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Unethical Conduct, 'Maladministration/Mismanagement in South Africa's Contemporary Civil Service: Daunting Challenges to Management?

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Any aspect of weak public service ethics, not to mention criminal corruption², represents a sharp challenge to the rational management of any civil service, however well-established and secure its norms and procedures may be — for example, in the UK's case. Where a public service is in dramatic transition and hoping to establish a democratic alternative to an authoritarian political heritage, any unethical and criminal conduct is far more damaging because it helps to drain away public acceptance and legitimacy as soon as it may have started to build up. Therefore, issues of unethical conduct, mismanagement and maladministration — or what is usually called corruption³ — have very serious implications for the development of the post-apartheid civil service. The issues discussed in this paper are part of the findings of my study on the senior civil service (what is often called the senior management service).⁴ It would be unfair generalisation to state that corruption is rampant within the civil service, as has been suggested continually by sections of the South African

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² As in many African countries (e.g. Mobutu Sese Seko's former Zaire, now DRC), the term *corruption* is often loosely used even when the writer/speaker is referring to mismanagement or maladministration. This writer's view is that while we cannot ignore corruption in public administration, we nevertheless should carefully examine the extent of the problem and avoid blind generalisation.

³ By 'corruption' is meant wanton and widespread destruction, looting, stealing, etc. of public goods, funds and resources, to an extent where the practice becomes endemic within a particular society.

media. Nor is it useful if the media lump together as "corruption" any form of unethical conduct, partisan bias, personal or group nepotism or any other type of illegitimate and unacceptable conduct. While this paper is not about corruption per se, but about those practices that would normally be viewed as such, we may rely on Heidenheimer et al's (1999) definition. They viewed corruption in a much broader sense and argued that it comprises bribery, (e.g. use of a reward to pervert the judgement of a person in a position of trust); nepotism (bestowal of patronage by reason of prescriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private uses) (Heidenheimer et al., 1993: 9).

There is a need for a systematic investigation of such allegations.

Given the complexity of the issues that had to be investigated, my recent study (1999-2000) could not have attempted this but this paper can cite some of them. Two examples are collective criminal activities, involving numbers of officials and others running rackets on a continuing basis. The other four citations are individual officials' transgressions (not necessarily criminal acts) which are not individually of great importance. The question is, of course, how common such individual cases may be: are there many others which have avoided detection and redress and which therefore could lend their character to the system as a whole? Incidents of mismanagement, maladministration and corruption in the civil service could affect the long-term viability of the civil service, if left untouched.

The most important (indeed, traditional) corrupt practice has long been the "ghost workers" (and now "ghost" teachers and learners) racket, whereby officials and others

¹ Study on the roles and structures of the South African civil service (PhD Thesis, University of Essex, 2002).

manage to draw into their own control the salaries, pensions and other benefits of non-existent civil service staffs, mainly at provincial government level. In 1996, for instance, the South African civil service was reported to comprise around 1.2 million persons (*Cape Times*, 19/12/96) which the government wanted reduced. This figure should, however, be treated with caution given the alarming number of ghost workers subsequently detected to have been on payrolls in some provinces around that time (*Daily Dispatch*, 02/08/97). Some provinces, such as Eastern Cape and Mpumalanga, have been particularly associated with this practice: the post-1994 integration of different administrations brought this established practice to more national attention. In 1999, the Eastern Cape government threatened severe penalties for those stealing money by possessing as many as four faked ID (identity documents) books to draw four pensions from the welfare department. Since then, numerous stories and public revelations have appeared in other provinces, including at the national sphere.

My interviews⁵ could not realistically seek senior officials' perceptions (and certainly not confessions!) on this sensitive topic without risking the interviews' main objective. A question about ghost workers in the respondent's department was asked and these responses now follow. Inevitably, some officials commented on this traditional racket more broadly, often after saying that their own department was free (perhaps has always been free) of this weakness. This topic came last in the interview, often when time had run out, so the numbers giving a substantive response ("don't know excluded") to these three questions fell away, as shown:

(i) **Are there ghost workers in this department?**

Yes 15%; No 85% (n = 141)

⁵ Altogether, 180 officials (Assistant Directors up to Directors-General) in two provincial and two national departments were interviewed, including 10 MECs (members of provincial cabinets).

(ii) **Have there been any in the past?**

Yes 90%; No 10% (n = 90)

(iii) **Why has the civil service been experiencing this problem?** (n = 82)

- A problem of criminality and greed; (some reference to poverty): 27%
- A problem of traditionally weak personnel and audit management in some provinces/areas, which was not being addressed: 73%

The overall view of my more senior respondents seemed to be that this particular form of civil service-related corruption or mismanagement had always been rather remote from them, both hierarchically and geographically, and was now being defeated by better management. Indeed, it would now appear that the issue is being taken seriously although government's willingness and active measures to deal with maladministration and mismanagement (including corruption) are often undermined by the long drawn out processes to bring the suspects to book.

