The Features of South Africa’s Post 1994 Civil Service and the Challenges it Faces in the New Dispensation

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ABSTRACT

This article examines the structural and other changes that confronted the new South African government after the country’s post-1994 democratic all-race elections. It also assesses the challenges or difficulties and problems that emanated from the merger of the numerous administrative structures in the immediate post-apartheid period. The author’s contention is that, save for this merger or re-organisation, there is no significant difference between the past administrative structures and the current ones. However, there are no indications to suggest that the gains of the Mandela administration could be reversed. Nevertheless, while many of the practices of the past might have gone, the legacy of apartheid persists and its effect and momentum still affect the extent of government delivery of public services.

INTRODUCTION AND BACKGROUND

Shortly after the demise of apartheid in South Africa, scholars and observers were eager to place this very historic occurrence in its proper perspective. One such observer argued that:

- The history of South Africa’s polity is dominated by the use of political power to attain and maintain socio-economic ends. A white minority inherited political power in 1910 and during the next eight decades used this power to entrench itself politically and to enhance its economic, cultural and social interests (Schrire, 1996: 59-50);
- The foregoing summarises, briefly, the main task that awaited the post-apartheid government after the celebrations that accompanied South Africa’s achievement of genuine independence, following years of isolation and conflict. Thus, soon after taking power in 1994, the African National Congress (ANC) government outlined its objectives of transforming the civil service that was expected to carry out its new policies. Transformation, in this case, could be explained as the introduction of a significant or “….marked change in nature, form or appearance” (Concise Oxford Dictionary, 1999).
This term (transformation) has almost become a cliché in government circles, but the original intention was to reverse the legacy of apartheid and systematic racial discrimination, especially in terms of the administrative structure, culture and practices. The inherited apartheid era structures and traditions of the civil service were no longer deemed appropriate for a democratic (or at least democratising) country.

During South Africa’s pre-election inter-party negotiations in 1993, a concession was made to the then ruling National Party (NP) by the ANC regarding the civil service: what are now known as the ‘sunset clauses’ (Deegan, 1999; Sampson, 1999). As Deegan has correctly pointed out, “The idea [conceived by the late South African Communist Party Leader, Joe Slovo] ...was that the sun was setting on the NP and the ANC should accept a power-sharing formula for five years to enable those who supported the former government to make a dignified exit from power” (Deegan, 1999:19). These sunset clauses were intended to “...safeguard the jobs of white civil servants and allow for a coalition government between Afrikaner Nationalists and the ANC ministers” (Sampson, 1999: 467). As a result, the two parties agreed that the civil service “that supported the NP and implemented its policy of apartheid” (Kotze, in Faure and Lane, 1996:37) should remain intact, at least until after the second elections (1999) to allow the new government to consolidate its power. However, after the 1994 elections, it became more difficult for the new government to persuade the senior white officials to retire early to ensure that the highest positions in the civil and public services were racially (or at least demographically) representative.

In South Africa, the terms public service and civil service are often used interchangeably, even when the speaker is referring to only the civil service. This commonplace confusion and overlapping of the civil service proper with the whole of the public sector may have its root in the text of the Constitution itself. Section 197 (1) states that, “Within public administration there is a public service for the republic, which must function and be structured, in terms of national legislation, and which must execute the lawful policies of the government of the day.” This section does not refer to the civil service specifically and has, perhaps, helped to confuse government pronouncements and media reports, particularly when an official is referring to only one and not the other part of the government service. For example, an important recent report delineated the civil service but labelled it the public service:

- The public service currently comprises approximately 26 ministries; the Offices of the President and Deputy President; the Public Service Commission; 32 departments aligned to the various ministries; 5 quasi-independent organisational components, including the South African Revenue Services (SARS); the Centre for Statistical Services (CSS); the Independent Complaints Division; the South African Communication Services (SACS); the South African Management and Development Institute (SAMDI); and the nine provincial administrations, each with a wide range of departments interfacing with each other and inter-acting at inter-governmental levels (Presidential Review Commission Report, 1998: 7).

