



FIRST REPORT

**OF THE PUBLIC ACCOUNTS COMMITTEE ON COMPLIANCE ISSUES FOR
THE MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT**

FIRST SESSION – NINETH PARLIAMENT

Presented to Parliament in July, 2019

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On Thursday, 11 October 2018, Mr. Speaker announced that the Public Accounts Committee would consist of the following Members:

1. Hon. L. T. Biti
2. Hon. B. Bushu
3. Hon. O. Bvute
4. Hon. W. Chikombo
5. Hon. B. Chikwama
6. Hon. P. Dutiro
7. Hon. R. Maboyi
8. Hon. W. Madzimure
9. Hon. A. Markham
10. Hon. C. Matewu
11. Hon. E. Masuku
12. Hon. N. Matsikenyere
13. Hon. M. Mbondiah
14. Hon. F. Mhona
15. Hon. P. Mpariwa
16. Hon. E. Mushoriwa
17. Hon. D. Nduna
18. Hon. A. Nkani
19. Hon. Dr. M. Nyashanu
20. Hon. J. Nyokanhete
21. Hon. M. Raidza
22. Hon. B. Rwodzi
23. Hon. T. W. Sansole
24. Hon. C. Sanyatwe
25. Hon. Z. Sibanda
26. Hon. G. Sithole
27. Hon. S. Sithole
28. Hon. P. Togarepi
29. Hon. V. Muradzikwa-Zengeya

Hon. L. T. Biti to be Chairperson

Terms of Reference of the Public Accounts Committee -

Standing Order No. 16:

“There must be a Committee on Public Accounts, for the examination of the sums granted by Parliament to meet the public expenditure and of such other accounts laid before Parliament as the committee may think fit.”

1.0 INTRODUCTION

1.1 Parliament's role is enunciated in section 119 of the Constitution, giving it power to ensure that provisions of the Constitution are ***“upheld and that the State and all institutions and agencies of government at every level act constitutionally and in the national interest.”***

1.2 With regards to the Public Accounts Committee, the Committee has unlimited oversight over all State revenues and expenditure. This power is restated in section 299 of the Constitution which reads as follows:

(1) “Parliament must monitor and oversee expenditure by the State and all Commissions and institutions and agencies of Government at every level, including statutory bodies, government controlled entities, provincial and metropolitan councils and local authorities, in order to ensure that-

(a) all revenue is accounted for;

(b) all expenditure has been properly incurred; and

(c) any limits and conditions on appropriations have been observed.”

1.3 Accordingly, Parliament in general and the Public Accounts Committee in particular has the responsibility to ensure that accountability and openness of the State through oversight of activities of the executive and its auxiliary bodies takes place. The purpose of oversight is to curb misuse of public funds, corruption and effect good practices. Parliament performs this duty through its oversight role and through the committee system.

1.4 The work of the Public Accounts Committee is to systematically sustain financial scrutiny of the executive and other arms of government, thereby ensuring financial accountability and transparency.

1.5 The Public Accounts Committee is one of these committees of Parliament whose key functions is financial scrutiny. In all parliamentary jurisdictions, the Public Accounts Committee occupies a unique position and enjoys a special mandate as a post audit committee. The Public Accounts Committee does not regulate or question policy. It is simply there to ensure oversight over revenue and expenditure.

1.6 In other words, the Committee's mandate is broad. The Committee makes thorough scrutiny over substantive, procedural and legal processes relating to public expenditure. The Committee derives this wide mandate from section 299 of the Constitution.

1.7 The Public Accounts Committee is constituted in terms of Standing Order No. 16 of the Standing Rules and Orders of the National Assembly which reads:

“Public Accounts Committee

16. There must be a Committee on Public Accounts, for the examination of the sums granted by Parliament to meet the public expenditure and of such other accounts laid before Parliament as the committee may think fit.”

- 1.8 In doing its work, not only does the Committee measure compliance arising from reports of the Auditor General or other reports but **the Committee also looks at constitutional and statutory compliance in so far as it relates to financial and audit matters.**

2. BACKGROUND TO THE ENQUIRY

- 2.1 In performing its duties, the PAC relies mainly on the annual statutory reports compiled by the Auditor General and its findings on the level of implementation of recommendations by various entities audited. In doing so, the Committee is guided by provisions of Section 119 of the Constitution of Zimbabwe which provides as follows:

- (1) Parliament must protect this Constitution and promote democratic governance in Zimbabwe.*
- (2) Parliament has power to ensure that the provisions of this Constitution are upheld and that the State and all institutions and agencies of government at all levels act constitutionally and in the national interest.*
- (3) For the purpose of subsection (2), all institutions and agencies of the State and government at every level are accountable to Parliament.*

- 2.2 Quite clearly therefore, ultimately the purpose of the Committee’s work as the Public Accounts Committee is to promote democratic good governance in Zimbabwe as propagated by the Constitution.

3. SIGNIFICANCE OF THE MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT

- 3.1 The Committee prioritised analysis of the Ministry of Finance and Economic Development’s accounts on its work plan. This is natural, given the overarching supervisory role of the Ministry itself. In particular, the Committee was concerned since the Ministry had the highest number of non-compliance issues and this was shocking and unacceptable.

- 3.2 By coordinating all ministries in the management of public resources, the Ministry is expected to lead by example and supervise the functionality of the other Ministries. It is the Committee’s view that failure by the Ministry of Finance and Economic Development to comply with requirements of the laws obliterates its ability to ensure that other Ministries, local authorities and parastatals equally perform their duties in conformity with the legal requirements.

3.3 In short, the Ministry of Finance is key to any government. It is at the nerve centre of the operations of government more than any other Ministry hence its work and accountability must be beyond reproach.

