δοκιμασία—determining that the candidate indeed possessed all the legal qualifications for his new job—was often ignored and that the δοκιμασία was often used instead to try to bar a political or perhaps a personal, enemy from office. They suggest too that some of the Athenians of the early fourth century capitalised on the general nature of the δοκιμασία to get around the terms of the amnesty of 403, which forbade formal prosecution for specific actions prior to that year. Finally, the evidence of Lysias confirms that, as Harrison has argued, the δοκιμασία was in no way intended as a scrutiny of a man’s general competence; it would appear that issues of stupidity, ignorance, or political experience did not arise at the δοκιμασία (Roberts 1982:21).

The penalty for a rejected candidate did not go beyond prohibition from assuming office. In sum, the *δοκιμασία* for magistrates and non-magistrates was one of the Athenian legal institutions of accountability that involved the citizenry and imposed stringent regulations that did preserve democracy.

4.4 Vetting of Officials—the Ghanaian Experience

The procedure for examination and evaluation of candidates for official duties in Ghana has some resemblances and differences when juxtaposed with the Athenian processes. The Ghanaian procedure is based on the country's Fourth Republican Constitution of 1992.

Parliaments everywhere are significant actors in the chain of accountability because they are one of the institutions through which political accountability is exercised. In theory, parliaments are one of the key institutions of democracy, playing an important role in terms of legislation, oversight and representation. Regrettably, in many developing countries—as well as in many developed countries—parliaments are weak, ineffective and marginalized (Tsekpo & Hudson 2009:1).

Members of Parliament are put in office by the electorate to represent their interests and to oversee the exercise of power by the executive. Oversight is about monitoring and reviewing the actions of the executive organs of government including holding the Executive accountable for the legality of all actions, policy consistency, and effective targeting of segments of the population. Thus, oversight of government, and particularly of the executive, is one of parliament's most important functions.

4.4.1 The Appointments Committee of Parliament

The creation of the Appointments Committee of Parliament is a constitutional provision of the 1992 Constitution. Article 103 of the 1992 Constitution empowers Parliament to appoint standing committees and other committees as may be necessary for the effective discharge of its functions. Clause two of this article also states that the standing committees shall be appointed at the first meeting of Parliament after the election of the Speaker and the Deputy Speakers (Article 103(1-2)).

In compliance with this constitutional requirement, the Standing Orders (SOs) of Parliament provide that at the first meeting of every session of Parliament there shall be appointed a Committee of Selection comprising Mr. Speaker as Chairman and not more than nineteen other Members to compose a number of Standing Committees of the House, including the Appointments Committee, to be appointed by Parliament (Order 151 (1) and (2(h))). Membership of the Committee is bipartisan but is often dominated by the majority party in Parliament.

Order 172 (12) of the Standing Orders of the Parliament of Ghana provides that:

- There shall be a Committee to be known as the Appointments Committee composed of the First Deputy Speaker as Chairman and not more than twenty-five other Members.
- It shall be the duty of the Committee to recommend to Parliament for approval or otherwise persons nominated by the President for appointment as Ministers of State, Deputy Ministers, Members of the Council of State, the Chief Justice and other Justices of the Supreme Court, and such other persons specified under the Constitution or under any other enactment.

- The names of persons nominated for appointment in the Committee shall be published, and the proceedings of the Committee shall be held in Public.
- The Committee shall report to Parliament within three days after it has concluded its proceedings when Parliament is sitting. Parliamentary approval of persons recommended for appointment shall be by secret ballot or by consensus.
- Each Member shall be provided with a sheet of paper on which appears the names of all candidates for approval or rejection. Against the name of each candidate shall be two columns, one for AYES indicating approval and the other for NOES indicating rejection.
- A cross against one name in the AYES column and another cross against the same name in the NOES column shall render the vote null and void.
- Every ballot paper shall bear the stamp and the initial of the Speaker.
- A candidate who fails to secure fifty per cent of the votes cast is rejected.

4.4.3 Public Officials in Ghana

The 1992 Constitution of the Republic of Ghana identifies public officials to include the President of the Republic, the Vice-President of the Republic, the Speaker, the Deputy Speaker and a Member of Parliament. These officials are elected. The rest are Ministers of State and their Deputy Ministers, the Chief Justice and other Justices of the Superior Courts of Judicature, Chairmen of the Regional Tribunals, the Commissioner for Human Rights and Administrative Justice and his/her Deputies and all judicial officers (Article 295). Others are: Ambassadors or High Commissioners, Secretary to the Cabinet, Heads of Ministries or government departments or equivalent offices in the Civil Service,

the chairmen, managing directors, general managers and departmental heads of public corporations or companies in which the state has a controlling interest; and such officers in the public service and any other public institution as Parliament may prescribe (Article 286 5 (a)-(j))—are appointed either in consultation with the Council of State or some other recognised body or institution.

The constitution also empowers the President to appoint the following state officials in consultation with the Council of State: the Auditor-General; the District Assemblies Common Fund Administrator; the Chairmen and other members of the Public Services Commission; the Lands Commission; the governing bodies of public corporations; a National Council for Higher Education howsoever described; the Chairman, Deputy Chairmen, and other members of the Electoral Commission and the holders of such other offices as may be prescribed by the Constitution or by any other law not inconsistent with this Constitution (Article 70 clauses 1 & 2).

Finally, as a constitutional requirement, the president appoints an officer to represent him in every district of the country. Article 243 (1) of the constitution say that: “there shall be a District Chief Executive (DCE) for every district who shall be appointed by the President with the prior approval of not less than two-thirds majority of members of the Assembly present and voting at the meeting.” The DCE, when approved, becomes the President’s representative in the district.

4.4.4 The Mandate of the Appointments Committee

Article 78 (1) of the constitution provides that Ministers of State shall be appointed by the President with the prior approval of Parliament from Members of Parliament or

persons qualified to be elected as Members of Parliament, except that the majority of ministers of State shall be appointed from among Members of Parliament. Again, Article 139(4) requires that a person shall not be qualified for appointment as a Justice of the High Court unless he is a person of high moral character and proven integrity and is of at least ten years' standing as a lawyer. However, the constitution is not pellucid on the minimum requirement of persons appointed to other offices who would require parliamentary approval. The assumption is that it will be the same as those nominated for ministerial positions. If so, the Constitution places an obligation on Parliament to scrutinise the President's nominees before the nominees can be approved or otherwise. Article 94 becomes one of the major guiding principles of the committee in determining the qualification or otherwise of the nominee.

Article 94 (1) requires that a person shall not qualify to be a member of Parliament if he/she is not a citizen of Ghana, has attained the age of twenty-one years and is a registered voter and a resident in the constituency for which he stands as a candidate for election to Parliament or has resided there for a total period of not less than five years out of the ten years immediately preceding the election for which he stands, or he hails from that constituency.

The committee will also be interested if he/she has a tax clearance certificate. Clauses two and three of Article 94 further spell out the grounds upon which a person may be disqualified or failed at the vetting. These clauses require a nominee to owe allegiance to only Ghana, be of sound mind, have no criminal records, not an employee of the public service and do not hold chieftaincy position.

Clauses four and five express the circumstance(s) under which persons who would otherwise be disqualified can qualify.

4.4.5 The Appointment Process

It is for the position of some the offices mentioned, thereof, that the president sends a list of nominees to the Appointments Committee, through parliament, for confirmation before he can go ahead to confirm them.

The process of appointing a person as a Minister of State or as the head of a public service (Article 190 spells out what constitutes the public services in Ghana) is a three-part process, consisting of (1) the naming and submission of the nomination by President; (2) the approval (or rejection) of the nomination by Parliament; and (3) the appointment of the nominee by the President. The President is free to withdraw a nomination at any stage. Even after Parliament has approved a nomination, it remains for the President to proceed with the appointment or not (Gyimah-Boadi, Centre for Democratic Development — Ghana Briefing paper p3).

First, the list of nominees from the President, either for ministerial or any other appointment requiring scrutiny by parliament, is passed onto the House, from where it is submitted to the Appointments Committee. The Appointments Committee reviews the lists and advertises it for public comment. Second, the Appointments Committee conducts investigations into the background of nominee(s). The investigations are usually based on memoranda received from the public and the nominee(s)' curriculum vitae. Then, the nominee(s) is/are vetted based on the information gathered from the investigations conducted by the committee; memoranda received from the general public,

the information provided on the nominees' curriculum vitae and any other relevant source(s). Public input in the process is significant and, in most cases, the input from the public forms the basis of questioning nominees. It is important to point out that, individuals who level allegation(s) against appointees of the President can be subpoenaed by the committee to justify the allegations if necessary.

