

DIFFERENT PERSPECTIVES ON DELEGATION

A VALUE GAP?

The earlier discussion of public service values is far from theoretical. Service Commissions experience very real pressures impinging on the public service and are daily conscious that the 'traditional' public service values of probity, integrity, and selection by merit, are not maintained by chance.

Change agents at other points within the public service may take these values for granted, or at the least assume that little can be done to strengthen them. Their perspective may allow them to focus on the needs to instil the values of accountability for results rather than process, efficiency, quality and transparency. This value gap then provides fertile ground in which miscommunication may grow. Terms such as 'responsiveness', or 'equity', emerging from concerns to improve the performance of the public service, can be seen from the Commission's perspective as code words for the introduction of a political spoils system. Does accountability for results mean making public servants' careers dependent on the whims of their managers? Will delegation open the floodgates to abuse in recruitment and promotions?

These different perspectives stem from the different institutional bases of the Service Commissions and the public service.

Service Commissions were created in the first place to insulate the public service from political patronage, in other words to protect the service *from the government*. Reform programmes necessarily entail a high degree of political involvement and to some extent they are led by the government. Small wonder then if Commissions react warily to some proposed changes. This basis for the Commissions is stated quite clearly in a 1982 Privy Council judgement relating to a Trinidad and Tobago court case:

The whole purpose of Chapter VIII of the Constitution which bears the rubric: "The Public Service" is to insulate members of the civil service, the teaching service and the police service in Trinidad and Tobago from political influence exercised directly upon them by the government of the day. In respect of these autonomous Commissions the Constitution contains provision to secure their independence from both the executive and the legislature.¹⁹

19 Per Lord Diplock, *Thomas v Attorney General* [1982] A.C. 113 (P.C.). See also Carla Herbert "Caribbean Public Service Reform: A Legal Perspective from Trinidad and Tobago," *Commonwealth Law Bulletin* vol. 20 (1994), pp. 690-720.

Commissioners are implicitly guardians of the constitution. This means not only keeping politics out of public service staffing, but also – by extension – preserving the autonomy of the Commission itself. This too is part of the commissioner’s constitutional mandate. A commissioner may hesitate to consider government proposals on the Commission’s role and functions because that would be putting the Commission’s autonomy at risk. The commissioner may feel compelled by his or her constitutional role to rebuff the government’s embrace.

COMPARING ACROSS THE COMMONWEALTH

This stress on the autonomy of Commissions and the insulation of the public service from untoward political influence is less pronounced in Commonwealth countries which achieved independence earlier. The Public Service Commissioner for the State of Victoria, Australia, says that “Although the function of the Office [of the Public Service Commissioner] in carrying out Statutory Responsibilities is autonomous, *the OPSC is a central agency implementing Government policy and its primary client is the Victorian Government.*”²⁰

This typifies a marked difference in approach between countries which gained independence in the post-war period and others. There are three possible reasons for this difference.

First, Commissions in countries with a longer history of independence may themselves be the product of reform. In Australia, the federal and Victorian Commissions are both successors to Public Service Boards which played more of a traditional role. The federal government passed a law replacing its board with the current commission in 1987. Victoria followed suit in 1992. A similar process took place in New Zealand during the late 1980s.

In each case, this was done as part of a wide-ranging public service reform initiative that included extensive delegation of administrative powers. The new Commissions are explicitly tasked with supporting and facilitating reform. Victoria’s Office of the Public Service Commissioner defines its mission thus: “To provide leadership in best personnel management practice and protect merit and equity to ensure that the Victorian public sector workforce is well managed and prepared to meet current and future demands.”²¹

²⁰ Peter Salway, response to author’s questionnaire, p. 11. Emphasis added.

²¹ Salway, *op. cit.*, p. 3.

Second, in some settings there is a degree of tension between the public service and the political executive. In Malta, for example,

... the development of democratic institutions and the progressive polarisation of politics have greatly affected the public service. With independence, the Service came under the direction of a democratically elected Executive. It would appear that neither the public service nor politicians have appreciated the implications of this development, and have not fully adjusted their expectations and perceptions of one another.

Politicians, who are subjected to diverse pressures, have succumbed to the temptation to factor the Service into the strategies of power politics. Willingly or unwillingly, the public service came to be associated with the use of public resources for partisan or private gain. As a result, trust between the political authorities and public officers on the one hand, and between the Service and its customers on the other, has been seriously eroded.²²

It is unlikely that such a lack of trust would leave relations between Service Commissions and the government unaffected.

This points to the third reason: public perceptions of public service conduct in matters such as recruitment and promotions. In some countries which became independent in the post-war period, a tradition of public confidence in the public service has yet to develop securely.²³

Whether such public perceptions are accurate or not, in small and island states a number of factors do add further pressure on norms of conduct. These factors include a tendency to deal with people on the basis of kinship or personal acquaintance rather than formal office; the development of informal networks through which part of the business of formal organisations is transacted; and a

²² Public Service Reform Commission, *A New Public Service for Malta: A Report on the Organisation of the Public Service* (Malta: Department of Information, 1989), p. 1.

²³ In Mauritius, the Police Service Commission had to wage a public campaign against swindlers who were trying to persuade prospective recruits to the police force that they could pay money to gain entry. Where norms are weak, public officers have to struggle against the perception – however false – that they are open to influence. See the *Report of the Public and Police Service Commissions (1986-89)* (Mauritius: Public and Police Service Commissions, 1991), pp. 35-36.

perceived willingness to seek preferential treatment through such informal networks.²⁴

The upshot is that perceived pressures contributing to the occurrence of selection abuses are greater in the more recently independent countries of the Commonwealth, and this may give rise to correspondingly greater fears about delegation of personnel management.

²⁴ Edward Warrington, "Taking Account of Small Scale and Insularity in Administrative Reform Strategies: The Case of Malta 1988-1990," *Economic and Social Studies* [Malta] vol. 5 (1990), pp. 25-37. See also Charles Farrugia, "The Special Working Environment of Senior Administrators in Small States," *World Development* vol. 21 (1993), pp. 221-226.