A second and much more limited collective fraud was the alleged sale of national identity documents to illegal immigrants by some senior officials in one department (*Sunday Times*, 21/03/99). The three individual transgressions to be cited here simply as examples are:

- the chief official (former Director-General) of Mpumalanga province (Coleman Nyathi) who was "forced to resign earlier this year [2000] after press reports exposed his doctorate in administration as a useless 'mail order' degree from an uncertified British university" (*African Eye News Service*, 26/10/00). At the time of my research, Nyathi's citizenship was also under investigation after a Home Affairs Department probe found he was actually an illegal Zimbabwean migrant who had used fake identity documents (*African Eye News Service*, 26/10/00). (A slightly earlier scandal in the same province concerned senior officials who had

allegedly falsified job qualifications. Furthermore, the DPSA⁶ was at that time said to be "... investigating scores of senior officials ... ten [of whom were] found to have fraudulent degrees" (*The Star*, 22/05/00)).

- the provincial minister (MEC) for Education in the KwaZulu-Natal province, Ms Eileen kaNkosi Shandu was dismissed by the province's Premier apparently for nepotism: she had appointed her brother, Isaac Nkosi, as a DDG in her department. "...ahead of better-qualified candidates" (*Sowetan*, 23/08/00).
- a senior white, ex-army, official (former Major-General van der Merwe) held a senior post in the KZN province's Safety and Security department from 1997 but was additionally appointed its Accounting Officer in March 2000. This double posting attracted publicity and official scrutiny: Mr van der Merwe claimed to see no real distinction between the two positions.

It could be said that nowadays such stories are so prevalent that they do not make eye-catching headlines as they used to a few years ago; but stories such as these and their over-heated reporting naturally encourage allegations that some civil servants have joined with the selfish motive of enriching themselves. They are said to be interested only in the benefits offered by public sector employment (the 'grave train' syndrome).

These individual cases are of particular interest to this writer, especially because some of these individuals were among my respondents. In particular, the last case reminds us that one must not succumb to the simplistic assertion that corruption or any form of mismanagement and maladministration differ according to race. The fact that Mr van der Merwe is white reminds any observer that impropriety or criminality in the civil

⁶ Department of Public Service and Administration

service is neither new nor confined to Africans. In 1999, the British scholar David Simon commented strongly on such ideas:

It is very difficult to verify claims that corruption is far more widespread [in South Africa] than previously. Successive apartheid governments and their policies of fragmentation and creating despotic fiefdoms bred rampant corruption; the entire Department of Development Administration was abolished in the early 1990s for this reason (Simon, 1993:93).

Another noteworthy point that I share with Simon is when he adds:

By contrast, allegations of corruption are far more likely to be aired publicly and to be investigated nowadays.⁷

This indicates that, despite the fragility of the current civil service, there are strong indications that the South African government is equally concerned about the effects of mismanagement, maladministration and corruption in the public sector. As Simon concludes,

Another — rather racist — myth is that the alleged rise in corruption is almost entirely due to the Africanization of the civil service. Actually, it also appears increasingly evident in various levels of the private sector where, despite Affirmative Action (usually styled 'empowerment'), whites still dominate the upper ranks. Corruption is not racially based (Simon 1999: 93).

It would, of course, be desirable for the South African government system to try to emulate the countries where official business has traditionally been seen to be conducted cleanly — such as Scandinavia, especially Denmark (Jensen and Knudsen, cited in Page and Wright, 1999: 235) or the UK. Richard Chapman suggests that, in

⁷ At that time, investigations and trials relating to senior Mpumalanga officials and cabinet members — right up to and including the provincial Premier Matthew Phosa — were being conducted and are a case in point.

such fortunate circumstances, ethics and values, "...can even be articulated into core principles, centred around such notions as the impartial and accountable bureaucrat and the open and honest politician" (Chapman, 2000: 113). In the particular British case, Barker and Wilson noted, "Corruption or fraud are unethical because they are illegal, whereas ministers lying to the legislature, the mass media and the public at large ("misleading Parliament") are normally regarded as so unethical that they must resign" (Barker and Wilson, 1997: 232).

Perhaps the current reforms (restructuring) of the civil service in South Africa could also help the state to deal with the issues raised above. However, on managerialism or New Public Management (NPM) reforms currently being implemented in the civil service, South Africa is not following the UK trend whereby "...almost every reform in the 1980s and 1990s included participation by one or more big management consultancies...", e.g. Andersen, Ernst and Young, KPMG (Pollit and Bouckaert, 2000: 20). However, international experiences on civil service reform now appeal to South Africa. The Public Service Commission recently studied performance management contracts in several countries (PSC, 2000). At the time of writing, the PSC was formulating guidelines to evaluate South African heads of departments (HODs). It had examined the civil service systems of Australia, New Zealand, Canada, Singapore and the United Kingdom (PSC, 2000:1) with a view to learning from the best practices of these systems. Three interesting observations on the evaluation of the HODs in these countries were made. The PSC learned that the "...evaluation of the Directors-General/Chief Executives/Permanent Secretaries, the elite of the public service, is a very high profile event, accorded top priority." This evaluation, it was noted, "...is located at the highest office in government i.e. Prime

Minister's Office (President in our [South African] case), and led/driven by high level functionaries from the Prime Minister's Office and Public Service Commission" (PSC, 2000:1). Pollit and Bouckaert (2000:19) also refer to this high level of policy leadership (Pollit and Bouckaert, 2000: 19). The Commission further observed that evaluation "...is linked to the appointment process through a performance management instrument of one kind or the other" (PSC, 2000:1).