4.0 METHODOLOGY

4.1 The Committee studied the 2016 Audit Report by the Auditor-General, then the Follow Up Report on Recommendations made in the 2016 Auditor-General's Reports on Appropriations and Fund Accounts and State Enterprises and Parastatals. The Committee also went through the 2017 Reports on Appropriations and Fund Accounts, State Enterprises and Local Authorities. In addition, the Committee received oral evidence from the Accounting Officer; Mr. G. Guvamatanga, the Accountant General; Mr. B. Muchemwa and other officials in the Ministry of Finance and Economic Development.

4.2 The Committee was extremely disappointed by the lackadaisical and indifferent approach of the Accountant General. At his first appearance, the Accountant General came alone, was late for the meeting and appeared totally lost. He failed to answer questions put to him and the meeting had to excuse him. The Committee expects public officials appearing before it to be knowledgeable, available on time, accompanied by departmental officials for any assistance and to equip themselves with adequate information as it relates to their daily duties and activities.

4.3 The Committee received evidence from the Accounting Officer, Mr. G. Guvamatanga. The Committee was not impressed by his conduct. The Accounting Officer availed himself at the Committee's third invitation after failing to do so on two previous occasions. On one of the occasions, the pretext given for non-attendance was an internal meeting at the Ministry of Finance. It is the Committee's strong view that Parliament represents the people of Zimbabwe and its work takes precedence over other engagements. Ministers, bureaucrats and government officials must respect the integrity and sanctity of Parliament as defined in the Constitution. When he eventually appeared, the Committee was saddened and disappointed by his tone and demeanour.

4.4 The Committee found Mr. Guvamatanga obstructive and defensive. He constantly made reference to the fact that he was new in the Ministry and all issues raised were legacy issues. Tongue in cheek, he sought to blame Parliament for not supervising the Ministry and not raising these issues during the affected period. The Committee wishes to remind Mr. Guvamatanga and anyone else that the State is permanent and that the doctrine of perpetual succession is part of our law.

4.5 The Committee was also saddened by the Ministry's failure to submit on time, additional information requested. Even when the information was submitted, the Ministry failed to provide copies of loan agreements contracted on behalf of the state and the figures of external debts that were not brought to Parliament for approval, just to mention a few.

4.6 In addition to that, the Ministry has not given a satisfactory explanation as to why the 2019 Budget Statement was accompanied by two sets of Estimates of Expenditure (Blue Books).

- 4.7 Due to the prevalence of non-compliance to statutory and legal requirements, the Committee's oral evidence with the Ministry concentrated on those aspects. The Committee is still to conduct a full enquiry on the maintenance of the Ministry's accounts.
- 4.8 Having gone over the evidence, the Committee found that there was an entrenchment of a culture of non-compliance by the Ministry of Finance and Economic Development officials and indeed by other ministries in Government. Having found the above, the Committee concluded that in some instances, there was deliberate and wilful breach of the law and in other instances there was total ignorance of the law and negligence or indifference.
- 4.9 The Committee was, however encouraged by the Permanent Secretary's undertaking that he would review the Ministry's processes, systems and people in order to determine the causes of the shortcomings in the Ministry and then implement corrective action.

5.0 SUMMARY OF FINDINGS

5.1 The following is the summary of the findings by the Committee:

- i) Non-compliance with the provisions of section 300 (3) of the Constitution in that the Minister of Finance and Economic Development failed to publish, in the Gazette loans contracted and guarantees issued by Government within sixty days of their conclusion.
- ii) Non-compliance with Section 300(4) of the Constitution in that the Minister of Finance and Economic Development failed to present to Parliament a report on loans raised and guarantees issued by the State and a comprehensive report on public debt.
- iii) Partial compliance with section 301(3) of the Constitution in that the Minister of Finance and Economic Development failed to allocate a share of the national revenues resources to local authorities.
- iv) Non-compliance with section 305(5) of the Constitution in that the Minister of Finance and Economic Development failed to present in the National Assembly, additional or supplementary estimates of expenditure and additional or supplementary bills.
- v) Non-compliance with the provisions of Section 23(1) of the PFM Act (Chapter 22:19) in that since 2014, the Accountant General had failed to issue warrants under his hand, authorizing accounting officers to incur expenditure up to the limits and for the purposes and subjects to conditions contained therein.
- vi) Non-compliance with section 30 of the PFM Act (Chapter 22:19) in that Treasury failed to withhold funds appropriated to Ministries whose functions were assigned to other Ministries and to allocate those remaining funds to that other Ministry or institution.
- vii) Non-compliance with section 33(3) of the PFM Act (Chapter 22:19) which prescribes that the Accountant General should prepare consolidated quarterly financial statements which should be presented to the National Assembly and the appropriate Portfolio Committee by the Minister.

- viii) Non-compliance with section 34(3) of the PFM Act (Chapter 22:19) in that the Accountant General failed to prepare consolidated monthly financial statements for the Accounting Officer to cause such statements to be published in the Gazette, within thirty days of the next succeeding month.
- ix) Non-compliance with section 35(3) of the PFM Act (Chapter 22:19) in that Accountant General failed to prepare for transmission to the Auditor General, the transactions of the Consolidated Revenue Fund and the financial position of the State within three months after the end of each financial year.
- x) Non-compliance with section 11(2) of the Public Debt Management Act in that the limits for Government's borrowing were not fixed by the National Assembly by resolution nor by means of a provision in a Finance Bill.
- xi) Non-compliance with section 13(1) of the Public Debt Management Act in that the Minister of Finance and Economic Development failed to comply with the requirements and condition for borrowings.
- xii) Non-compliance with section 20 (2) of the Public Debt Management Act in that the Minister of Finance and Economic Development failed to propose and seek approval from the National Assembly, the aggregate of the amounts to be guaranteed.
- xiii) Non-compliance with section 22 (2) of the Public Debt Management Act in that the Minister of Finance and Economic Development failed to prescribe annual borrowing limits for each local authority.
- xiv) Non-compliance with section 28 of the Public Debt Management Act in that the Minister of Finance and Economic Development failed to establish registries for registration of bonds and stock and to appoint registrars, agents and any other persons necessary for raising, issuing, management and repayment of State loans.
- xv) Non-compliance with section 29(1) of the Public Debt Management Act in that the Minister of Finance and Economic Development failed to lay before the National Assembly statements relating to guarantees on any of the first seven sittings when the National Assembly first sits after the guarantees were first given under section 23(2).
- xvi) Non-compliance with section 30 of the Public Debt Management Act in that the Minister of Finance and Economic development failed to list and present to the National Assembly, monthly, quarterly and annual reports on loans and guarantees.
- xvii) Non-compliance with section 36(4) of the Public Debt Management Act in that the Minister of Finance and Economic Development failed to ensure that all relevant loans contracted were subjected to ratification by Parliament in accordance with the Constitution.”