During the vetting session, members of the committee ask the appointees questions in turns. An appointee who appears before the committee is not obliged to answer all questions. Sometimes the chairman of the appointments committee overrules some questions posed by members, when he believes that such questions are irrelevant to the subject matter. The Appointments Committee has allowed live TV coverage of its hearings since 2005.

The final report of the committee is submitted to the House for debate and vote by secret ballot. The House can reject the findings of the committee but such rejections are rare. The approval of Parliament does not constitute an order to the President. What it means is that the Parliament finds the nominee acceptable and that the appointment can proceed, if the President so desires. Parliament's power is at an end once the approval is given and communicated.

The President's appointment power ripens at that point, but it remains the President's decision whether to consummate the appointment. Once nominations are approved and the President appoints the Ministers or the public officers, the Ministers or officers are rarely censured by Parliament even though the constitution (Article 82) permits parliament to do so (Stapenhurst and Alandu 8).

According to Gyima-Boadi the processes of parliamentary approval of nominees in Ghana reveal severe institutional and procedural weaknesses in Ghana's legislative and democratic practice. First, the time between the announcement of the President's nominations and the beginning of the public hearings is too short to allow for proper investigation into the nominee(s) background. Second, the numerous petitions filed by the public against the nominees raise questions about the quality of the background checks conducted on the nominees by the relevant state agencies. Finally, the process has also revealed the technical incapacities of Parliament and its Committees. One of these is Parliament's limited resource and technical base for cross-checking allegations and verifying claims. The research and analytical capacity of Parliament proved too weak to allow deep investigations into the background of appointees (Gyima-Boadi CDD- Ghana Briefing paper p2).

Another important thing about this parliamentary scrutiny is to ensure that the Constitution and its provisions regarding parliamentary approval of the president's nominees are well institutionalised to enable them become core democratic ideas of vertical and horizontal accountability (Gyimah-Boadi CDD-Ghana Briefing Paper p1)

Chapter Five

Εὔθνη and Audit in Accountability and Governance

5.1 Introduction

A perennial difficulty for democratic constitutions is the need to assign public officials sufficient power to accomplish the objectives of government, while at the same time preventing them from exceeding their assigned powers in a way that would detrimentally affect the liberties of the people. The Athenians, having experienced the tyranny of the Pisistratids in the late sixth century, and having seen their democracy twice subverted (although briefly) at the end of the fifth century, were likewise concerned to constrain the power of public officials.

It was for the purpose of restraining public officials that the Athenian legal system provided various procedures for enforcing accountability. These included the δοκιμασία of officials before entering office, the periodic review of magistrates by the ἐκκλησία during their tenure of office (ἐπιχειροτονία τῶν ἀρχῶν), prosecution by ε σαγγελία or ἀποφασίς (*apophasis*; a procedure introduced in the mid-fourth century to allow the *Areopagos* to investigate possible offenses) with consequent upon suspension from office, inspection of an official's account in each *πρυτανίς* (Ober 1989:72). Each *πρυτανίς* assumed responsibility for the ἐκκλησία and the βουλή for a tenth of the year (Efstathiou 4). The λογίσται, elected from the βουλή, also conducted the final inspection of the accounts of the non-councilor accountants and their *συνήγοροι* after the magistrates leave office. There was a scrutiny of general conduct in office by the ten εὔθνοι appointed with their assessors.

From many scholarly accounts the above procedures of the *εὐθύνη* or *εὐθύναι* (singular and plural respectively) fell within a broad spectrum of actions which ensured accountability. It looked like a well organised and tight legal system which intended to discourage an official from amassing political power through formal public duties, and represented a strong checking machine provided by a democratic system (Efstathiou 7).

Since the magistrates' audit after they demitted office was radically changed presumably in connection with the restoration of the democracy in 403/402, this work intends to discuss the *εὐθύναι* procedure as it is presented in C5th and C4th sources in Aristotle, Demosthenes, and Aischines' speech *On the false Embassy*.

5.2 The History of the *Εὐθύνη*

There is little concrete evidence in the classical materials about the history of the *εὐθύνη* (Bonner & Smith 1933:153). The earliest period in which scholars place the beginnings of the *εὐθύνη* is the archonship of Solon in the sixth century B.C.E. In fact, Aristotle attributes the introduction of the *εὐθύνη* at Athens to Solon (Aristotle, *Politics* 1274a, 1281b). Historians have questioned whether the formal practices of the *εὐθύνη* could have started this early (Bonner & Smith 1933:153-161). Historians do think that, in the late sixth century, the Areopagus, the sovereign body in the city-state at that time, composed only of elite aristocrats, exercised some supervision of officials and audited their accounts (Aristotle, *Ath. Pol.* 84). Furthermore, it appears that the office of the *εὐθύναι*, the auditors, was likely to have been established by the late sixth century, although probably only Areopagites, the elite aristocrats, could be *εὐθύναι* until the mid-fifth century (Sinclair 1988:18). At this time, Aristotle suggests, a citizen who brought a

complaint would not conduct the prosecution himself, but would make his complaint to the *εὐθνοί*, who then assumed responsibility to prosecute the case (Aristotle, *Ath. Pol.* 4.4.). On the other hand, prosecutions for treason appear always to have been initiated and held in the Assembly of all citizens (Carawan 1987:189).

Most scholars believe that Ephialtes, who, together with Pericles, effected a number of radical constitutional reforms in the 460s, also introduced the bulk of the technical procedures of the *εὐθύνη* at that time (Bonner & Smith 1930:268-69). Ephialtes transferred the institution of the *euthyna* from the control of the elite aristocratic council, the Areopagus, to the *ἐκκλησία* and the court (Carawan 1987:189). He also transferred the hearing and final verdict of the trials from the Areopagus to the court of the people and transferred the office of the *εὐθνοί* from the Areopagus to the Assembly (Aristotle, *Ath. Pol.* 55.3-5). Finally, he instituted a reform of the *εὐθύνη* so they were held to account if they failed to prosecute certain violations. This is all of the evidence available from the classical materials about the history of the *εὐθύνη* (Dornum 1987:1483).

5.3 The *Εὐθύνη* Procedure

The classical Athenian *εὐθύνη* belonged to the group of procedures which dealt with magistrates' conduct in office (*αρχή*) and even with citizens who carried out a public function and public financial dealings, like *τριήραρχος*, (*triērarchos* - was the title of officers who commanded a trireme in the classical Greek world), ambassadors (Aischin. 3.17), priests (Aristotle, *Ath. Pol.* 54.2), Council members, but not jurors (*Demosthenes* 26. 5).

This procedure, which took place after the magistrate demitted office, usually at the end of the year, reflects the constant attempt by the Athenian people to monitor the magistrate and anyone with public duty, to see how they implemented the instructions of the demos and whether they kept to their monetary and political restrictions.

Each official had to present his records for audit within thirty days of laying down his office or be liable to prosecution. Even officials to whose hands no public funds had been entrusted had to have a statement to that effect approved (Roberts 1982:17). Bonner & Gertrude Smith suggest that during the course of the *εὐθύνη* mandatory proceedings, a citizen could call attention to the arbitrary conduct of the official who was under scrutiny and, eventually, could bring the matter before a court. While under scrutiny, the officials' citizenship rights were suspended; they could only resume acting as citizens when their behaviour in the previous year had been judged and found straight. Until the end of the investigation a magistrate was not allowed to leave Attica and was under a continuous process of checking.

5.3.1 Stages of the *Εὐθύνη*

The *εὐθύνη* procedure divides into three parts: the first part was the financial part; the *λογος* (*logos*—accounts) directed by the *λογισταί*; the second was the part of the *εὐθύναι* to whom accusations were handed and the third was the final court hearing. The whole procedure is referred to as *λογος και εὐθύναι* or in one word *εὐθύναι*. In the financial part of the examination, the magistrate had to give an account of his financial dealings during his term of office; the purpose of this stage of the examination was to check the financial records of the office in question, to spot cases of *κλοπή* (*klope*—embezzlement),

δωροδοκία (*dōrodoxia*, bribe-taking) (Harvey 1985:82-9) and *ἀδικίον* (*adikiou*, malefaction). The whole examination was conducted by ten public auditors, *λογισταί*, amateurs who were chosen by lot from all citizens. This group of *λογισταί* may be distinguished from the group of *λογισταί* who conducted audit each *πρυτανίς* and were selected by lot from the members of the *βουλή*.

