

Introduction

In the latter part of the 1970s and the 1980s the Government of the United Kingdom, under the then Prime Minister Mrs Margaret Thatcher, established the Efficiency Unit in the Prime Minister's Office and this unit undertook an in-depth assessment of the public sector with a view to infusing private sector management culture and ethics into the management of state affairs. This policy experiment deepened as other aspects of the reform were introduced, for example the public financial management initiative which sought to achieve the following objectives: simplify financial reporting and accounting systems; establish clearer and stronger cost controls; clarify the links between programme and budgets of ministries; improve ministers' ability to direct and control the senior public service officer cohort; and bring about transparency in government activities in areas of procurement and project management. Similar reforms took place in the United States of America under the presidency of Ronald Reagan. Over the following decades governments in some Organisation for Economic Co-operation and Development (OECD) countries have followed suit and restructured their systems, leading to a broad movement which came to be called the New Public Management Reform Movement. The application of these broad reform principles led to a shift from the traditional bureaucracy to make the administration of public affairs more results-oriented, emphasising among other things cost-effectiveness, customer service and high quality service provision, and making the terms of public employment more flexible. Flexible government is noted to be 'opposed to the rigidities and conservatism attributed to permanent organisational structures and individuals with permanent, highly secure careers' (Pollitt and Bouckaert, 2000: 127).

Contemporaneous with NPM reforms was the discovery of the concept of 'governance' – a discourse which accommodated an inclusive stance towards public service professions and acknowledged the existence of networks which possess substantial autonomy (Ferlie and Geraghty, 2005: 432–433). In some countries, there was a move to establish a Senior Executive Services (SES) group or cadre of public servants, contract-based and well-motivated to deliver results. This SES originated in the United States of America as a process to develop executive management, accountability and competencies which reflected private sector experiences and practices, as well as a leadership model that was more entrepreneurial (Borins, 2002; Denis, Langley and Rouleau, 2005: 446–467). However, two Commonwealth countries, Australia and New Zealand, also instituted civil service reforms with the former country reporting some successes.

In New Zealand an SES was created in the 1980s with contract appointments. In 1988 the country passed the State Sector Act that transformed the senior civil

service along the lines indicated below. The Act has established a fixed term for chief executives. It also makes provision for reviews ‘of the efficiency, effectiveness and economy of each department’ (Auditor General of Canada, 1995: 39). As a result of the 1988 State Sector Act labour relations in the public sector are guided by the same principles in the private sector. The Act also conferred upon the chief executives ‘all the rights duties and powers of an employer’ and provided for the employment of permanent secretaries on contracts for up to five years. The performance of chief executive was now subject to formal systemic appraisal by treasury and the State Service Commission (SSC). The chief executive of each department is the employer of all staff within the department. The former centralised system in which all public servants were employed by the SSC was eliminated.

- The key elements of the New Zealand design were:
- ‘A selective set of generalised, cross-portfolio policy objectives set by Cabinet (known as Strategic Result Areas – SRAs);
 - A process for coordinating departmental contributions to those objectives and making related resourcing decisions (strategic dialogue);
 - A set of critical medium-term commitments (Key Result Areas – KRAs), which anchor departments’ strategic contributions to the policy objectives, through incorporation in the chief executive’s performance agreement;
 - A requirement that chief executives regularly report on progress being made on those commitments to their minister and to the State Service Commission; and
 - An expectation that chief executives will take responsibility for making and taking care of the connections between their commitments and those of other chief executives, while also ensuring that their own commitments flow down through their departments’ management chain’ (Independent Management Consulting Services Limited [IMCS], 2004: 43).

This was intended to produce a set of career professionals; but this end was not realised for various reasons, including the use of a highly decentralised system. The SES system was pronounced a failure by 1992 and moribund by 2000 (Bhatta, 2001). However, several Commonwealth countries in the Pacific and the Caribbean Regions copied and implemented similar models and have managed their public sectors in the last decade using the tenets of these models.