6.0 DETAILED FINDINGS BY THE COMMITTEE

The following are Constitutional and legal requirements that were put to the Ministry officials, their responses and the Committee's findings in detail. The Committee then provides its recommendation specific to each non-compliance and some general recommendations:

6.1 Publishing in the Gazette, loans contracted and guarantees issued by Government

within sixty days of their conclusion

6.1.1 Section 300(3) of the Constitution provides that:

“Within sixty days after the Government has concluded a loan agreement or guarantee, the Minister responsible for finance must cause its terms to be published in the Gazette”.

6.1.2 The Accounting Officer informed the Committee that there were legacy issues with the gazetting of loans and guarantees. He indicated that since the coming in of the new Minister and himself only one loan had been contracted and the loan had been gazetted. He indicated that the Ministry was looking into the issue of loans that had not been published with a view to complying with the requirement.

6.1.3 The Committee noted that the total amount for domestic and foreign debt of **\$ 17,69 billion** as at August 2018 reported in the 2019 Budget Statement was different from **\$ 9, 230 742 461 billion** reflected in the 2019 Budget Estimates. The Committee also noted that some external debts were improperly classified as domestic debt. Examples include China Nanchang Engineering, China Interl Water and Electricity and RBZ-/ZISCO/DUTCH, Mota Engil & HCCL Creditors and PTA Bank among others. It was further noted that all the loans obtained/debts incurred should have been presented to Parliament for approval as these were acquired outside the budget.

Recommendation: *The Minister of Finance and Economic Development must cause the terms of loans contracted and guarantees to be published in the Gazette by 30 September 2019. This applies to loans and guarantees that were not previously published.*

6.2 Presentation to Parliament of a report on loans raised and guarantees issued by the State and a comprehensive report on Public Debt.

6.2.1 Section 300(4) of the Constitution states that:

“The Minister responsible for finance must –

(a) At least twice a year, report to Parliament on the performance of –

(i) Loans raised by the State; and

(ii) Loans guaranteed by the State;

(b) At the same time the estimates of revenue and expenditure are laid before the National Assembly in terms of section 305, table in Parliament a comprehensive statement of the public debt in Zimbabwe.

6.2.2 The Accounting Officer advised the Committee that the Ministry was currently compiling all previously contracted debt and checking on compliance in order to come up with a schedule depicting the correct position. He stated that there could have been oversight in the past but assured the Committee that he was fully aware of the need to comply with the provisions of the Constitution. Asked on whether his predecessor had willfully violated the law, the Accounting Officer indicated that he was not in a position to express his opinion before the conclusion of the evaluation process that Ministry was working on.

6.2.3 The Committee’s finding was non-compliance with section 300 (4) of the Constitution by the Ministry. The performance of loans raised and loans guaranteed was not reported to

Parliament. The Accounting Officer's explanation regarding non-compliance was unacceptable to the Committee. A list of loans contracted were however presented with estimates of expenditure for the 2019 financial year.

Recommendations: *The Minister of Finance and Economic Development must present the first report to Parliament on the performance of loans and guarantees in 2019 by 31 August 2019. He should present the second report for 2019 and a comprehensive statement of the public debt in Zimbabwe at the time the Estimates of Revenue and Expenditure for the 2020 financial year are laid before the National Assembly.*

6.3 Allocation of revenue between provincial and local tiers of the government

6.3.1 Section 301(3) of the Constitution states as follows:

(3) Not less than five per cent of the national revenues raised in any financial year must be allocated to the provinces and local authorities as their share in that year.

6.3.2 The Accounting Officer stated that the Ministry had allocated resources for provinces in the 2019 Budget and therefore, complied with the provision. He further stated that the allocations to local authorities were provided for in the Public Sector Investment Programmes (PSIP).

6.3.3 The Committee concluded that the Ministry had partially complied with the requirements of section 301(3) of the Constitution in that **US\$310 million** had been committed to provincial and local tiers of Government in the 2019 Budget. It was noted that since the new Constitution came into effect, the Ministry had not been complying with the provisions of section 301(3). The amount allocated constitutes **5%** of the expected revenue of **US\$ 6 199,3 billion**. To the extent that the Budget Estimates do not show the specific allocations to local authorities, the Committee did not come across evidence to suggest that the Ministry had fully complied.

Recommendation: *The Minister must fully comply in the 2020 Estimates of Expenditure by explicitly indicating the amounts allocated to local authorities.*

6.4 Supplementary estimates for excess expenditure for 2016 and 2017 financial years.

6.4.1 Section 305(5) of the Constitution provides the following:

(5) If the money appropriated to a purpose under an Appropriation Act is insufficient or if expenditure is needed for a purpose for which no money has been appropriated, the Minister responsible for finance must cause an additional or supplementary estimate to be presented to the National Assembly, and if the National Assembly approves the estimate the Minister must cause an additional or supplementary appropriation Bill to be introduced into the National Assembly providing for the necessary money to be issued from the Consolidated Revenue Fund."