If, as suggested above, most of the present civil service structures have been inherited from the apartheid era since 1948, some can be traced to as far back as the former British colonies and Boer republics (Transvaal, Orange Free State, Cape Colony and Natal). This fact underlines the ANC government’s concerted efforts to change the structure of this historically rooted civil service to serve the current realities. In his final parliamentary speech as the first democratically-elected leader of a free South Africa, President Mandela highlighted the challenges facing the civil service and the influence that contemporary managerial innovations had on this approach:

- Last year, we spoke of the need to cut expenditure on personnel, as part of reducing a bloated civil service and changing its orientation. That commitment remains. The new civil service regulations based on each individual's output, especially management, rather than just observance of rules, should see to the improvement of service to the public (Mandela, Address to Parliament, 1999).
AN ASSESSMENT OF THE POST-1994 CHANGES

In some ways, changes inside the civil service have been minimal since its structure was not expected to change significantly given the sunset clauses’ protection of established pre-1994 officials. Since 1994, a number of official policy documents (White Papers) have been produced in an attempt to resolve the many challenges faced by the new civil service. The most conspicuous of these challenges include the persistence of racial practices and attitudes within the civil service; hierarchical and rule-bound structures and procedures; and untrained (or, in some cases, un-trainable) officials. Above all, the continuing effects of the previous government’s grossly unequal funding to different regions and departments also worsened the challenges faced by the new civil and public services. For example, in some areas discrepancies in funding per pupil or per patient in mainly white and black schools or hospitals were often huge, making a mockery of the integration process and amalgamation of the various services.

Recently, official efforts have also targeted the "ghost worker" phenomenon or frauds in some civil service sections and provinces. Following the merger between the former white, coloured, Indian and black ‘homelands’ administrations, some provinces and departments experienced this problem, whereby fictitious names are included fraudulently in the payroll. Such practices, which have resulted in a huge cost to the taxpayer, have meant that public salaries are paid into bogus accounts of “ghost workers” and, subsequently, received by some criminal elements within the civil service. This is clearly one of the consequences of the different standards and practices of the past administrations, which have been exploited by some unscrupulous individuals in certain departments and provinces. While much of government business and service delivery takes place at these levels, it should be stated that such practices were unheard of at the central government level.

In 1995, the new ANC government published a White Paper on the Transformation of the Public Service (WPTPS) which outlined a broad policy framework for transforming the public service so that it could serve the new democracy. It stated:

• The Government of National Unity is committed to continually improving the lives of the people of South Africa by a transformed public service which is representative, coherent, transparent, efficient, effective, accountable and responsive to the needs of all (WPTPS, para. 2.1).

In pursuit of this vision, the government offered a mission statement, emphasising, “The creation of a people-centered and people-driven public service which is characterized by equity, quality, timeousness and a strong code of ethics” (WPTPS, para. 2.1). In addition, a reliable administrative structure, capable of sustaining the momentum of transformation, was essential. At that time, the main challenge for the government was: how may "a people-centred and people-driven" civil service be developed quickly out of the unpromising bodies of the old multiple systems? To encourage values such as transparency and accountability inside a structure that for many decades relied largely on covert operational methods proved a great task for the new regime.

Another challenge that faced the new administration was how to increase productivity in the face of huge gaps between the skilled and experienced former apartheid officials and their unskilled and untrained counterparts who served in the so-called “ex-departments” (a term used by one of the officials who were interviewed as part of this study). One way of dealing with this problem was to train (in some cases re-train) the officials to empower them with the required skills and relevant competences. However, the government subsequently faced an equally daunting task of reducing the size of the huge public and civil services, contrary to expectations on the ground. Many of the former government administrations’ officials were usually employed on the recommendations of the party (NP) “homeland” or other influences, notably the Broederbond (League of Brothers). This body was an
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Apartheid era think tank that is believed to have had tremendous influence on the roles of the apartheid era senior civil service (O’Meara, 1996: 44). The Bond, which came to exert a powerful influence on government policy in the apartheid era (Beinart and Dubow, 1995: 236), was a secret society formed in 1918. According to Nigel Worden, the Broederbond was dominated by intellectuals and clergy in the then Transvaal to mobilise political support for Afrikaner nationalism (Worden, 1994: 89). It has been stated that in 1944 the government banned civil servants from becoming members of right-wing Afrikaner organisations such as the Ossewabrandwag (Ox-wagon Guard) and belonging to the Broederbond (Riley, 1991). The former was formed in 1939 “as a society to protect and foster the cultural, religious and material needs of the Afrikaners, but soon took on military overtones” (Riley, 1991: 11). At that time, an influential Afrikaner leader, General J.C. Smuts “described the Broederbond as a secret Fascist organization” (Riley, 1991: 11). This ban was lifted a few years later in 1948 when the NP came to power.