5.3.2 The First Stage

The *λογισταί* who conducted the annual audit were assisted by ten advocates, *συνήγοροι*, again chosen by lot. If we believe the lexicon *Rhezoricum Canzabrigense* (s.u. *Λογισταί και συνήγοροι*) there is a kind of preliminary question which takes place before *λογισταί* and *συνήγοροι*. In particular, we can suppose that the *λογισταί*'s job concerns technical matters such as accounts while the duty of *συνήγοροι* may include more general investigations, a kind of examination and questioning, which possibly covered matters of embezzlement, receiving bribes, improper use of public and private funds and property. Additionally, when the *εὔθυνοι* call a meeting, the role of *συνήγοροι*, acting as official prosecutor, may be to present the case arising from the accounts which the *λογισταί* had examined before. According to Aristophanes' *Wasps* 691, *συνήγοροι* were paid one drachma (six obols) a day for their service (Aristophanes *Wasps*, (f)1).

However, there were some magistrates who had no involvement with public money; in these cases it was necessary for the magistrate to present a written statement saying that he never received nor spent any public money (*Aischin.* 3.22) and this seems to have exempted him from the financial part of the *εὔθυνη*.

But even in the case of a magistrate who performed a duty without obvious financial dealings, he might still be suspected of *δωροδοκία*, and probably this is also an offence which belonged to the jurisdiction of the *λογισται*. After their preliminary examination, the *λογισται* sent a case to trial and brought each magistrate before a jury panel presided by the *λογισται* themselves (Aristotle, *Ath. Pol.* 48.5).

Finally, even in the case where no fault was found in the accounts of the magistrate, a herald invited anyone who wished to make an accusation, but probably this invitation concerned only accusations of financial misconduct (*Demosthenes* 18.117). If an outgoing official failed his accounts before the *λογισται*, he could be indicted for an offence of *αλογιον* (γραφη αλογιου) (Pollux 8.54).

5.3.3 The Second Stage

The second stage of examination, according mainly to the work of Aristotle, consisted of an investigation of any alleged malpractice by the official. For this investigation, ten men *εὐθυνοί* were chosen by lot, one from each tribe. As MacDowell (1983:18) rightly notes, the implication is that they are chosen from the *βουλῆ* and not from the citizen's body. Two *παρεδροί* (assessors) were chosen again by lot for each *εὐθυνοῦς* making a total of twenty. Following the exculpation of the magistrate before the court of the *λογισται* during the first part of the examination, the *εὐθυνοί* and their assessors sat in the *αγορά* (*agora*- an open place of assembly in ancient Greek city-states) for three days beside the statues of the eponymous heroes to hear charges of misconduct of a non-financial nature (Harrison 1971:29) and anyone, who wished to accuse a magistrate who had just been discharged by the *λογισται*, could submit the charge to the *εὐθυνοῦς* belonging to the same

tribe as the accused magistrate. These charges could be brought by any citizen who felt that the official had been guilty of malfeasance in office. The citizen could accuse the official either of having wronged him personally, or of having acted detrimentally to the welfare of any other person or of the state; this included the right to object to an official's policy decisions (Dornum 1987:1497).

The *εἰσθητοί* would examine the charge, and if they thought fit, reject it (Harrison 1971:30); but if they found the charge valid, they would remit a private wrong to the judges of the relevant *δῆμος* and a public wrong to the *θεσμοθέται* (Harrison 1971:30).

5.3.4 Conclusion

To summarize, four boards were involved in a *εὐθύνη*: *λογισταί* examined financial ledgers; *εἰσθητοί* investigated general conduct in office; if criminal charges resulted from the *εὐθύνη*, then *συνήγοροι* would prosecute; and *θεσμοθέται* would oversee proceedings (Ostwald 1986:55). The institution of the *εὐθύνη* not only safeguarded the rights of citizens, but also penalized officials for crooked behaviour. If an official's actions had been straight, he retained his ability to act as a citizen after leaving office (Ober 1989:267).

While an official's conduct was being examined, during the *εὐθύνη*, he did not have authority to act as a citizen: that is, he could not speak publicly, take political action, set out on journeys (mentioned above), transfer property, or even make a religious offering (Roberts 1982:18). The state, in some sense, had a lien on the civic freedom of every official until his actions were examined and found just (Aeschines, 3.21-.22). The *εὐθύνη* appears to have been a politically important procedure in fifth century Athens (Todd

1993:149). Several fifth-century decrees describe penalties to be paid at their *εὔθυνα* by officials who failed to fulfil particular responsibilities (Dornum 1997:1498).

A number of cases are reported in which officials were charged at their *εὔθῦνη*. For example, Plutarch describes how Themistocles attacked Aristides at his *εὔθῦνη* (Plutarch, Arist. 4.3). Demosthenes describes how Callias was accused at his *εὔθῦνη* of taking bribes while he was an ambassador (Demosthenes, 19.273. 152); and the celebrated treason trial of Aeschines in 343 B.C.E. arose out of the accusations lodged against him at his *εὔθῦνη* by his fellow envoy Demosthenes (Roberts 1982:49-54). Not all charges at a *εὔθῦνη* ended in conviction. One famous acquittal is that of the general Cimon in 463 B.C.E. (Dornum 1997:1499).

The penalties handed down to those officials who were successfully impeached were quite severe. One official, Phrynichus, was impeached posthumously: his corpse was disinterred, his property confiscated, and his house razed (Dornum 1997:1498). The charges against some of them are also known: the overwhelming majority concern treason, embezzlement, or the taking of bribes (Dornum 1997:1499). Over a period of about 100 years, evidence exists that eleven generals, at least three ambassadors, a group of officials accused together in 404, and a treasurer were executed (Dornum 1997:1499).

Summing up from the various source discussed, it is clear that the *εὔθῦνη* procedure in 5th and 4th centuries B.C.E Athens may be a preliminary investigative procedure consisting of the stages of the *λογισται* and the *εὔθῦνοι*. Following this introductory investigation if a complaint arises, this is handed to the *εὔθῦνοι* who is doing a preliminary checking of the charge. Although the *εὔθῦνοι* gives a decision about the charge, this decision is not final. Lastly the various cases are referred to the appropriate

authorities, the private suit to the *δῆμος* of the accused and the public to the *θεσμοθέται*. The involvement of the *εὐθῆνοι* ends when they pass the case to the magistrate, while the *thesmothetai* act as presiding magistrates. However, it is not suggested that the *θεσμοθέται* themselves act also as prosecutors.

To have a final judgment, what is needed more is the accuser to reactivate the accusation with a separate legal action (*δίκη*—lawsuit, *γραφῆ*—public suit by any citizen of good standing, or *ε σαγγελία*); which is handed to the *δῆμος* (*δίκη*) and the *θεσμοθέται* (*γραφῆ* and *ε σαγγελία*); the action pursued by the accuser depends on the nature of the allegation and the procedure which is more suitable for him. As regards especially to public suits, we can say that for various reasons a case may be not activated by the accuser, in other words the *θεσμοθέται* do not receive an independent accusation by the accuser; thus, the case may be suspended for a period of time or permanently.

5.4 Ghana: Accountability and Audit

Since Athenian governments had a long tradition of public accountability, it is not surprising that many institutional mechanisms existed for ensuring and encouraging these matters. Other countries, including Ghana, do not have the same historic tradition and, consequently, the same sorts of institutions do not exist. In contemporary Ghanaian history, both authoritarian and democratic traditions could be found and, in many instances, very few or even no real structures of public accountability existed or, if they did exist, they were present more in form than in reality. In a situation like this, it is very tempting to suggest that the traditions of the country work against public accountability

and, consequently, that the citizens are unlikely to be able to effectively hold their government officials accountable.

5.4.1 The History of Audit

The Ghanaian experience in terms of seeking to ensure a high degree of public accountability on the part of government officials goes back to the colonial era, some 100 years ago. In 1910, the Ghana Audit Service (GAS), an audit department, was established by the colonial government in London as a colonial audit department, and was called the Audit Department. It was headed by a Director. In the 1950s, the name was changed to Auditor-General's Department. On 22nd August 1969, the constitution of the 2nd Republic converted the department into the Audit Service headed by an Auditor-General. This was to increase the degree of independence of the Service (Audit Profile).