6.4.2 The Accounting Officer explained that he was trying to understand the law and come up with the necessary structures to ensure compliance. He acknowledged that there could be issues that had not been handled properly and agreed that there was need to regularize

them. On the 2018 budget deficit amounting to about **\$ 2,5 million**, the Accounting Officer stated that he had not been in a position to seek condonation before verifying the amount.

- 6.4.3 The Committee noted that the Ministry had not been complying with section 305 (5) of the Constitution that requires the Minister of Finance and Economic Development to present additional or supplementary estimates. The Committee observed that failure to comply with the provision was a serious non-compliance and undermining of Parliament and the budget process. The table below shows the revenues and expenditures for the years 2014 to 2018 and the budget deficits for each year.

Years	2014	2015	2016	2017	2018
Revenue	\$3 727.2bn	\$3 727bn	\$3 502.2bn	\$3 869.9bn	\$5 296.8bn
Expenditure	\$3 911.6bn	\$4 119.6bn	\$4 923.2	\$6 390bn	\$8 161.4bn
Deficit	-\$184.4m	-\$392.6m	-\$392.6m	-\$2 520.1bn	-\$1 566.bn

- 6.4.4 Where there is continuous over expenditure outside the budget, it makes Parliament's budget process a nullity, an exercise in futility and pointless. It is the Executive itself which prepares an annual budget with estimates of revenue and expenditure as required by the law. Therefore, it is only logical that Government must comply and respect its own framework and budget. The efficacy of public finance management and indeed the control of the Consolidated Revenue Fund is only made possible if Government lives within its means and complies with the approved appropriations and relevant legislation.

Recommendation: *Government must at all times adhere to the approved budget. The Minister of Finance and Economic Development must as a matter of urgency bring to the National Assembly, bills seeking condonation of all the unauthorised expenditure incurred since 2014. Such condonation must be sought by end of 31 August 2019.*

6.5 International conventions, treaties and agreements

- 6.5.1 Section 327 of Constitution provides as follows:

- (2) *An international treaty which has been concluded or executed by the President or under the President's authority –*
- (a) *does not bind Zimbabwe until it has been concluded by Parliament; and*
- (b) *does not form part of the law of Zimbabwe unless it has been incorporated into the law through an Act of Parliament;*
- (3) *An agreement which is not an international treaty but which -*
- (a) *has been concluded by the President or under the President's authority with one or more foreign organisations or entities; and*
- (b) *imposes fiscal obligations on Zimbabwe;*
- does not bind Zimbabwe until it has been approved by Parliament.*

- 6.5.2 The Committee noted that the Minister of Finance and Economic Development has not presented to Parliament some of the agreements concluded by the President or under the President's authority. It is clear that when a debt is not approved it is null and void. It is only a matter of time before an alert citizen sues the Government of Zimbabwe.

Recommendation: *The Minister of Finance and Economic Development must present all unapproved international conventions, treaties and agreements to Parliament to ensure due process has been complied with. Presentation of the affected conventions, treaties and agreement should be done by 31 October 2019.*

6.6 Accountant General's Warrants

6.6.1 Section 23(1) of the PFMA provides the following:

(1) *“The Accountant-General shall, subject to this Act, by warrant under his or her hand, authorise accounting officers to incur expenditure up to the limits and for the purposes and subject to the conditions contained therein”.*

6.6.2 The Accountant General informed the Committee that warrants had not been issued since 2014. He stated that he was finalizing warrants for the 2019 financial year. In answering the question on how he had been monitoring excess expenditure in the absence of warrants, the Accountant General stated that he had been monitoring excess expenditure against the provisions made in the Blue Book.

6.6.3 The Committee's finding was non-compliance to section 23(1) of the Public Finance Management Act by the Ministry. It was noted that an entity cannot spend without a warrant which authorizes and indicates the amount to be spent. Members observed that warrants also act as audit instruments for money spent by each entity.

6.6.4 The law is very clear on that ministries can only spend and votes can only be utilized under the authority of a warrant. Where expenditure has been incurred in the absence of a warrant, it means that expenditure is unauthorized, null and void. The failure by the Accountant General to issue warrants since 2014 is a serious breach of the law. It means the expenditure has been incurred illegally and surely this is unacceptable.

Recommendations:

- 1. The Secretary should put controls in place to ensure that Government operates within the limits set by Parliament.*
- 2. The responsible authority should take appropriate disciplinary action against the responsible officials in terms of Section 85 to 87 of the PFM Act (Chapter 22:19) within two weeks of the presentation of this report.*
- 3. The Minister of Finance and Economic Development must present to the National Assembly by 30 September 2019 a report assuring the House that retrospective warrants will be issued and future warrants issued before expenditure is incurred.*

6.7 Withholding of appropriated funds

6.7.1 Section 30 of the PFMA states that:

The Treasury—

(a) may withhold from a Ministry any remaining funds appropriated for a specific function if that function is transferred to another Ministry or any other institution; and

(b) shall allocate those remaining funds to that other Ministry or institution.

