11th International Anti-Corruption Conference
WORKSHOP REPORT

Workshop 3.4 Depoliticising the Civil Service

Co-organized by:
World Bank
United Nations Department of Economic and Social Affairs (UN DESA)
11.00 – 13.00, Tuesday 27 May 2003

Chair: Mr. Shabbir Cheema, UN DESA, cheemas@un.org

Co-Organizers/ Rapporteurs:
Ms. Elia Yi Armstrong, UN DESA, armstronge@un.org
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Panelists:
1. Mr. Stuart Gilman: Ethics Resource Center, President
2. Mr. Geoffrey Shepherd: Independent Consultant
3. Mr. Adel Abdellatif: Governance Programme Coordinator, UNDP Regional Bureau for Arab States

Main Discussant:
1. Mr. Jeremiah Matagaro: Permanent Secretary of Justice, Kenya

Papers Presented:
1. Civil Service Reform in Developing Countries: Why Is It Going Badly?
2. Contemporary Institutional Arrangements for Managing Political Appointments and the Historical Processes of Depoliticization: The Experience of the US
3. Civil Service Reform in the Arab Region

Objective of the Workshop

The objective of the workshop was to discuss the impact of excessive politicisation of the civil service on government performance and public interest and to focus on case studies of managing the process of de-politicisation in order to share experiences and identify critical elements for success.

Background

With the advent of modern nation-states, a central feature of governance has been the nature of the relationship between the political and administrative elites or the elected public officials and career civil servants. For administration, the historical trend, particularly in western democracies, has been a move away from part-time, politically affiliated administrators to professional, career civil servants. However, many countries, particularly developing and middle-income countries, experience periods of ebbing and waning politicisation in the civil service. The way in which the
governing and administrative elites work together affects government performance as well as citizens’ perception of the quality of public institutions in upholding the public interest.

A persistent dilemma in modern democratic systems has been the tension concerning the boundaries of the roles of the elected politicians and the professional administrators in public policy. There is a continuum of views about resolving this tension, with one extreme advocating for the absolute control of a neutral and professional bureaucracy by the elected politicians and the other extreme contending that “to the victor go the spoils” with huge shifts in the senior civil service after a transition of power. In reality, most countries aspire to fall somewhere along the continuum between the two extremes, with approaches that grant some autonomy to senior civil servants vis-à-vis the politicians. This recognition is based on the accountable and limited power of the bureaucracy, putting in place measures to protect it from political partisanship and interference, and the aspiration that higher level civil servants do not only implement public policy but can also promote broad public interest and prevent any abuse of powers by politicians. The institutional configuration of these protective measures are shaped by the political system of a country: presidential (with emphasis on the executive branch), parliamentary (with emphasis on the legislative branch) or some mix, as well as the country’s legal framework and administrative history.

In general, these protective measures seek to uphold the merit principle in the human resources management of civil servants, hold them to a code of conduct with appropriate investigating and enforcement capacities, and guarantee them some form of tenure against political patronage. Among other factors, the introduction of New Public Management has challenged some of these notions, including emphasizing performance over tenure, efficiency and outcomes over processes and inputs, and generally reassessing the role of the State to that of policy setting and devolving service delivery to beyond the public sector – with the side effect of putting at risk some of the measures to keep civil service politicisation at bay. In many developing countries where public institutions are weak and the civil service as an institution of the modern state has been much more recently introduced than in developed countries, the introduction of New Public Management practices has had more pronounced impacts in this regard. It is very timely to re-examine what constitutes the optimal relationship between the political and administrative leadership of a given country and in minimizing the politicisation of the civil service.

Summary of Presentations

Geoffrey Shepherd began his presentation by noting the cost to developing countries of a poorly performing senior civil service. The standard solution of the donors has been a meritocratic reform along OECD-country lines: extending tenure and political protection to qualified and meritocratically-appointed staff. He argued that these types of reform have failed systematically and posed the question, “What can we learn from this?”