Such observations appear to support the managerialist innovations noted elsewhere (Pollit and Bouckaert, 2000). NPM-related reforms in South Africa's civil service clearly have begun. It might not be long before all officials at and above Chief Director level have signed personal Performance Management Contracts and are being evaluated by their ministers/MECs. What is not clear, however, is how far the government intends to proceed with these NPM reforms. If it does, it will find very strong support among senior officials, assuming my respondents to be typical. Fully 94% of the 124 interviewees replied that performance contracts "would improve efficiency in the top positions of the civil service." Similarly, it is not clear how far these reforms will develop "professional career administrators" from South Africa's cadre of civil servants (Aberbach *et al.*, 1981). As part of introducing these reforms and to discourage, in particular, unethical conduct within the civil service, South Africa is currently considering implementing the whistle-blowers practice of the UK civil service (OECD, 2001: 5) throughout the civil (and public) service. This involves the use of an official toll-free line by both the public and officials to warn departments on the dangers of any malpractice. Accordingly,

The United Kingdom's Civil Service Code obliges civil servants to report any actions which are illegal, improper, unethical, in breach of constitutional conventions or a professional code, or which may

involve possible maladministration, or be otherwise inconsistent with the Civil Service Code (OECD⁸, 2001).

This could perhaps help departments to deal with the problems emanating mostly from the former apartheid civil service (such as the ghost workers problem in some provinces). However, even the unique problems of the post-1994 civil service could be addressed by the adoption of such measures. Overall, it will take some time before South Africa's NPM reforms bear any meaningful fruit. Observers have said that it normally takes between five or more years in the OECD countries before success on management reforms can be assessed (Pollit and Bouckaert, 2000: 70). While welcoming the stress on management as part of introducing private sector innovations in the civil service, some critics have expressed concern on what they perceive as undue centralisation in South Africa. Steven Friedman argues that "...improving public administration — and centralising authority to do that — has taken precedence over strengthening democracy." He felt that more power was being concentrated in the President's Office (*Mail and Guardian*, 8-14/09/00). Other concerns have been the increasing politicisation of the senior echelons of the civil service which could, in a way, have created loopholes for maladministration or mismanagement (Maphunye, 2001). However, it would seem that government's concern to address the scourge of maladministration, mismanagement and corruption — even mere perceptions to this effect — could easily extend to centralisation on those aspects of the system that would normally create loopholes.

Conclusion

The contention of this paper is that the South African public service (specifically the traditional government departments and ministries) have been increasingly

⁸ Organisation for Economic Cooperation and Development.

experiencing practices of unethical conduct, maladministration, mismanagement and corruption since these structures were re-arranged after 1994. In itself, the reform or restructuring (commonly called transformation) has brought about new dilemmas regarding the implementation of changes in the public bureaucracies. Overall, many of my respondents welcomed the changes, although there was often mixed reactions and opinions on the pace and manner in which such changes had to be effected. Some of the questions that have not been answered in this paper include the following:

How do the public bureaucracies (or civil service specifically) contribute to the ongoing democratisation inside South Africa? Does an efficient and effective bureaucracy enhance democracy in the same way as one could say that public sector maladministration, mismanagement and corruption undermine such a democracy? Is the problem corruption or power, or are these concepts two sides of the same coin ("absolute power corrupts absolutely")?

This paper has not attempted to answer these questions, but they served as "food for thought" and helped the writer to conceptualise the link between democracy and bureaucracy, given the challenges facing South Africa's new democracy. Of course, these questions indicate the need for further research, especially on the question of using whistle blowers, forming anti-corruption units in civil service departments, increasing budget allocations for such structures, and empowering structures such as the Scorpions to successfully deal with issues of corruption and maladministration or mismanagement both in government structures and in the private sector. However, the challenges are much more extensive because of the need for South Africa to join hands with other African countries, especially in the fight against corruption (see Kalula, 2003) as part of the African Unity initiatives. Ideally, the fight against corruption, maladministration/mismanagement in the civil service and the wider

public service seriously needs the monitoring of officials as well as ensuring that these officials are accountable for their actions. As Barnes and Morris (1997:100) stated, "If the major role players within an institutional environment are not held accountable for their actions, there is every possibility that corruption and inefficient service delivery will occur."

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