- 6.7.2 The Accountant General explained to the Committee that when Ministries are merged the Ministry should get a note on the merged Ministries. He stated that the Auditor General had not been notified of the transfer of funds after the merging and demerging of Ministries without giving reasons for the non-compliance.
- 6.7.3 The Committee noted that Treasury was non-compliant with section 30 of the Public Finance Management Act relating to withholding of appropriated funds. The response presented by the Ministry was unacceptable as pronouncements on government portfolios were always made. The following changes were made when a new Cabinet was announced
- 1) Ministry of Defence merged with the Ministry of Welfare for War Veterans, War Collaborators and former political Detainees and Restricttees.
 - 2) Ministry of Finance and Economic Development merged with the Ministry of Macroeconomic Planning and Investment Promotion.
 - 3) Ministry of Women's Affairs, Gender and Community Development merged with the Ministry of Small and Medium Enterprises and Cooperative Development.
 - 4) Ministry of Home Affairs, merged with the Ministry of Rural Development and Preservation of Culture and Heritage.
 - 5) Ministry of Agriculture, Mechanisation and Irrigation Development merged with the Ministry of Lands and Rural Resettlement.
 - 6) Ministry of Industry and Commerce now housing the department of Economic Empowerment whose Ministry was abolished.
 - 7) Ministry of Information, Media and Broadcasting services merged with the Ministry of Information Communication Technology, Postal and Courier Services.
- 6.7.4 The Committee found the Accountant General's explanation regarding the appointment of a new Cabinet unacceptable. When His Excellency, the President makes ministerial appointments the appointments are gazetted. There is no basis for anyone to profess ignorance. Therefore, the Committee found lack of merit in the Accountant General's excuse. Ignorance as an excuse is unacceptable. If one is ignorant, one should not find himself fit to hold that position.

Recommendation: *The Accountant General should timeously give guidance on accounting for funds when there are changes in Ministries. There is need to be pro-active rather than sit and wait.*

6.8 Preparation and tabling of quarterly financial statements

6.8.1 Section 33(3) of the PFMA prescribes:

(3) "The Accountant-General shall prepare consolidated quarterly financial statements and shall submit such statements to the Secretary, for presentation by the Minister to the National Assembly and to the appropriate Parliamentary Portfolio Committee, within sixty days of the end of the respective quarter".

6.8.2 The Committee notes that when the Accountant General appeared before the Committee he apologised for failure to prepare financial statements in the past but undertook to

timeously produce his quarterly financial statements for 2019, due in March 2019. The Committee noted with regret that once again, he failed to produce the first quarterly report in June 2019.

- 6.8.3 The Accountant General stated that when he joined the service, the office was five months behind and since then he had been working hard in order to catch up with the monthly reports. He indicated that he had completed the monthly report for November 2018 and was finalizing the report for December 2018. He stated that he had not produced quarterly financial statements. The Committee observed serious non-compliance with this legal requirement.
- 6.8.4 Preparations of financial statements is a core-function of the Accountant General. Only him has the mandate and obligation to prepare the consolidated financial statements. The Committee found it totally unacceptable that the Accountant General was not capable of executing his core mandate.
- 6.8.5 Failure by the Accountant General to prepare financial statements as required by the law puts Government into disrepute. It questions the values and principles of good governance which is a founding value in the Constitution. [See section 3 (1) (h)]
- 6.8.6 The Committee does not forgive nor condone the Accountant General in his failure to prepare financial statements as required by law. It is a serious indictment against him and his office. If the Accountant General' is not able to carry out his tasks, therefore, surely those in authority must rectify the anomaly through appropriate remedies.

Recommendations:

1. *The Accountant General must prepare consolidated quarterly financial statement for the first and second quarter of 2019 for tabling in the National Assembly by the Minister of Finance and Economic Development and submission to the Portfolio Committee on Budget, Finance and Economic Development. The due date for tabling and presentation to the Committee is 31 August 2019.*
2. *The responsible authorities should take appropriate disciplinary action against the Accountant General within 60 days of the tabling of this report.*

6.9 Consolidation of annual financial statements

6.9.1 Section 35(3) of the PFMA provides as follows:

“Within three months after the end of each financial year the Accountant-General shall prepare and transmit to the Auditor-General, in such detail as the Accountant-General, after consultation with the Auditor-General, considers necessary, statements of accounts showing the transactions of the Consolidated Revenue Fund and the financial position of the State on the last day of that financial year”.

6.9.2 The Accountant General reported that he had not prepared the 2017 statements in time and that the statements for 2018 would be submitted for audit by March 2019. When advised that the 2017 report did not have supporting statements, the Accountant General indicated that the statements were still to be obtained from the relevant Ministries. The Committee

observed serious non-compliance with this legal requirement. The preparation of transactions of the Consolidated Revenue Fund and position of the State is a critical and core function of the Accountant General's Office clearly provided in the Act.

Recommendation: *Timelines should be complied with to facilitate audit of the statements.*

6.10 Preparation and reporting of monthly financial statements

6.10.1 Section 34(2) of the PFMA stipulates the following:

“The Accountant-General shall prepare consolidated monthly financial statements and shall submit such statements to the Secretary, who shall publish such statements or cause them to be published in the Gazette, within thirty days of the next succeeding month”.

6.10.2 The Accountant General stated that statements for Treasury and for the other Ministries were not being published on time. He indicated that the statements were however published once they were completed. He did not explain the reasons why the accounts were not being published in time.

6.10.3 The Committee noted serious non-compliance on the preparation and consolidation of financial statements as provided for in sections 33(3), 34(3) and 35(3). It was noted that the Accountant General had not been performing his core business and this omission amounted to serious undermining of Government and had implications on compliance with the legislative requirements by other Ministries.

6.10.4 The Committee noted that there had been partial implementation of the provisions of Section 34(2) of the PFMA Act in that monthly figures were published up to March 2019. The Committee urges the Accountant General to keep up the momentum and ensure that there are monthly publications of consolidated financial statements.

Recommendation: *The Accountant General must prepare all consolidated financial statements for 2019, which are due and the Secretary must publish them in the Gazette by 31 August 2019. Thereafter, statements should be up to date in both their preparation and publication.*

6.11 Preparation and reporting of quarterly financial statements by other Accounting Officers

6.11.1 Section 33 (1) of the PFM Act provides as follows:

“Every director of finance shall prepare or cause to be prepared quarterly financial statements of the Ministry concerned and shall submit such statements to the accounting officer in that Ministry and the Accountant-General, within fourteen days of the end of the respective quarter.”