The Cayman Islands, for example, instituted financial, personnel, public authorities and civil service reforms supported by legislation. Among the key features of the personnel reform were: abolition of the Public Service Commission, abolition of the General Orders and public advertisement of the positions of permanent secretaries. Currently, all permanent secretaries are from the public service and are on open-end contracts and have a service agreement which is negotiated on an annual basis. The Government plans to introduce performance-related pay for permanent secretaries ranging from 0 to 10 per cent of salary.

Noteworthy for an in-depth assessment are the experiences of four Caribbean countries: Belize, Guyana, Jamaica and St Lucia. From the mid-1990s, as part of their public service modernisation programmes, these Caribbean countries promulgated policies that sought to make changes to the structure, functions and management of government ministries, departments and statutory corporations.

An important plank of some of these policies was the decision to temper the age-old tenured appointments of public servants which guaranteed ‘jobs for life’ and institute new systems of employment. This age-old appointment and personnel management system was an institution, guarded and protected by rules of procedure, embedded administrative culture and regulations, and underpinned by what was known as the ‘General Orders’ or ‘Staff Orders’. This administrative institution also had legal foundations in the independence constitutions bequeathed to these nations by the departing British colonial authority. In its totality, this system of public administration formed part of the transplanted Westminster system of governance. The chief cornerstone of the transplanted Westminster public administration system was the position and function of key functionaries including the permanent secretary and the head of department. The functionaries of these two echelons formed the cohort of senior public service officers in the Caribbean.

In these case study countries, policies were formulated which introduced new models of management including putting permanent secretaries on employment contracts and other forms of performance agreement. The main objective of these reforms was to create performance- and results-driven public administration systems. This study sought to examine the nature of the reform policies, the contracts of employment and performance which were introduced, the experiences of the permanent secretaries who have operated under these new regimes and the outcomes of the new system of contract employment.

This study was conducted under the auspices of the Commonwealth Fund for Technical Co-operation, and it sought to examine the following parameters of assessment which were posed by the Commonwealth Secretariat:

What has been the experience of the contract system for senior public servants (permanent secretaries) in the four Caribbean countries that have adopted the New Zealand model with regard to:

1. The management approaches used by ministries/public officials operating under a contracts system
2. How is performance measured and rewarded under the contract system?
3. What is the scope of and potential for expression of leadership by senior public servants under contract?
4. How does the contract system impinge on the independence and influence of senior public servants?
5. What is the nature of conflict mediation relationships in this new system?

6. What is the return on the high investments made by Government in implementing the contract system?
7. What are the lessons learned under this contract system? (TOR)

Conceptualising the delivery of the study

The study took a holistic approach to systems analysis and learning, and adopted as its point of departure the Public Sector Reform Programmes of recent times beginning from the mid-1990s. It was thought that it would be propitious to examine the sources of influence (internal and external) of reforms in each of the four countries. The structure of reform management was also looked at – i.e. how the reform was initiated, from which office the macro reform was directed and managed, how ‘contracts of service for the permanent secretary’ (PS) policies were adopted, the nature of these contracts, the conditions of service of the PS, the nature of conflict mediation, who were the champions of the policy, what institutional/legal measures were put in place to manage, monitor, evaluate and institutionalise the contracts systems.

In view of the quest for detailed answers to these research questions, the original seven parameters that were provided in the Terms of Reference were elaborated and amplified in order to approximate a holistic framework. A survey questionnaire was developed and delivered online to facilitate simultaneous access by the permanent secretaries in the four case study countries. This was to help achieve rapid assessment of the views of about sixty permanent secretaries. Considering the circumstances of the PS and the multiple tasks which compete for their limited time, it was felt that most permanent secretaries would not find the time to complete the online survey questionnaire. As a result of this healthy scepticism, a purposive sample of key functionaries in public service reform was selected for elite interviews using semi-structured questions. This sample included the cabinet secretary, chairman of the Public Service Commission, chief personnel officers, chief technical officers in charge of the reform unit in each country, at least two serving permanent secretaries/CEOs and where possible a senior representative from the public service union.