The 1972 Audit Service Decree established it as the GAS and strengthened its independence by establishing a seven-member Audit Service Board as its governing body. The board consists of the chairman, four representatives appointed by the President acting in consultation with the Council of State, the auditor-general, and the head of the Civil Service. The Audit Service Act of 2000 (Act 584), which derives most of its provisions from the 1992 Constitution, further enhanced the mandate of the GAS.

The 1992 constitution states that there shall be an Auditor-General of Ghana whose office shall be a public office. The Audit Service Act of 2000 (Act 584) is a fifteen page document which, acting as an augmentation to the constitution, explains in detail the governing body of the Service, functions of the Board, appointment of the Auditor-

General, independence and powers of the Auditor-General, audit observations, audit report implementation committees, and what constitutes an Offence under the Act.

5.4.2 The Mission and Vision Statements of GAS

The GAS's mission & vision statements require that the service to promote good governance in the areas of transparency, accountability and probity in the public financial management system of Ghana by providing auditing to recognised international auditing standards, the management of public resources and reporting to Parliament. The vision of Audit Service is to be one of the leading Supreme Audit Institutions in the world, delivering professional, excellent, and cost effective auditing services.

5.4.3 Strategic Objectives of GAS

The GAS has seven strategic objectives which underpin the Service's vision and mission statements. These are listed below:

- To implement the provisions in the 1992 Constitution and the Audit Service Act 2000 (Act 584) and the Audit Service regulations (constitutional instrument number CI 56) towards the financial, administrative and operational independence of the Audit Service.
- To introduce and implement human resource policies and practices that promote the recruitment, training, career development, motivation, empowerment, advancement and retention of high professional calibre staff.

- To promote increased accountability, probity and transparency in the management and utilisation of public resources by applying modern and emerging auditing techniques.
- To establish and operate quality control standards and performance assessment, monitoring and reporting policies and procedures to promote cost effective and efficient delivery of auditing services.
- To increase audit coverage and to produce regular and timely audit reports on all areas mandated by the Constitution and the Audit Service Act and promptly make such reports accessible to interested parties and stakeholders.
- To provide the enabling environment, facilities and logistical support needs to ensure optimal performance by all staff of the Service.
- To improve and sustain communication and cooperation between the Audit Service and its clients, other professional bodies, Parliament and the accountability and good governance agencies.

5.4.4 The Mandate of the Audit Service

By Article 187(2) of the constitution, the Audit Service carries out among other duties the auditing of accounts of the courts, central and local government administrations, public universities and other schools, and all public corporations or other bodies or organizations established by an act of Parliament, for example, Ghana Education Trust Fund, Road Fund, National Health Insurance Scheme. Half yearly foreign exchange receipts and payments statement of the Bank of Ghana for the periods ending June 30 & December 31 are also under its jurisdiction (Ghana Audit official

site). The auditor-general also has authority to enforce compliance, and conduct financial and performance audits on his own initiative or at the request of the President or Parliament.

5.5 The Auditing Functions

The 1992 Constitution and the Audit Service Act 2000 (Act 584) require varieties of audits, which are consistent with international standards, which the Audit Service must perform. These are Financial Audit / Regularity Audit; Performance/Value For Money Audit; Forensic Audit; Environmental Audit; IT/Computerised Systems Audit and Payroll Audit (Ghana Audit official site).

5.5.1 The Audit Service of Ghana

The GAS headquarters is in Accra, the capital, where about 40 percent of its 1,379 employees work. In addition, the GAS has 10 regional offices and, within the regions, 98 district offices. There are five deputy auditors-general who work under the direction of the auditor-general. The service also has twenty-three assistant auditors-general heading the regional offices and most of the 61 directors are responsible for the district offices. The Audit Service is also made up of five (5) departments. A Deputy Auditor-General (DAG) heads each department. These departments and their primary responsibilities are discussed below (Ghana Audit).

5.5.1.1 Central Government Audit Department (CGAD)

The CGAD has the primary responsibility for the audit of all the Ministries, Departments and Agencies (MDAs) of Central Government, including Ghana's foreign missions abroad. For this purpose, the Audit Service has offices in most MDAs in Accra. At the Regional and District levels, audits of MDAs are carried out by offices located in those regions and districts.

5.5.1.2 Commercial Audit Department (CAD)

The CAD is responsible for the audit of Public Boards, Corporations, the Bank of Ghana, tertiary and other Statutory Institutions.

5.5.1.3 Educational Institutions and District Assemblies (EIDA)

EIDA is responsible for the audit of the following entities:

- All Metropolitan, Municipal and District Assemblies.
- Pre-University public Educational Institutions.
- Traditional Councils

5.5.1.4 Performance Audits Department (PAD)

This department is made up of three sections, namely:

- Performance Audit
- Special Funds Audit, and
- Information Technology Audit

Section 13(e) of the Audit Service Act, 2000 (Act 584) mandates the Auditor General to audit programmes and activities of public offices with due regard to economy, efficiency and effectiveness in the use of resources.

5.5.1.5 Finance and Administration (F&A)

This department provides support services to all audit staff across the country. It is made up of the following units: Accounts, Budget, Payroll, Human Resource, information technology Technical, Training and Human Resources Development, Estates, Procurement, Transport, Security, Stores and Correspondence.

5.5.2 Legal Authority and Independence

The auditor-general is appointed by the President in consultation with the Council of State. Under the 1992 Constitution and Act 584, the auditor-general is not subject to the direction or control of any other person or authority and has the power to disallow any item of expenditure that is contrary to law. In addition, the auditor-general retains the power to impose surcharges for disallowed expenditures and to have access to all books, records, returns, or other documents relating to active accounts. Internal auditors of any public institution or body must submit copies of all reports issued as a result of internal audit work to the auditor-general (Audit Profile).

5.6 Auditing Standards

The auditing process is based on standards, concepts, procedures, and reporting practices, primarily imposed by the Institute of Chartered Accountants, Ghana (ICA,

GH). These standards and procedures constitute the foundation of auditing for all three types of auditors (Reference for Business Encyclopedia).

Major types of audits conducted by external auditors include the financial statements audit, the operational audit, and the compliance audit. A financial statement audit (or attest audit) examines financial statements, records, and related operations to ascertain adherence to generally accepted accounting principles, meaning that the audit determines whether companies have followed the financial reporting standards given by various sanctioning boards such as the Financial Accounting Standards Board. An operational audit examines an organization's activities in order to assess performances and develop recommendations for improved use of business resources. A compliance audit has as its objective the determination of whether an organization is following established procedures or rules. Auditors also perform statutory audits, which are performed to comply with the requirements of a governing body, such as a federal, state, or city government or agency (Reference for Business Encyclopedia).

The auditing process relies on evidence, analysis, conventions, and informed professional judgment. General standards are brief statements relating to such matters as training, independence, and professional care. ICA (GH) general standards include the following:

1. The examination is to be performed by a person or persons having adequate technical training and proficiency as an auditor.
2. In all matters relating to the assignment, independence in mental attitude is to be maintained by the auditor or auditors.

3. Due professional care is to be exercised in the performance of the examination and the preparation of the report.

Standards of fieldwork provide basic planning standards to be followed during audits.

ICA (GH) standards of field work are:

1. The work is to be adequately planned and assistants, if any, are to be properly supervised.
2. There is to be a proper study and evaluation of the existing internal control as a basis for reliance thereon and for the determination of the resultant extent to which auditing procedures are to be restricted.
3. Sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmation to afford a reasonable basis for an opinion regarding the financial statements under examination.

Standards of reporting outline the required auditing standards relating to the audit report and its contents. ICA (GH) standards of reporting are:

1. The report shall state whether the financial statements are presented in accordance with generally accepted accounting principles.
2. The report shall state whether such principles have been consistently observed in the current period in relation to the preceding period.
3. Informative disclosures to the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.
4. The report shall contain either an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed. When an overall opinion cannot be expressed, the reasons should be

stated. In all cases where an auditor's name is associated with financial statements, the report should contain a clear-cut indication of the character of the auditor's examination, if any, and the degree of responsibility he or she is taking.