6.11.2 During the oral evidence received by the Committee, it was clear that other finance Directors were not complying with the provisions of Section 33 (1) of the PFM Act (*Chapter 22:19*). The Act obliges finance directors to prepare financial statements to be forwarded to the accounting officer in their ministries and to the Accountant General. It is key for sound financial management that finance directors prepare these financial

statements to help the Accountant General to prepare quarterly consolidated financial statements.

Recommendations: *The Committee urges the Ministry of Finance and Economic Development to enact regulations accompanying the PFM Act (Chapter 22:19) to create obligations and penalties and to sanction those who do not comply with the law. The regulations must be published by 31 August 2019.*

6.12 Preparation and reporting of monthly statements by other Accounting Officers

6.12.1 Section 34 (1) of the PFM Act (Chapter 22:19) provides as follows:

“Every director of finance shall prepare or cause to be prepared monthly financial statements of the Ministry concerned and shall submit such statements to the accounting officer in that Ministry and to the Accountant-General, within fourteen days of the end of the respective month.”

6.12.2 As observed with quarterly financial statements, the Committee noted that a number of finance directors were not complying with section 34 (1) of the PFM Act (Chapter 22:19).

Recommendations: *The Ministry of Finance and Economic Development must publish regulations to the PFM Act by 30 September 2019. With the enactment of regulations that create obligations and penalties, all finance directors who fail to comply would be sanctioned.*

6.13 Borrowing powers and limit

6.13.1 Section 11(2) of the Public Debt Management Act provides that:

“The aggregate of the amounts that may be borrowed in terms of sub-section (1) in any financial year by way of loans shall not exceed the limit fixed by the National Assembly, which limit the Minister may propose to the National Assembly for approval by resolution or by means of a provision in a Finance Bill”

6.13.2 The Committee was informed that Government borrowing in 2017 amounted to **\$14.6 billion or 66%** of the Gross Domestic Product which stood at **\$ 22 billion** after rebasing of the GDP. The Committee was informed that the percentage for 2018 was not yet available as the Ministry was waiting for creditors’ statements. The Accounting Officer informed the Committee that an External and Domestic Debt Management Committee, provided for in the Act, had not been established until recently. He stated that the Committee had not sat for the past fourteen years.

6.13.3 For a country such as Zimbabwe which has faced many years of an unsustainable and crippling debt, public debt management is of crucial importance. Not only that, it is so important for Government to exercise prudent debt contraction policies as well as strict compliance on debt contraction limits defined in the law. In addition, there must be strict compliance with constitutional provisions relating to Section 300 of the Constitution. The Committee, therefore, urges the Ministry of Finance and Economic Development to be scrupulous and diligent in both debt contraction and debt disclosure.

- 6.13.4 The Committee places on record that it experienced difficulties in getting from Government, the full disclosure of Government debt. Different figures popped up in different documents and sometimes in the same set of documents. For instance, figures of debt in the budget statement for the 2019 budget was **\$17,69 billion** but in the budget estimates the figure had **\$9, 2 billion**. The Committee requested a consolidated statement of debt. This was belatedly submitted to the Committee. The Committee attaches hereto, as appendix A, the statement which reflects yet another figure for public debt.
- 6.13.5 Quite clearly a lot of work needs to be done in the Public Debt Management office. More importantly however, it is the Committee’s strong view that the work of the Public Debt Management office is compromised because it is a department of the Ministry of Finance. The Committee’s view is that an independent standalone board be established by an Act of Parliament just like ZIMSTATS was established by an Act of Parliament.
- 6.13.6 The Committee’s finding was that Government had been non-compliant with section 11(2) of the Public Debt Management Act by exceeding the borrowing limit of 70% to GDP, before rebasing of the Gross Domestic Product figures. The table below shows total debt figures from 2014 to 2018 against the Gross Domestic Product and the corresponding debt to GDP ratios after rebasing.

Period/description	2014	2015	2016	2017	2018
Total debt (bn)	\$8.380	\$9.269	\$11.220	\$14.642	\$16.649
GDP (million)	\$19.496	\$19.963	20.549.0	\$22.041.0	24.584
Debt to GDP	43.0%	46.4%	54.6%	66.4%	67.7%

- 6.13.7 The Committee noted that Parliament had not approved by resolution or by means of a provision in a Finance Bill the aggregate amounts that would be borrowed in any financial year by way loans. Guided by the Southern African Development Community (SADC) debt to GDP threshold of 60% of GDP, the Committee recommends that Parliament sets a limit of 50% for the 2019 Budget.

Recommendations:

- (1) *The Ministry of Finance should comply with the laws of Zimbabwe and bring before Parliament the proposed limit for 2019 borrowings by 31 August 2019.*
- (2) *The Ministry of Finance and Economic Development must create a Public Debt Management office which should be an independent organ of the State regulated by a separate Act of Parliament.*

6.14 Process of raising loans

- 6.14.1 Section 13(1) of the Public Debt Management Act provides the following:

“The Minister may, when so authorized in terms of section 11, borrow money, subject to sub-section (3) upon such conditions as he or she may fix”.

- 6.14.2 The Act requires that prior to borrowing money the Minister shall:

a) *Ensure that it is in the public interest to do so; and*

- b) *Ensure that it is consistent with Government economic and financial policies and the medium term debt management strategy; and*
- c) *Satisfy himself or herself that the Government has or is likely to have, on current projections, the financial ability to meet all obligations under the loan, including future loan repayments; and*
- d) *Consult the Attorney-General and obtain in writing from the Attorney-General an opinion approving the legal aspects of the loan agreement.*

6.14.3 The Accounting Officer informed the Committee that the condition for the Minister to satisfy himself that government has or is likely to have on current projections, the ability to meet all obligations under the loan was not met. The reasons given for the non-compliance was that Government was concentrating on clearing arrears to creditors. The Accounting Officer pointed out that consultations with the Attorney-General to seek his opinion on the legal aspects on loan agreements were not done because the External and Domestic Debt Management Committee had not been constituted.