The history of civil-service reform in today’s advanced countries is rich and complex. First, modern civil services have emerged slowly and in piecemeal fashion. Civil services function within unique national institutional settings in which, say, trade-offs between performance and politicization are not always clear. Nonetheless, the degree of convergence, today, of the different national European systems on a broadly similar model is quite remarkable. But today’s reform model expects reform to happen with a speed and clarity that were not present in past reforms. Second, merit systems cannot just be wished (or supply-driven); they are the product of political forces (demand-driven) responding to particular problems. Perceptions of ineffectiveness, personal corruption, and (in some cases) the political corruption of the spoils
systems were what drove the deep administrative reforms undertaken by the advanced countries from the mid-1800s to the early 1900s. Today’s reform model is very often supply-driven. Third, there are systems other than merit that work in the public interest. When government and countries were small, patronage was not necessarily bad: thus it was with earlier government by “gentlemen” in the UK, Japan, and the US.

Geoffrey Shepherd elaborated that there are three major obstacles to reform in developing countries. First, public employment as welfare policy. Many, if not most, developing countries are politically forced to use public-sector employment as a form of welfare policy. This in turn leads to fiscal pressures which drive down civil-servant wages and makes it difficult to employ qualified people. The OECD countries faced much less pressure at a comparable stage of development. Second, politicization of (corruption in) senior appointments. When democratic controls are not in place – when electors cannot exert enough control over governments – and when rules to insulate and professionalize the civil service, if they exist, are overridden, politicians are able to have public officials act in private or party-political interests. Third, an insufficient national pool of human resources. In poor countries where education levels are low and private sectors are underdeveloped, the pool of human resources is not enough to provide qualified public servants.

He continued that short-cuts to de-politicization have proven a mirage. Civil-service professionalization will be promoted, in the longer term, by: the development of the pool of human resources and of labor markets; reforms that mitigate the use of public sector jobs for welfare policy, hence permit civil servants a rising wage, and a corresponding growth in the political demand for civil-service reform (i.e. greater demand from the public and business for good public services).

So what are the reform options for the shorter term? He concluded with the following possibilities.

- **Horizontal reform – hybrid senior appointments.** Many OECD countries have a set of comprehensive rules for senior political appointments. Some, like the UK, rigorously separate senior political and non-political appointments. Others, like Brazil and the US, allow a certain mix of “hybrid” senior appointments. For many “pre-democratic” countries, it may make sense to extend political appointments to a larger portion of the senior civil service, but with clearer rules than hitherto.

- **Vertical reform I: agency differentiation** (universal rules in selected, “graduated” agencies). One possibility is that agencies graduate to better availability of resources when they demonstrate that they can manage them properly. Brazil has been reasonably successful in pursuing a differentiation strategy by privileging specific careers (hence agencies) within a career-based civil-service regime.

- **Vertical reform II: enclaved (or autonomous) agencies** (non-universal rules in selected agencies). This reform, the most practicable and widely used option, has proven effective. But it has not always proven durable and it may balkanize the state.

Stuart Gilman started the second presentation by noting that excessive politicization of the civil service is a common phenomenon among developing and middle-income countries with serious consequences for integrity and performance of the public sector. Donor-funded support for civil service reform has thus increasingly focused on introduction of a professional, merit-based civil service. However, he observed that our knowledge of the depoliticization process and institutional arrangements for managing political appointments is still limited.
His paper was intended to contribute to deepening our understanding of a particular case, the United States, which relies on a relatively large number of political appointees with a career civil service system. This "model" is particularly attractive for developing/middle-income countries with presidential systems of government given the political and cultural importance those systems lend to political appointments (e.g., Latin America). The seeming relevance of the U.S. model can be abused, however, if its application is based on superficial knowledge of how the U.S. system actually works. His paper provided insights on the American model, its successes and failures, and lessons that can be learned from it. Specifically, the paper addressed two related questions in order to develop a paradigm that can be applied to a global context:

- How the U.S. civil services at the federal level and in some states went through a gradual depoliticization process from the 19th century to the early 20th century; and

- How the U.S. government is organized today to manage its relatively numerous political appointees, while controlling the risks of excessive politicization and abuse (e.g., patronage, corruption) which afflict many of the developing/middle-income countries.

Stuart Gilman charted the development of the U.S. federal civil service from the time of drafting the Constitution to present day. From inception, the administration of government was based on three tenets: checks and balances; competence; the need for systems to protect against human fallibility. Despite these tenets, he pointed out that, in reality, there were problems of financial conflicts of interest from the very first administration. He gave illustrations of politicisation and conflicts-of-interest in the various administrations, culminating in the Jacksonian spoils system which triggered reform in the form of the Pendleton Act. The Pendleton Act created the concept of job classification for certain jobs and removed them from the patronage ranks. It also created the U.S. Civil Service Commission to administer those who would fall under this merit based system. Despite the introduction of the Act, Stuart Gilman argued that political patronage positions did not decrease in a linear fashion but were subject to plateaus under various administrations.