The following research questions were pursued:

1. Could you give me a brief synopsis of how the recent public sector reform has affected your ministry or public administration system?
2. What is the total number of people who are employed (in established and non-established posts) by this ministry?
3. Are you under any form of contract to your government for performance?
4. Who are you directly and indirectly accountable to?
5. What management frameworks informed the type of contract system under which you are now employed? For example, management by objectives, results-based management, etc.

6. What models of management have been adopted and institutionalised as part of the reform of your ministry?
7. Has this management model been adhered to or has your ministry changed it for other models?
8. If the management model has been changed, what is the name and nature of the new model?
9. In carrying out your mandate as PS/CEO and manager of your ministry what management styles have you used, e.g.
 - Delegation to unit/division managers?
 - A centralised management approach with more hands-on management by you?
 - Decentralisation with strong co-ordination?
10. How has this management style helped you to achieve your key performance indicators (KPIs)? What have been the challenges?
11. What kinds of monitoring and evaluation (M&E) systems were put in place by the PS to achieve the results demanded by their approved corporate plans?
12. How has your contractual arrangement affected the way you engage in inter-sectoral collaboration with other ministries? Do you think that the performance requirement/responsibility enhances or hampers the way you work with other ministries?
13. How has your contractual status affected your role as policy adviser to the minister? Has this role been enhanced or reduced and to what effect?
14. How has the government reckoned value for money for the performance systems they put in place for the PS? Has the value of this investment been commensurate with the cost?
15. How is the PS's performance measured and rewarded?
16. How is non-performance or lack of performance treated by the relevant overseeing authority?
17. What is the nature of the decision space created by delegation through the new contracts system? What powers have been given to the permanent secretary/CEO to facilitate the achievement of his/her mandate?
18. How has the PS used his/her autonomy in the control of the following: human resource management, financial management and operational decision-making?

<i>Category of space</i>	<i>Innovations by PS/CEO</i>	<i>Directed change by cabinet, minister, parliamentary committee</i>	<i>No change</i>	<i>Change in performance</i>
Human resource management				
Financial management				
Operational policy decision-making				

19. Under the new performance contract/agreement or improved system how is conflict between the minister responsible and the PS/CEO handled?
20. (a) What mechanisms exist for solving problems and conflicts between the PS/CEO and the performance oversight institutions? (b) How have actual conflicts been resolved?
21. What lessons can be learned from the reform of the role of the permanent secretary in terms of the following:
 - management of change
 - the performance management system in the public service
 - strategic management?

Field trips were made to Belize (14–21 August 2007), St Lucia (23–28 July 2007) and Guyana (5–13 August 2007), while a flexible approach was taken in the Jamaican fieldwork. An initial observation from the field trip to Belize was that the assumption about the permanent secretary with regard to the online survey tended to be true. Most of them could not fulfil the request to go online in the period prior to the field visit and after. From the field experience, it seemed that the permanent secretaries preferred the face-to-face meeting. As such, the researcher depended heavily on elite interviews to ascertain the necessary information for the study. This was backed by analysis of documentary evidence – copies of employment contracts, delegated authority, letters of appointment, reform policy (White Papers on Public Sector Reform, St Lucia and Jamaica) and reviews of reform carried out by government and independent researchers.

Employment contracts in the public sector – a theoretical survey

The New Public Management reform movement sweeping across both developed and developing countries since the 1980s have introduced far-reaching changes to what was called ‘job for life’ in the traditional bureaucracy. The issues of tenure, job security, freedom of association, and fundamental principles such as equal work for equal pay, and bilateral and tripartite arrangements for pay negotiations have come under pressure with the introduction of new work contracts. The effects of this change have been experienced across different echelons of public sector hierarchies

across the Caribbean region, in particular, Belize, Guyana, Jamaica and St Lucia (Jenkins, 1994; Chaudry et al., 1994). The general objective of this section is to explore the types of employment contracts that have been generated by the adoption of NPM approaches to public management reform and ascertain how existing governance structures for contracts have matched up to the challenges introduced by the changing employment practices.