5.7 The Auditing Process

Auditors generally conduct audits following four general steps: planning, gathering evidence, evaluating evidence, and issuing a report. In planning the audit, the auditor develops an audit program that identifies and schedules audit procedures that are to be performed to obtain the evidence. The auditor must be aware of potential problems involved in the auditing process, such as whether company property and debt actually exist or whether company transactions actually took place. In addition, the auditor usually formulates a hypothesis about company financial information at this step, such as "Company/Institution/Organisation financial reports are accurate" or that the "Company/Institution/Organisation financial reports are inaccurate." Audit evidence is proof obtained to support these hypotheses and ultimately the audit's conclusions.

After the planning is completed, the auditor must collect the evidence necessary to support the audit's conclusions. Evidence-gathering procedures include observation, confirmation, calculations, analysis, inquiry, inspection, and comparison. An audit trail is a chronological record of economic events or transactions that have been experienced by the Company/ Institution/Organisation. The audit trail enables an auditor to evaluate the strengths and weaknesses of internal controls, system designs, and company policies and procedures. The auditor must evaluate the initial hypothesis based on the evidence and accept or reject the hypothesis as a result. Finally, the auditor prepares a report based on

the findings of the other steps, which involves making a decision about company records and claims and whether the actual evidence supports company records and claims.

5.8 Audit Report

The independent audit report sets forth the independent auditor's opinion regarding the financial statements. The auditor's opinion indicates whether the financial statements are fairly presented in conformity with generally accepted accounting principles, and applied on a basis consistent with that of the preceding year (or in conformity with some other comprehensive basis of accounting that is appropriate for the entity). A fair presentation of financial statements is generally understood by accountants to refer to whether:

1. The accounting principles used in the statements have general acceptability.
2. The accounting principles are appropriate in the circumstances.
3. The financial statements are prepared so they can be used, understood, and interpreted.
4. The information presented in the financial statements is classified and summarized in a reasonable manner.
5. The financial statements reflect the underlying events and transactions in a way that presents the financial position, results of operations, and cash flows within reasonable and practical limits.

The auditor's unqualified report contains three paragraphs. The introductory paragraph identifies the financial statements audited, states that management is responsible for those statements, and asserts that the auditor is responsible for expressing an opinion on them. The scope paragraph describes what the auditor has done and specifically states that the

auditor has examined the financial statements in accordance with generally accepted auditing standards and has performed appropriate tests. The opinion paragraph expresses the auditor's opinion on whether the statements are in accordance with generally accepted accounting principles.

Various audit opinions are defined by the ICA (GH)'s Auditing Standards Board as follows:

1. Unqualified opinion: an unqualified opinion states that the financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows of the business in conformity with generally accepted accounting principles.
2. Qualified opinion: a qualified opinion states that, except for the effects of the matter(s) to which the qualification relates, the financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows of the business in conformity with generally accepted accounting principles.
3. Adverse opinion: an adverse opinion states that the financial statements do not represent fairly the financial position, results of operations, or cash flows of the business in conformity with generally accepted accounting principles.
4. Disclaimer of opinion: a disclaimer of opinion states that the auditor does not express an opinion on the financial statements.

The fair presentation of financial statements does not mean that the statements are fraud-proof. The independent auditor has the responsibility to search for errors or irregularities within the recognized limitations of the auditing process. An auditor is subject to risks that material errors or irregularities, if they exist, will not be detected.

In contrast with the standardized report of external auditors, internal and governmental auditors prepare a variety of reports that serve a variety of purposes, depending on the auditing assignment and goals. Both internal and governmental reports strive to communicate information clearly and concisely. Government reports tend to emphasize the efficient use of resources by the government departments being audited, whereas internal reports tend to vary greatly because of the plethora of interests and purposes companies may have for auditing (Reference for Business Encyclopedia).

All these processes and procedures make the GAS one of the important governmental institutions for ensuring public accountability on the part of the government and the people who operate its programmes, as well as the policy makers who represent the public. Generally reporting to the legislative branch of government, this institution typically has considerable number of highly trained personnel whose principal activity is the routine review of governmental agencies and their performance. Originally created to focus principally upon fiscal matters and issues of financial integrity and accountability, this institution has increasingly broadened its focus and now looks very closely at actual programme effectiveness and performance as well. In so doing, one of the things that the institution particularly focuses upon is the interaction of the government agency being examined with its public and/or clientele.

Thus, the Auditor General's Office (AGO) plays an important role in the oversight process, because Parliament relies on its audited accounts to conduct its *ex post* oversight. Article 187 (2) of the 1992 Constitution and Section 5 of Article 187 requires the AGO to inform parliament through the audited accounts of any irregularities. The AGO's report to Parliament is referred to the Public Accounts Committee (PAC) by the Speaker.

The challenge for both the AGO and the PAC is that they do not have prosecutorial powers. Their findings are transmitted to the Attorney General's department for prosecution, referred to the police for investigation, or to the Serious Frauds Office (SFO), or the Commission for Human Rights and Administrative Justice (CHRAJ). In short, the committees in parliament and other state institutions have to rely on multiple agencies and channels for further action, including prosecution of their findings. A problem with follow-up is that, ultimately, it is the office of the Attorney General (AG) that is responsible for prosecution. The AG's mandate is governed by Article 88 of the 1992 constitution, under which the AG doubles as a Minister of State and principal legal counsellor to the government. As Minister of State, the AG is part of the executive branch and, at the same time, is responsible for prosecutions emanating from the investigations of parliament and its committees, the Serious Frauds Office (SFO), and the Auditor General. In short the contribution of the AG to parliamentary and state institutions oversight is dampened by the perception that the office is not independent.

Chapter six

6.1 Summary and Conclusion

This chapter provides the findings from the examination of the institutions of accountability discussed in the previous chapters. Findings relate to three broad areas: the ways in which Athens and Ghana's history has impacted on institutions of accountability and governance as understood in theory, the roles *δοκιμασία* and vetting have played in accountability processes and the issues and concerns raised by *εθθώνη* and audit in accountability.

The genesis of this work identified poverty as one of the frontline causes of human deprivation. Human deprivation usually happens when a nation's resources are mal-handled by people in authority. These woes of many developing countries have been blamed on bad leadership. Bad leaders are made when the various institutional frameworks allow for non-scrutiny or improper scrutiny of people in authority. Improper scrutiny is possible when the institutions mandated to perform such tasks are under-resourced and weak. The strengths and resources base of such institutions depend on the regime or the system of governance in place. Therefore, a system of government which allows a change in government, preferably through democratic means, is viewed as one of the main pre-requisites for making leaders accountable to their citizenry; for making a fresh start and attracting economic investments that can help reduce poverty to the barest minimum

This thesis, thus, found out that one of the principle elements that assure good democratic governance is the accountability of public officials. Accountability results from many sources, including tough processes of institutional design; it also ensures that

the actions and decisions taken by public officials are subject to oversight, so as to guarantee that government initiatives meet their stated objectives and respond to the needs of the communities that are supposed to be benefiting, thereby contributing to better governance and poverty reduction. Governance opens new intellectual space. It provides a concept that allows us to discuss the role of government in coping with public issues and the contribution that other players may make. It opens one's mind to the possibility that groups in society other than government may have to play a stronger role in addressing problems.

Whenever people who lead and manage governments are constantly held accountable to their citizenry, they become conscious of the fact that somebody somewhere is keeping an eye on their stewardship; consequently, widespread corruption is minimised.

Since this work focuses on accountability in governance, the two terms were discussed, and what was found out was that scope and meaning of 'accountability and governance' have been extended in a number of directions well beyond their core sense of being respectively called to account for one's actions or being called to exercise power or authority—political, economic, administrative or otherwise—to manage a country's resources and affairs. The accountability of those who make political decisions to those who choose them is a fundamental part of good governance. Again, it is part of a broader process of citizen control of officials in positions of public trust. This is an issue that all governments, especially democratic ones, in one manner or another, must address.

A nation's past plays a very significant role in the type of governance system(s) it upholds. The governance system(s) also determine the institutional structures that are suitable in holding public officials accountable. In the Athenian society, where issues of

accountability of public officials were very much a part of the political and governance tradition of the state, there were numerous approaches, techniques and institutions that were either used or involved in the process of maintaining and assuring accountability of all officials, whether elected or chosen by lot.