In spite of these difficulties and challenges, one could argue that the structure of the public service generally, and civil service in particular, has undergone irreversible changes since Mandela’s release from prison in 1990 with the introduction, from 1994 onwards, of new central, provincial and local levels of government. New government departments were established to operate at either (or both) national or provincial levels (WPTPS, para. 2.1) owing to the amalgamation of provinces and the other various old administrations as explained earlier.

It has been stated that the three most senior positions in the present South African civil service (Director-General, Deputy Director-General and Chief Director) “...require qualitatively different - though not necessarily more important - skills from those required at the lower levels” (PRC Report, 1998: 21). The skills required by the senior civil service include “the formulation of policy, the development and management of strategic vision and plans, the management of human and other resources, the co-ordination of policies and the handling of public relations and the media.” The most important skill, however, was “the management of the often sensitive interface between appointed and elected officials” (PRC Report, 1998: 21). However, this issue was not discussed in this paper although it was covered during the research.

CENTRALISATION OF STRUCTURES AND PUBLIC POLICY

The above arrangement of centre and provinces (with local government below) implies a deliberately decentralised structure; but public policy-making in South Africa in fact appears to be centralised in the shape of the powerful national departments. This is especially visible on finance, where the central government dominates policy-making such that the provinces cannot raise their own taxes or other incomes independently. Such issues, including the need to devolve powers of the police, education, health and other services to the provinces, are still to be resolved although government seems to be reluctant to address them presently.

Similarly, soon after 1994 there were problems regarding the respective operational spheres of the administrative and political officials. The PRC investigation revealed this weakness in the system of governance, noting the “uncertainty, even confusion, as to the relative responsibilities of ministers and MECs [provincial Members of the Executive Council] on the one hand, and senior officials on the other....” Such problems arose from lack of clarity in the roles of these two sets of policy-makers. Thus, as the PRC noted, “if ministers and MECs act as managers, involving themselves in details of administration, and if senior officials act as politicians, involving themselves in political processes outside their departments, this is to the detriment of their proper and necessary roles” (PRC Report, 1998: 22). Following this, the PRC proposed that both the elected and appointed officials should have "distinct but complimentary roles." The earlier confusion was caused apparently by the interim legislation that had failed to spell out the relation between politicians and senior officials in detail, because of the pre-1994 election compromises made as stated earlier. Thus, the ANC had to settle with the NP, for
example on civil service sunset clauses, while getting the IFP (Inkatha Freedom Party in KwaZulu-Natal) to accept much less provincial autonomy than they were demanding.

The 1994 Public Service Act gave the Minister for Public Service and Administration the legal authority over national public service norms and standards, salary determination and related conditions of employment. The Act also defined national government departments as legal entities. “Each national department and provincial administration was assigned a Head of Department (HOD) and an accounting officer at the level of Director-General. The de facto heads of individual departments within provincial administrations were designated at the rank of Deputy Director-General” (PRC Report, 1998: 98). (Each province's government was to be headed by its DG.) It seems that this arrangement was stifling to the provinces because the 1994 Act, “assumed that the same management strategy for national departments could be applied to provincial administrations” a weakness which the 1997 Public Service Laws Amendment Act sought to address (PRC Report, p.98).

An attempt has been made in the new legislation to address the uncertain relationship between the elected and non-elected officials. As the Presidential Review Commission report added, “The new Act, in theory at least, open[ed] the way for a much more direct relationship of accountability between the MECs and their respective heads of departments who, in contrast to the previous [post-1994] legislation are now defined and acknowledged as de jure as well as de facto [Heads of Departments].” Another attempt was to clarify the position of the provincial DG whose status and role as head of the province's administration were not explicitly stated by previous legislation shortly after South Africa’s all-race elections.