Today, the most recent Office of Personnel Management 2001 data book reports only 2,073 political appointees in the executive branch of the federal government. However, he made the point that this data can be misleading. First, this statistic represents the number of appointments actually made by President Bush in his first seven months in office. Second, it includes very few of the almost one thousand federal commissions, and ignores the actual role of many “exempt” employees. The term exempt refers to those who do not fall under the merit service. Third, this same document reports that 23% of all government employees are categorized as exempt as well as senior executive service (SES) members. This is a 2 % increase from just two years before. It is important to note that not all exempt or SES employees are patronage. However, a significant percentage of the SES are political appointments and a significant percentage of the exempt employees are as well. Stuart Gilman also presented data on three states: Wisconsin, California and Florida as a point of comparison to the situation at the federal level.

He concluded by observing that the myth of merit-based system in the United States does not mean that such a system does not exist. Rather, there is a mystique that suggests that the United States has an entirely merit based civil service system. And, the unstated corollary to this is that this merit system is the reason that corruption is kept under control. However, a merit-based system is a necessary, but not sufficient, condition. Critical to the success are deliberate and effective anti-corruption systems. The United States has been able to balance the large number of non-civil service personnel with effective anticorruption programs for the federal
executive branch. The essence of his argument was to isolate the nature of merit systems in the U.S. and to demonstrate the critical role of integrity programs in making this system work. It would be overly simplistic to argue that these are the only two variables involved in creating an effective government administration, absent of corruption. There are many elements that contribute. However, the essence of good public service is not only competence but also integrity.

Adel Abdellatif described the importance of the historical context of civil service reform in the Arab world. He pointed out that civil service is a relatively new institution in the region, having been created in the 1950s and some in the 1970s. Prior to this creation, the majority of the countries in the region were influenced by the administrative legacy of the Ottoman Empire, where chief administrators were appointed from Constantinople. For example, governors were appointed only for one year and mainly to collect taxes – resulting in a non-professional and highly politicised administration. This system was overlaid by colonial administrations that generally lasted about 20 years, with the exception of Algeria that experienced 130 years of colonialism. Both the Ottoman Empire and the colonial legacies did not orient the civil service to place interests of the citizen above those of the colonial powers. Today, with the introduction of a modern civil service, it can serve as an institution of check and balance in political systems that often do not witness transitions in power for long periods. He concluded by noting that we cannot ignore the conditions under which reforms take place and emphasized that political will is necessary to successfully carry out reforms.

Discussion Themes:

- In reviewing civil service reforms in the last decade, particularly in Africa, they can be characterized as first and second generations. First generation reforms were across-the-board, wage-bill focused and led to downsizing (e.g. experience of Kenya) but not very effective in either addressing the size of the civil service, in some instances, or in improving performance. Second generation reforms were more selective of key agencies (e.g. experience of Tanzania and Uganda), focusing on improving structures as well as re-examining and decentralizing functions and service delivery.

- Sometimes the civil service, especially based on the Westminster-parliamentary model, can become an entrenched institution and become very powerful (e.g. experience of Botswana). When senior civil servants become so powerful that they create a parallel system of decision-making to that of politicians’, reform is needed.

- Civil service reform is very difficult to carry out. Generally, they have focused on structural rather than managerial changes. But human resources management is crucial. For instance, the targets for change can be new recruits as senior staff with more than 30 years of experience are more difficult to convince to change their behaviour.

- Poverty and unemployment puts enormous pressure on governments to provide jobs in the public sector. Civil service reform needs to be accompanied by employment policies in the private sector.

Main Conclusions:

1. There is a concern about the lack of tangible outcomes of past civil service reforms.
2. Even with the acceptance of some level of politicization, we need to come back to merit.

3. Public sector as a source of absorbing excess labour is hard for encouraging innovation.

4. How can we create a new system of checks and balances? We need new change agents for reform.

5. Second generation of reforms must go beyond technical (e.g. wage bill) to political, social and economic aspects of civil service reform.

6. We need to experiment with the system as a whole rather than focusing on just parts.

7. The presence of an expanding and dynamic private sector may make a difference to civil service reform efforts.