Public sectors have traditionally operated differently from private sectors around the world. However, with the advent of ‘reinventing government’ or ‘managerialism’ or ‘new public management’ (NPM), private sector management practices and market principles have been consciously adopted since the 1980s, initially by reforming governments in the developed countries. This has led to the emergence of a new public service culture and work ethic to which labels like ‘quasi markets’ have been assigned (Bennett and Ferlie, 1996; Deakin and Walsh, 1996; Kirkpatrick and Lucio, 1996; Walsh, 1995). In the public management literature, terms like ‘reinventing government, managerialism and new public management’ have been used synonymously (Dunleavy, 1997: 16–46).

The creation of this quasi market involved reorganisation, convergent changes and reorientation. These changes took the form of introduction of strategic management practices, business process re-engineering, introduction of performance management and performance-related pay or reward systems, framework documents, modernisation plans and medium-term financing plans (Davis, 2001). The old style personnel management system has proved inadequate and its methods unsatisfactory in the face of these global changes. Performance appraisal systems and performance measures are seen to offer more than the previous model, while there seems to be a consensus that ‘performance indicators offer the promise of assessment of agency performance towards specified objectives’ (Hughes, 2003: 163). Hughes (2003: 163) further argues that performance in the public sector can now be measured, even if imperfectly, and that systems should be allowed to evolve, as they have in many developed countries.

The imperfection of measures should not be a reason to discard the use of performance indicators. According to Walsh (1995), the outcomes of these reforms approximate to institutional change in the management of public services. The changes that have taken place involve three crucial features:

- (a) an economic component which focused on ‘the classical concepts of competition, prices and markets’,
- (b) ‘the introduction of the concept of contract with its socio-legal connotation’, and
- (c) ‘a change in the organisational character of the public service, because it involves a break with the tradition of the self-sufficient, bureaucratic government organisation’ (Walsh, 1995: 32).

Many different climates of opinion have helped to shape the leading arguments and provided the *raison d'être* for the implementation of NPM. According to one school of thought, the main purpose of introducing the institutional changes was that market mechanisms for managing public services would help correct some of its inherent failings. A second school argued that the essential problem of the public sector lay squarely at the backyard of the motivation of those who work in the system, and the difficulties in monitoring and controlling their performance. To this argument can be added another well-rehearsed suggestion, that there is an inevitable tendency to inefficiency in government because of the lack of market incentives. In this vein the critics of government noted that because of its organisation government was unlikely to take advantage of and exploit 'technological possibilities for lowering costs, raising productivity, or realising economies of scale' (Walsh, 1995: 29).

In the 'quasi' public sector market that has been created, extensive use of new forms of contract and market relations has been made. Contracts have, in general, become the 'main mechanism for governing transactions within public sector "quasi" markets', and these have been used to mould and reconfigure public services (Bennett and Ferlie, 1996: 49) in a way that has never been attempted until the 1980s, in the developed countries of the OECD. Same mechanisms are now being increasingly used in the developing countries. Thanks to the proliferation of New Public Management (NPM) strategies of reform, a diffusion process has helped to deepen our knowledge of the concept of convergence (Pollitt, 2001). Contracts had been in use in the public sector in the Caribbean well before the 1990s when NPM reform strategies from the OECD experience begun to diffuse into the policy-making arenas of the region. However, it is the intensity with which these new employment contractual arrangements have been institutionalised and used as instrumentalities for promoting performance which marked the difference in the way the public sector is governed. Contracts are now even considered as 'the medium of communication in the public sector. NPM puts in place a contracting state, where personnel and other resources are to be managed by means of a series of contracts' (Lane, 2000: 146). In effect, therefore, the internationalisation of public management has been the key force behind the recent changes that have been observed in labour and employment relations in the public sector in the region. While this may appear radical in the eyes of public sector employees, to private sector functionaries, public sector workers have now joined the real world (Deakin and Walsh, 1996).