6.14.4 In the testimony before the Committee, the Committee was not satisfied with the process through which debt was contracted. The Committee was also disturbed by the multiple sources of debt contraction in Zimbabwe. It is the Committee's view that the Ministry of Finance and Economic Development must be the sole debt contracting agency. The Committee was disturbed to note that the Reserve Bank of Zimbabwe in particular was contracting huge amounts of sovereign debts without any respect to the laws of the country.

6.14.5 The Committee's finding was serious non-compliance with section 13(1) of the Public Finance Management Act in contracting debt without due diligence.

Recommendations:

- (1) *All future borrowings by Government must comply with the requirements prescribed and satisfy the conditions set in the Act.*
- (2) *The Minister of Finance and Economic Development must amend the Public Debt Management Act so that the sole contracting agent for debt becomes the Minister of Finance and Economic Development, acting on behalf of His Excellency, the President and subject to the Constitution.*

6.15 Powers to give guarantees

6.15.1 **Section 20 (2)** of the Public Debt Management Act stipulates the following:

"The aggregate of the amounts that may be guaranteed in terms of sub-section (1) (a) in any financial year in respect of indebtedness or other obligations raised, incurred or established, as the case may be, shall not exceed the limit fixed by the National Assembly, which limit the Minister may propose to the National Assembly for approval or by means of a provision in a Finance Bill."

6.15.2 The Committee was informed that the limit was not sought from the National Assembly as dictated by the Act. The Accounting Officer indicated that the current limit was 70% of the Gross Domestic Product.

6.15.3 The Committee observed that the Ministry of Finance and Economic Development had been breaching section 20(2) of the Public Debt Management Act by not seeking the National Assembly's approval of the aggregate of the amounts that were guaranteed in any financial year. Guarantees given are contingent liabilities to the state, therefore they impose fiscal obligations on the State. That being the case, guarantees must be treated in the same manner as ordinary debts. The Minister of Finance and Economic Development must, therefore, comply with the provisions of Sections 300 and 327 of the Constitution and Section 20 (2) of the Public Debt Management Act.

Recommendation: *The Minister of Finance and Economic Development should propose a limit that can be guaranteed for the financial year 2020 by 30 September 2019. The National Assembly should consider the proposal and approval should be done by 31 December 2019 or through the approval of the Finance Bill for 2020.*

6.16 Borrowing by local authorities and public entities

6.16.1 Section 22 (2) of the Public Debt Management Act provides as follows:

“The Minister shall after consultation with the Minister of Local Government prescribe an annual borrowing limit for each local authority based on its capacity to repay and such other consideration as the Minister may determine.”

6.16.2 The Committee was informed that borrowing limits were not set for local authorities and consultations with the Ministry of Local Government were not done. The Ministry officials explained that instead, before a local authority borrowed, due diligence would be carried out to assess the entities' ability to repay the loan.

6.16.3 The Committee's finding was serious non-compliance with section 22(2) of the Public Debt Management Act by not consulting with the Minister of Local Government, Public Works and National Housing for purposes of prescribing an annual borrowing limit for each local authority. The Committee found out that borrowing powers are academic and that borrowings by Local Authorities can hardly sustain their expenditures. The Committee proposes that Central Government should be the principal sponsor and driver of capital expenditure by Local Authorities.

Recommendations:

(1) *The Minister of Finance and Economic Development must conduct consultations with the Minister of Local Government, Public Works and National Housing and prescribe annual borrowing limits for each local authority applicable in the 2020 financial year by 31 December 2019.*

(2) *Local Authorities should be allowed to engage other financiers on the principle of private public partnerships (PPP) and Built, Operate and Transfer (BOT).*

6.17 Other powers of Minister

6.17.1 Section 28 of the Public Debt Management Act provides the following:

“The Minister may –

(a) establish registries for the registration of bonds and stock;

(b) appoint registrars, agents and any other person necessary for the raising, issuing, management and repayment of State loans for the doing of any act which, in terms of this Act or any agreement relating to a State loan, may or shall be done by the Minister, registrar, agent or any such other person.”

6.17.2 The Committee was informed that registries were housed at the Reserve Bank of Zimbabwe.

6.17.3 The Committee noted that there was non-compliance with section 28 of the Public Debt Management Act in that the registries should not be housed at the Reserve Bank of Zimbabwe. The Committee felt that even when the registries are housed at the RBZ, the Ministry of Finance and Economic Development should have maintained its own debt registers.

Recommendation: *The Minister of Finance and Economic Development should establish registries housed in an independent stand alone institution.*

6.18 Disclosure of information concerning loans and guarantees

6.18.1 Section 29(1) of the Public Debt Management Act compels the Minister as follows:

“Where a guarantee is given the Minister shall lay before the National Assembly a statement relating to that guarantee on any of the first seven sittings when the National Assembly first sits after the guarantee is first given under section 23(2)”

6.18.2 The Ministry officials submitted that there was no evidence that the Minister had tabled in the National Assembly reports of guarantees made as required by the Act.

6.18.3 The Committee’s finding was non-compliance with Section 29(1) of the Public Debt Management Act for not laying before the National Assembly guarantees given by the State.

Recommendation: *The Minister of Finance and Economic Development must lay before the National Assembly a statement of all guarantees given in 2019 by 30 September 2019. The guarantees should be treated as national debt.*

6.19 Monthly, quarterly and annual reports on loans and guarantees

6.19.1 Section 30 of the Public Debt Management Act compels the Ministry to list guarantees given in terms of section 23 (2). It also provides for the list of guarantees during the financial year or during a particular month and the cumulative national position and that the reports be laid before the National Assembly at least bi-annually by the Minister within sixty days of the end of the period concerned.