The 1996 Constitution outlined the powers and structures of the political executive decision-making such as the Cabinet and Provincial Councils (Executive Councils: EXCOs). It defined the “principles under which public administration should operate...[but noted that] considerable uncertainty and confusion [remains] as to who should be responsible for managing what in the public service [although] recent legislation has gone some way to clarifying the situation” (PRC Report 1998: 97, emphasis in original). The above administrative patterns were again amended by the 1997 Public Service Laws Amendment Act, introducing a “significant shift in the development of a new macro-legal framework for regulating the basic institutions of the public service...” (PRC Report 1998: 97). Thus, executive authority was now to be vested in the political Heads of Departments (ministers and MECs). National government ministers and provincial MECs were accorded "original" powers governing internal organisational matters like staff appointments and promotions. However, the politicians were expected to delegate most of the administrative functions to the administrative HODs (PRC Report, 1998: 97-98).

One other equally fundamental challenge for the new civil service is that it must now be governed by the ethos of democratic governance as cited in the Constitution. The culture of authoritarianism, intolerance, impatience or outright arrogance, reminiscent of the past, must change if the civil service is to shed the image of “an outdated, undemocratic and racist civil service” (Mokgoro, in Maphai, 1994: 114). A new culture of tolerance, respect for human rights and a deeper understanding of the communities in which the new civil servants are deployed must replace that of the apartheid era. Malcolm Wallis referred to such an administration as a “developmental bureaucracy” (Wallis, 1995: 86-100). These qualities are slowly beginning to emerge although South Africa still has a long way to go in terms of changing the negative and racial attitudes of the former apartheid officials. For many decades, many of these officials were trained to believe in the inherent superiority of whites over blacks, and those that I interviewed in my study were clearly worried about the extent and momentum of change in the new civil service.
CONCLUSION

In conclusion, one should state that the features of the present structure of the South African civil service are not completely different from those of the former apartheid administration, possibly because less than a decade has passed since the building of the new structure even began. Certainly, numerous legislative and other changes have been introduced since 1994, but it is only now (during the present government’s second term of office, under President Mbeki) that the impact of such changes is being felt. Despite the pioneering legislation during Mandela’s term, his government was hamstrung by the pre-1994 compromise agreements, which made it difficult for the ANC government to effect radical changes within the civil service without antagonising its former NP partners in the Government of National Unity. However, such agreements expired after the 1999 general elections, giving the government more opportunities to design the civil service in ways that it felt would support the transformation process in the country.

There were numerous structural and other challenges that confronted the new South African government after the post-1994 democratic and all-race elections, and this article attempted to assess them and their implication for a new administration in this country. As was stated in the text, such challenges (difficulties and problems) mostly emanated from the amalgamation of the numerous administrative structures in the immediate post-apartheid period. Thus, a number of the present structures and practices (e.g. the centralisation of power that is akin to many presidential systems) are an inheritance from the old regime. While several of the practices of the past might have gone, the legacy of apartheid, its effect, and momentum persist and still affect the extent of government delivery of public services; although there are no indications to suggest that the gains of the Mandela (and now Mbeki) administration could be reversed. This article has only alluded to South Africa’s past system and the role of the administrative officials in it. The idea was not to reproduce the debates on apartheid because this has been covered adequately elsewhere (see Posel, 1999; Norval, 1996; O’Meara, 1996; Baxter, 1994; and Adam and Giliomee, 1979).

This article emanated from my study (1999-2001), which focused on the perspectives of selected senior administrative decision-makers: Directors-General down to Assistant Directors’ levels in South Africa. The study was an attempt to understand the perspectives and document the experiences of the officials on, among others, the changes occurring within the new civil service, to assess these changes, and to gain first-hand information about the challenges facing senior civil servants both at national and provincial levels. Whatever explanations are given as a rationale of the past system, it is clear that apartheid bequeathed to the new government a rather complicated, if politicised (Maphunye, 2001) and crisis-prone, civil service structure. To a large extent, this summarises “...the huge task faced by the ANC in reversing apartheid’s legacy of [racial] discrimination...” (The Times, 01/12/00). The new government is now tackling this reversal in its attempts to transform the civil service. What is not clear, however, is how long it will take to eradicate that legacy.
REFERENCES

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