The history of Athenian public accountability shows that ensuring the accountability of officials was fundamental to good governance in any form. The existence of accountability as a culture contributed to the establishment of the foundation for Athenian democracy.

The Athenian experience shows that accountability is important for the development of democracy, ensures rectitude of public officials, which in turn ensures that officials will act properly through the mechanisms of deterrence (that is officials in office will see what happens to other officials or their predecessors who did not behave properly) or be removed from office. Second, accountability ensures visibility, that is, it enables the citizenry to know what their officials are doing; this knowledge instils popular confidence in the government. This leads to the third reason for accountability: it increases citizen participation and involvement in government (Dornum 1997:1514).

The principles of legal and moral accountability, both procedural and substantive, were present at every stage in early Athenian history. These principles meant that, from the eighth to the fifth centuries B.C.E., officials ranging from kings to aristocratic leaders to citizens chosen by lot to serve in public office were publicly responsible to the citizens. Any leader who did not act with propriety in office could be publicly blamed for his conduct. The fact that rectitude was established as a cultural ideal enabled the fifth century Athenians to open up governance to all citizens—with the assurance that

straightness was the rule, not the exception. Again, instilling knowledge of and confidence in government in the citizenry, was present throughout the history of Athenian accountability. In the eighth century B.C.E., as Hesiod relates, the citizenry watched and listened to everything their leaders did; the actions of both kings and judges were presented as public ones. Similarly, in Solon's vision of the seventh century, the aristocratic leaders publicly announced their policies and decisions. Finally, every official had to give an account of himself before entering office and his stewardship at the end of his term of office to the Assembly of citizens. This requirement of open, visible action meant that the idea of public Assembly meetings, votes and trials was not shocking, but a natural development. This means that encouraging citizen participation in government had a long history in Athenian institutions of public accountability. In the seventh century, when aristocratic leaders appeared to have gathered much of the power in their hands, leaders were self-regulating, but they were checked by citizens' ability to appeal the rectitude of their actions to the people's court. Citizen participation narrowed to aristocratic citizens in the late sixth century. In the fifth century, the value of citizen participation assumed pre-eminent importance; every Athenian citizen had the right to ask for an accounting of official action (Dornum 1997:1516).

However, it is not necessary to have a long tradition of democracy of probably two centuries in order to successfully build institutions of governmental accountability. The Ghanaian experience in a period of less than two decades provides an excellent illustration of that reality. In less than two decades, Ghana, which had been the home of one of the most dictatorial and oppressive regimes, has witnessed, since 7th January 1993, the re-introduction of democratic government. Democratic governance has with it

numerous institutional mechanisms and procedures designed to enhance and ensure the accountability of government to the public. Some of these arrangements are highly individualistic and the product of a political leader very much committed to encouraging public accountability.

When Ghanaians realised that all other regimes, but their previous democratic regimes, could not support the institutional arrangements designed to open up the processes of government to very close public scrutiny, they deserted those regimes and recalled democracy. Ghanaians justified this action with the thought that under democracy, as their previous experiences have shown, some institutions of state such as the audit service, police service, judicial service, prisons service and some non-governmental organizations, such as Integrity International, play very important roles in assuring accountability within the country. These arrangements are more institutional and thus represent a very significant transformation in the way government officials view their relationship to the public. What is most significant about the Ghanaian experience is the rapidity with which changes have occurred in an environment that would not, at first glance, seem to be very responsive to this type of reform.

A wide range of mechanisms can serve as instruments of accountability. Each has its strengths, but, as will become evident, none appears able to carry the whole load itself. The history of the *εἰθύνη* and the *δοκιμασία* in Athens, and the vetting and audit in Ghana show that principles of accountability empower individuals and give them the required ability to scrutinize or examine and challenge officials' actions. Accountability is not necessarily conjoined with democracy, but is fundamental to good government in any form. The three primary values of official accountability were important to the Athenians.

These values are, similarly, crucial to good governance in Ghana. Without official rectitude in office, public knowledge of official actions and citizen participation in government, the Ghanaian parliament will not be truly representative of citizens' beliefs and preferences, nor will it promote good government.

Political corruption has been a fact of life for thousands of years, beginning with the first attempts at a democratic form of government in ancient Greece and Rome. The Athenian legal systems for accountability are relevant to contemporary Ghanaian legal thought(s) and vice versa. What has necessitated these legal systems being compared are that, whenever a person accepts a political appointment or wins election to an office, he or she must take an oath to uphold the public trust. While this may sound noble on paper, enforcement of this oath can prove problematic; again, being placed in a position of significant political power can be overwhelming, and the temptation to bend or break rules for a perceived 'greater good' is always present. Finally, it must be emphasised that lawmakers, judges and others in position of power over citizens, whether in the past or present, are/were constantly approached by lobbyists, special interest groups and influential private citizens who all want them to provide some form(s) of favour(s). Many officials do/did have enough integrity to resist such corrupt tendencies, but unfortunately some are not strong enough to resist. An official under significant pressure can make some questionable decisions, which in turn could lead to accusations of wrongdoing or deriving personal benefit from an office.

There is an old axiom often applied to those with political ambitions: *Power corrupts; absolute power corrupts absolutely*. In this case, the term *corruption* means the abuse of a public office for personal gain or other illegal or immoral benefit. Political corruption is

a recognised criminal offence, along with, bribery, extortion and embezzlement—three illegal acts often associated with corruption in office.

It is in cognition of these challenges in governance systems that there is an increasing popular feeling which suggests that the Athenian systems could have corrected certain institutional defects which could inform and improve the Ghanaian experience. The Ghanaian legal checks on state officials also reveal some levels of insufficiencies in the Athenian experience. This implies that the Athenian and Ghanaian models have some similarities as well as some differences worth looking into. The information gained from studying these models can produce new ways to deal with certain problems of public accountability to improve life in societies.

In sum, accountability enhances the integrity of public officials in governance and thereby safeguards government against corruption, nepotism, abuse of power and other forms of inappropriate behaviour. Officials elected or chosen by lot or appointment require proper public scrutiny to be able to achieve this noble mission. Accountability institutions in Athens and Ghana have certain features in common. The details below examine some of the similarities and dissimilarities between the *δοκιμασία* in Athens and the vetting in Ghana. The similarities and the variations between the two are examined from the perspectives of the selection processes of the candidates.

6.2 The Procedure—*Δοκιμασία* and Vetting

As discussed earlier, the Athenian *δοκιμασία* and the Ghanaian vetting systems denote the processes of scrutinising magistrates or appointees who have been elected, appointed or selected by lots to hold positions of trust in public offices, that is, it is a formal

interrogation to determine a candidate's eligibility to serve. In both Athens and Ghana a candidate chosen by lot, elected or even appointed should appear before a body of some sort for background checks before assuming office.

In Athens the *δοκιμασία* procedure for the various magistrates differed somewhat, the bodies that examined the candidates were varied, depending on the office a candidate sought to hold. The nine archons underwent scrutiny before taking office, as did the ten generals, council members, priests, advocates, heralds, and ambassadors. According to Aeschines, any citizen could call upon any other citizen to undergo scrutiny at any time, to determine whether he deserved the privilege of speaking before the *ἐκκλησία*. Furthermore, every young Athenian man underwent a scrutiny before the members of his *δῆμος* before he was enrolled in the list of citizens.

The vetting of Ghanaian public officials proceeds along similar lines. The President's nominees for ministerial and some official appointments go through the vetting process at the Appointments Committee of Parliament. This is to fulfil a Constitutional requirement. Thus, all appointees of the President who require scrutiny are compulsorily examined by the Appointments Committee of Parliament.

The difference between these two institutions is that, unlike the Athenian *δοκιμασία* which scrutinised every magistrate, a sizable number of Ghanaians appointed or elected are not scrutinised by the Appointments Committee before they assume office. The President himself is not vetted; the Vice President, the Speaker of Parliament, and even the members of the appointments committee and an overwhelming number of the president's appointees are not vetted. For example, the heads of the following public services of Ghana are appointed by the President: the Civil Service, the Education

Service, the Prisons Service, the Parliamentary Service, the Health Service, the Statistical Service, the National Fire Service, the Customs, Excise and Preventive Service, the Internal Revenue Service, the Police Service, the Immigration Service, and the Legal Service, and chairmen and members of many corporations, boards and commissions, and many other state agencies; but none of them is examined by the Appointments Committee before they assume office.