6.19.2 The Ministry argued that section 30 of the Public Debt Management Act had been partially complied with. It was revealed to the Committee that the Ministry did not have a list of the amounts guaranteed except the total amount for all the guarantees. The total was however not mentioned or submitted to the Committee.

6.19.3 The Committee's finding was non-compliance with section 30 of the Public Debt Management Act.

Recommendation: *The Accounting Officer should bring before Parliament the full listing of the guarantees from 2014 to date by 30 September 2019 as per the laws of the country.*

6.20 Reporting to Parliament on Loans Contracted

6.20.1 Section 36(4) of the Public Debt Management Act provides as follows:

"The Minister shall ensure that all relevant loans contracted under this Act will be subject to ratification by Parliament in accordance with the Constitution."

6.20.2 The Accounting Officer submitted that the loans contracted by the Minister had been ratified by Parliament and the instrument of ratification served as part of the conditions precedent for those loans to be made effective by the creditor

6.20.3 The Committee's finding was partial compliance with the requirement to report all loans contracted to Parliament. It was noted that some of the loans were presented to Parliament but not all of them. The Committee noted huge borrowings from AFREXIM Bank as recent as May 2019, various Chinese loans and the Diaspora Infrastructure Development Group loan. The Minister disclosed to Parliament that Government owed \$1.6bn. Of concern is that the loans have not been brought to Parliament. We therefore urge authorities to comply with the laws.

Recommendation: *The Minister of Finance and Economic Development must present all loans contracted under the Public Debt Management Act to the National Assembly for ratification. All loans must be presented by 30 November 2019.*

7.0 REVIEW OF STAFF PERFORMANCE, PROCESSES AND SYSTEMS IN THE MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT

7.1 After going through the legal provisions, the Committee proceeded to analyse the processes, staff issues and systems in the Ministry and made the following findings:

7.1.1 That Non-compliance was willful as there was no respect of Parliament and the law. This was unacceptable to the Committee because of the consequences. Non-compliance by the Ministry undermined public administration in Zimbabwe and the functioning of a modern state. It also undermined transparency and accountability. **The Committee recommends that disciplinary proceedings be undertaken in terms of section 87 of Public Finance Management Act Chapter 22:19.**

7.1.2 That there was a problem with the person of the Accountant General. The Committee did not believe that he knows what he is supposed to do as defined in the Public Finance Management Act. (preparing the country's accounts and providing oversight to accounting officers in other Ministries). There was also non-compliance by Accounting Officers in other Ministries with regards to publishing their own financial statements.

- 7.1.3 That the Committee had evidence on the incompetence of officers in the Debt Management Office given that the figures for domestic and foreign debt disclosed in the Estimates of Expenditure for 2019 (produced twice with the same error) was \$9. 230 billion against a figure of \$17. 282 billion indicated in the Budget Statement. In addition, there were some items were reflected as domestic debt when they were foreign debts and that the last transaction of external debt recorded was for 2015 yet there have been external debts contracted after that period.
- 7.1.4 That it was not sufficient for representatives of an institution to apportion blame to the past. System failure could not be attributed to changes at Minister and Permanent Secretary levels if bureaucrats do their jobs.
- 7.1.5 That in the last few years, the Ministry of Finance and Economic Development had the most audit qualifications notwithstanding the fact that the Auditor General had been indicating areas of non-compliance that needed to be addressed.
- 7.1.6 That that the PFM system depends on people so much, which must not be the case in this era of information communication technologies (ICTs). The system is known to be self-producing and only requires the human hand when there has been a system breakdown.
- 7.1.7 That the Committee had also noted that the Accounting Officer was not enforcing compliance with the requirements of the laws. **To address that challenge the Committee recommend that from July 2019, the Accounting Officer for Finance and Economic Development should hold regular meetings with officials in the Ministry to check on compliance issues.**
- 7.1.8 **To enhance transparency and accountability in the use of public resources, the Committee recommends that from 31 August 2019, the Public Finance Response Unit be operationalized and the head of the Unit be at Principal Director level, reporting directly to the Minister on non-compliance issues and giving regular reports to the Public Accounts Committee.**
- 7.1.9 That audit Committees in Ministries perform their duties and work closely with the Auditor General. The Accounting Officer should only have influence over them in their administrative issues. **The Committee recommends that the PFMA be amended to recognise the independence of the audit committees by 31 December 2019. In addition, the regulations for the Act should also be published by 31 December 2019.**
- 7.1.10 That Parliament, particularly the Public Accounts Committee and Portfolio Committee on Finance and Economic Development should vigorously play their roles to ensure that Government, through the Ministries comply with provisions of the law in the discharge of their duties.

- 7.1.11 That the behavior of the Permanent Secretary was not consistent with the expectations of Members of the Committee who felt that he was disrespectful, an example being his reference to the Chairperson as former Minister of Finance and Economic Development.
- 7.1.12 During the Committee's inquiry, it became evident that part of the challenges was that Government had not fully implemented e-governance as well as use of modern electronic platforms. Government including the Accountant General's Office was still to migrate to the use of International Public Sector Accounting Standards. The Committee recommends that implementation processes be speeded up to aid in the improvement of financial management in the public sector and doing business in general.

8.0 CONCLUSION

- 8.1 The Committee noted that over the years, the Auditor-General had been issuing fantastic reports and recommendations which were not followed up or implemented by the Ministry of Finance and Economic Development. The Committee hope that the recommendations contained in this report, once adopted by the Parliament shall be implemented.
- 8.2 On the Committee's part it shall be its duty to follow up on compliance of its recommendations. It is in the best interest of our country that there is transparency and accountability around public resources. It is also important that those who are entrusted with public funds do so diligently, openly and with great respect to the Constitution and laws of the country.
- 8.3 If they do so, then they will be friends of the Public Accounts Committee. If they don't, then the Public Accounts Committee will continue to come after them.