Furthermore, it is important to note that the introduction of these alternative approaches to public service delivery has led to a balkanisation of the public sector into two contrasting cultures: new market-based arrangements with their own set of governing norms and practices on the one hand, superimposed on the old civil service practices and employment relations on the other. This has provided a recipe for conflict due to the personal insecurity attendant to it, and fortuitously, its tendency to render anachronistic, trade unions and employee representative institutions. Freedom of association, a fundamental human right, seems to be under threat

in the contemporary changed world of work. This theme is substantiated with a Jamaican example later on in this publication.

Four main models of contracting have been identified in the Anglo-American literature on contemporary public sector reform. These are classical, relational, regulated and pseudo contracting (Bennett and Ferlie, 1996: 49). These labels have been developed as catch all terms in a bid to capture the multifarious mechanisms and relationships that are associated with public procurement, of which contract labour is a significant part.

Since the 1950s an established civil servant was considered to have been appointed to an office, and was therefore, 'a public officer remunerated by moneys provided by parliament, so that his employment depends not on a contract with the crown but on appointment by the crown' (Kirkaldy, 1998: 268). This represented a ruling by Lord Goddard in a United Kingdom court case in 1956 (*IRC v Hambrook*).

The literature on industrial relations outlines two main types of employment contracts - viz. 'contract of service' and 'contract for service' (Kirkaldy, 1998: 265). A contract of service is defined as an 'individual contract of employment entered into between the employer and the worker, whereas under the contract for service the company contracts out the work to be done' (Kirkaldy, 1998: 265). If the same ruling was held true for Jamaica, Kirkaldy argues that the reference of a public service dispute to the Industrial Disputes Tribunal would appear to be *ultra vires*. This is because the Labour Relations and Industrial Disputes Act (LRIDA) describes a 'worker' as 'individual who has entered into or normally works under a contract of employment' and that a 'contract of employment' means 'a contract of service' (Kirkaldy, 1998: 268).

Recent public sector reform programmes using the reform strategies proposed under NPM have introduced a complex element into public employment. Policy instruments in the form of 'contracting out' or 'outsourcing' and internal markets have been used variously to reassign the responsibility for public service provision to private entities or other agencies of the public sector. While some of these new or alternative organisational arrangements have led to an increased use of contracts for service, others have resulted in changes to the way public service commissions work, and how the management teams of key public institutions are hired, remunerated and fired. This new practice has implications for core civil service departments/ministries as well as for the newly established executive agencies. A fuller discussion of the main issues is supplied below. Prior to that, however, it is important to outline one important caveat.

The topic of employment contracts as an area of public management discipline has only now begun to be studied widely in both the Caribbean and abroad. As a result, information and data on the subject are patchy. The literature on contract law has many rich and illustrative cases reflecting various settlements that were reached in industrial disputes that were settled in the courts. The Public Administration

and Development Management literature is poor in terms of the coverage it has given thus far to the changing employment practices, especially where contract work is concerned. Job reduction, redundancy and retrenchment of public sector employment under the 1980s neo-liberal structural adjustment programmes of the International Monetary Fund (IMF) and the World Bank have been fairly covered (McCourt, 1998, 2001; Mosley, Harrigan and Toye, 1991; Anderson and Witter, 1994; King, 1998, 2001). There is in contrast an absence of coverage of the new practices and changes in developing countries. However, in the United States and Britain for example, elaborate laws and regulations and public information systems exist for the governing of public employment contracts. The two countries have even designed employment agreements and application forms online to which their citizens could avail themselves in order to educate themselves about their rights and obligations in the newly unfolding changes in the workplace (www.cftech.com/BrainBank/BUSINESSLAW/Employment_Contract.html). Needless to say, in the Caribbean the paucity of information on employment contracts is even more acute. This study therefore fills an important gap in the literature and sheds light on the experiences of Belize, Guyana, Jamaica and St Lucia.