The scrutiny of public officers in Ghana seems to be focused on Ministers of State, judges of the superior courts (Courts of Appeal and above), the administrators of district assemblies' common fund and Ghana Educational Trust Fund, the Auditor General and very few other appointees. Since vetting includes significant examination into the background of the candidate to verify their suitability for the office, it is important that the limited application of the vetting process is avoided.

Another match in the scrutiny of officials in both Athens and Ghana is the involvement of the general public and the approval process. In Athens, after the candidate was asked the standard questions, the floor was opened for any interested citizen to bring accusations against the candidate, and if anyone did so, the candidate could speak in his own defence and then the officials put the question to *ἐπιχειροτονία* in the *βουλή* or to a vote by *χειροτονία* in the Jury-court; but if nobody brought a charge against him, his fate was partly determined immediately through a vote. It did rest with the jurymen to disqualify him if he was found to be unsuitable.

In Ghana, the Appointments Committee conducts investigations into the background of nominees and also review the memoranda received from the public. A well publicised vetting process provides an opportunity for members of the public at home and abroad to

challenge nominees who may have given false information to the Committee. Most importantly, it creates an additional possibility for the public to hold appointees to some of the sweet promises they make in their bid for confirmation. The Committee sits and scrutinises persons nominated by the President for prior approval based on the information gathered.

Unlike Athens where governments were not formed by political parties, in Ghana there is always some pressure on the newly elected political party to form a government in a short time and start working. This makes the time allowed for checks on appointees very limited; hence, thorough investigations are not done. For instance, when a candidate tells the Committee that he/she has a certificate from an institution outside the country, the time allotted does not allow the Committee to cross-check its authenticity. Again, the Committee or its members do not have research assistants to assist them in their work; hence they are forced to believe almost all the information provided by the appointee.

The final report of the committee is submitted to the House for approval or otherwise within three days after it has concluded its proceedings when parliament is sitting. Parliament may approve or refuse to do so. The approval of recommended nominees is by *χειροτονία* or by consensus. After the approval of a nominee by parliament, it still remains for the President to proceed with the appointment or not.

The difference between the Athenian and Ghanaian situation is that a candidate could be very certain of his position after his *δοκιμασία*, what was left to be done was the oath of office. In Ghana, however, the President is free to withdraw a nomination at any stage of the vetting and appointment processes. Even after Parliament had approved a nomination, it only meant that the Parliament had found the nominee acceptable and that

the appointment could proceed, if the President so desired. In this way, it remains the prerogative of the President (the appointing authority) to proceed with the appointment or not, because the power of Parliament ends once the approval is rendered and communicated.

This power invested in the hands of the President is not good enough. Unlike the Athenian experience, an appointee in Ghana continues to be at the mercy of the appointor after his/her vetting. One expects the appointment to crystallise after the vetting but this can happen only if the President desires. If the Presidency deems it inappropriate to continue with the appointment, that decision to discontinue should go through the court system.

The penalty attached to being rejected at one's *δοκιμασία* was disqualification from office; in the case of a *στρατηγός*, if he had sought re-election, he could face prosecution. Men who were disqualified in this way, except those prosecuted and found guilty, could still participate fully in the Assembly and the law courts. In Ghana, the penalty for appointees who fail at the vetting is disqualification from taking office. In the case of appointees who were re-vetted, because their party had been re-elected, the appointees could also face prosecution in a court of competent jurisdiction, if they were found culpable of any offence.

It is not surprising that candidates defending themselves at a scrutiny (*δοκιμασία* or vetting) thought they were justified in giving an account of their whole life. For the kind of questions that it was traditional for the presiding magistrate to ask probed into aspects of an individual's life that went deeper than formal, legal qualifications. This pattern is identical, in some respects, to the scrutiny in Ghana. The questions asked are usually

based on the candidate's curriculum vitae and pieces of information volunteered by the general public. The two pieces put together give a detailed or fair idea of the candidate's background. Consequently, the questions posed by the vetting committee to candidates who appear before them are likely to delve both into their private and public lives.

6.3 The Detail of Questions at the Examination of the Candidates

This section seeks to compare and contrast the sorts of questions posed to the candidates who come for examination the intent of those questions and how these requirements contribute towards accountable governance.

The first task of the committee undertaking the *δοκιμασία* or vetting is to establish the nationality of a candidate. To be able to clear this hurdle and qualify at a *δοκιμασία* or a vetting in Athens or Ghana, respectively, the candidate should clearly demonstrate that his nationality credence is not in doubt. In Athens the *δῆμος* played a very important role in this background checks. Athenian young men, who were 18 years old, were enrolled in the *πίναξ ἐκκλησιαστικὸς* (*pinax ekklesiastiko*—Assembly List). This list became the source of reference for a candidate, if he was challenged. The citizenship identity of Ghanaians is clearly defined in articles 6,7,8,9 and 10 of the 1992 constitution of the republic of Ghana. The scope of Ghanaian citizenship is very wide and it clearly defines what it takes to be a citizen of Ghana. Children born in Ghana are issued with birth certificate to authenticate their citizenship. Since the scope is wider and flexible many people living in Ghana can have easy access to Ghanaian citizenship.

In spite of the above similarities, some differences exist between the nationality identity of Athenians and Ghanaians. While Athenians had a data on their citizens at their

δημος, the records on Ghanaians are obtainable from the birth and death registry. The Athenian citizenship was limited to those whose parents were both Athenians. Although this may sound discriminatory, the idea behind it was, probably, to safeguard the state and democratic government. It is reasonable to believe that full blooded Athenians would be more loyal to their fatherland than half or non-Athenians. Looking at the articles of the Ghanaian constitution that determine the citizenship of Ghana, one can see a higher level of flexibility in the way and manner through which citizenship is acquired in Ghana—by birth, adoption, marriage or even through registration. This means that in Athens, only those whose both parents are Athenians qualify for selection and can be scrutinised at the *δοκιμασία* for public office. This contrasts sharply with the Ghanaian situation, where anyone who meets the citizenship' requirement qualifies to hold public office.

The flexibility of the Ghanaian system could have served the Athenians better than their system. History has shown that the loyalty or commitment of individuals to a nation or a state does not solely depend on their nativity. The betrayal of Alcibiades to Sparta is a clear manifestation of what “true-blooded” citizens can do to their motherland. So, the Athenians should have adopted some, if not all, of the Ghanaian flexible system.

Secondly, candidates for political offices or other positions of state in democratic Athens were selected both by lots (*κλήρωσις*) and by elections. For example the *στρατηγοί*, cavalry and other military officers were elected during the meeting of the 6th *πρυτανίς*, when omens were believed to be favourable. According to Aristotle, the *βουλευται* were among those offices chosen by lot. Aristotle, elaborates further in these words:

The officials elected by lot were formerly those elected from the whole tribe together with the nine archons and those now elected in the temple of Theseus who used to be divided among the *δημοσ*; but since the *δημοσ* began to sell their offices, the latter also are elected by lot from the whole tribe, excepting members of the Council and Guards, these they entrust to the *δημοσ*.

In Ghana, the process of choosing public functionaries is mostly by appointments and rarely through elections. The officers chosen through elections are the President and the members of the legislature. The President, once elected, is empowered by the constitution to appoint all other officers therein the constitution. The discussions, so far, indicate that citizens in both Athens and Ghana hold public offices through elections and other selection processes.

However, it is important to point out the differences between the two methods used in selecting public officials. While Athenians considered the *κλήρωσις* method to be democratic; the elective process was perceived as aristocratic. This was largely because only those of noble birth, fame or wealth usually attained office through this method. An example of this was the rivalry between Cimon and Pericles. Although both men had the aristocratic blood in them, the wealth of Cimon gave him an edge over his rival—Pericles.

Ghanaians, on the other hand, do not sanction casting of lots as a legitimate method of getting citizens to hold public offices. Many public officials are appointed directly or indirectly by the President of the republic; this is something which was very alien to the Athenian democracy. The Athenian democracy never created a presidency. The closest that the Athenians came to the concept of the presidency was the election of a chairman of the presiding sub-committee of the *βουλή*, but his term of office was for twenty-four hours. Aristotle says that “there is a chairman of the presidents, one man, chosen by lot:

this man chairs for a night and a day—no longer—and cannot become chairman a second time” (ἔστι δ’ ἐπιστάτης τῶν πρυτάνεων εἷς ὁ λαχών. οὗτος δ’ ἐπιστατεῖνύκτα καὶ ἡμέραν, καὶ οὐκ ἔστιν οὔτε πλείω χρόνον οὔτε δις τὸν αὐτὸν γενέσθαι).

In both Athens and Ghana, the age of a citizen determined which office is open to him. In Athens young men were enrolled on their *δημος* list when they were 18 years old; they then spent two years in military training after which they qualified as members of the *ἐκκλησία*. Being part of the *ἐκκλησία* gave the individual the right to hold public office, except the *βουλή* where a citizen had to be 30 years old to serve on it, an age-limit that may have dated back to the time of Draco. The criteria for holding many public offices in Ghana are identical to that of a member of parliament. What this means is that one must be at least twenty-one years of age, but for the presidency, one must be at least forty years old.

In sum both *the δοκιμασία* and the vetting function as a repository of innuendo, rumour, hearsay, and gossip, hence, if there was talk circulating about an individual who hoped to stand for office, let him beware, for there was a very good chance that such talk would emerge at his scrutiny. These examinations of officials play important roles in diverse ways to ensuring uprightness in the behaviour of all would-be office holders.

6.4 The *Εἰθὺνη* and Audit

The procedural resemblance between the *εἰθὺνη* and audit lies in the fact that both state institutions have the authority to determine the financial propriety of all state officials. In both cases, the findings or the outcome of the work is passed on to the next

stage for action(s) to be taken. This scrutiny took into account almost every aspect of the officers' conduct in office, public and private.

The procedural variations occur in the following ways: first, the Athenian *εἰθύνη* covered all public officials in their capacity as individuals; every magistrate, but not the office as an institution, underwent a scrutiny before the prescribed state institution and any citizen could call upon any other official to undergo scrutiny at any time, to determine whether he deserved to continue his term of office. In Ghana, the audit service, except when it is carrying out a special investigation on an individual, has access to all books, records, returns and other documents including documents in computerised and electronic form relating or relevant to those accounts of all public institutions and can express an opinion as to whether the accounts present a fair financial information in accordance with the applicable statutory provisions and generally accepted accounting standards. When this process is complete, the head of the institution, mostly a government appointee, is said to have been audited.

In Athens the rendering accounts proceeded in order according to the categories of officer. Ordinary annual officers had to render their accounts within thirty days after the expiration of their offices in the month of *ἑκατομβαιών* (*Hecatombaeon*- the first month of the Attic year, from the last half of July and the first half of August). The *κοσμήται* (*kosmetai*-those who marshaled an army) rendered accounts in the month of *Βοηδρομιών* (*Boedromion* – the third Attic month, a period close to our September). The treasurer of the revenue, who held his office for four years, in the month of *Πυανεψιών* (*Pyanepsion*- the fourth month of Attic year, corresponding to the latter part of October and former of November) and *Μαιμακτηριών* (*Maimacterion*- the fifth Attic month, corresponding to

the end of November and beginning of December) of the third year of each Olympiad. Generals might be called back by a decree of the people before the expiration of their office to give an account of his stewardship. The Ghanaian system is a little different. The Auditor-General, with the support of his staff, is mandated by the constitution to submit his/her report on all public accounts of Ghana and on all public offices to parliament and in that report, he should draw attention to any irregularities in the accounts audited and to any other matter which in his opinion ought to be brought to the notice of Parliament. This duty is to be performed within six months after the end of the immediately preceding financial year to which each of the accounts relates.

The experiences over the years have shown that the challenges that have engulfed the audit service have made it impossible for accounts to be audited and presented to parliament at the stipulated time. Sometimes, accounts presented to parliament are in arrears for three years or more. What Ghanaians can learn from Athenians on this is to compel all appointees of governments, especially, the Auditor-General, to sign performance contract. In Athenian democracy, slack in performance was severely punished.

In Athens, a magistrate was not free until the *εὐθύνη* was fulfilled. During this period the whole property of the ex-officer was in bondage to the state: he was not allowed to travel beyond the frontiers of Attica, to consecrate any part of his property as a gift to the gods, to make his will, or to pass from one family to another by adoption; he received no public honours or rewards, he could not hold any new office. If within the stated period an officer through whose hands public money had passed did not send in his account, an action called *ἀλογίου δίκη* (*alogiou dike*—a lawsuit for unreasonable conduct) was

brought against him. These stringent laws and conditions in Athens do not match the position or the situation in Ghana on auditors or the officers audited. In Ghana, unless an official is under special investigation, he or she is entitled to all citizenship rights. An ex-official may be re-appointed to another position while the audit is in progress, or can sell part or all their property, transfer property or part of their property as gifts or travel outside the country on their own passport. The only major thing they lose is their diplomatic passport, if there is any.

In conclusion, one can say that accountability has become a watchword in ancient Athenian and Ghanaian contemporary politics. There are various ways in which accountability is exercised across the globe. This thesis has looked at the two important institutions of accountability, each, as practised in Athens and Ghana. Everyone has a role to play to ensure that our leaders are accountable to us; civil society and state institutions, in particular, are critical components of this quest for accountability. Political leaders who face sanction through elections or organised action by citizens have a considerable incentive to establish or enforce institutional checks and balances.

Democratic governance at the local or national level can succeed only if public servants are held accountable by their governments. The employees of the state, either by election or appointment, must be well policed by equally well resourced institutions. “Governance” opens new intellectual space. It provides a concept that allows us to discuss the role of government in coping with public issues and the contribution that other players may make. It opens one’s mind to the possibility that groups in society other than government (e.g. ‘communities’ or the ‘voluntary sector’) may have to play a stronger role in addressing problems.

Establishing democratic procedures for proper political conduct allowed the fifth-century Athenians to establish rigorous checks on the use of political power of magistrates, officials, and those who handled public money. The *δοκιμασία* and the *εὐθύνη* became some of the most important tools of demotic power in the *δημοκρατία*. With accountability guaranteed, officials were likely to ensure that they had clear directions from the *ἐκκλησία*, particularly through *ψηφισματα* (*psēphismata*—a proposition carried by vote: especially a measure passed in the *ἐκκλησία*, a decree) rather than relying too heavily on their own initiative, thereby assuring demotic sovereignty. The *δοκιμασία* and the *εὐθύνη* therefore ensured that where the *δῆμος* had spoken through law, its officials acted consistently with its desires and interests. In Ghana, however, democratic procedures for proper political conduct have allowed vetting (something unknown to Ghana's undemocratic administration) and audit to instil some discipline into public officials. Even officials who are not vetted know that they cannot avoid audit, and that when they are found culpable they will be liable to some form of prosecution. Thus, these institutions have contributed in diverse ways to enhance the integrity of public governance in Ghana and to safeguard governments against corruption, nepotism, abuse of power and other forms of inappropriate behaviour.

6.6 Lessons from the Athenian and Ghanaian Institutions of Accountability

Accountability is not just a mere abstract principle; if properly applied and exercised it serves numerous functions and has tangible results. The Athenian legal systems for accountability are relevant to contemporary Ghanaian legal thought because members of dominating groups, those with greater power, privilege and authority, must be accountable to those they rule or govern.

In Athens, all public officers ranging from the *κληρότοι* (*klerotoi*- officers elected by lot) and those appointed by *αποχειροτονία* were accountable for their conduct and the manner in which they discharged their official duties. This principle can be adapted to compel all public officials to be vetted before they assume office; there can be few exemptions- such as the president, because there are no institutional mechanisms to handle it.

Ghana can pass a law that puts a time limit to the audit, after which officials who have not been audited may be prosecuted and punished. The practice is that some appointees are audited years after they leave office. This is not good enough and does not promote accountable governance. The Athenians, on their part, could have learned to respect the rights of ex-officials. Taking ex-magistrates “hostage” after their term in office until the *εὐθύνη* was over, was something against their fundamental human rights. Even though accountable institutions are not a “cure all” for eschewing corruption and promoting democratic governance, they hold more potential for achieving these goals than any other system of accountability. Accountable governance creates opportunities and enhances capabilities of institutional arrangement to affect democratic control.

Therefore, institutions of accountability help to ensure that public officials or public bodies are all performing to their full potential, providing value for money in the provision of public services, instilling confidence and credibility in the government, and being responsive to the community they are meant to serve. This is why accountability is such an important principle in governance.

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