

THE ROLE OF ORGANISATIONAL ETHICS MANAGEMENT WITHIN THE SOUTH AFRICAN PUBLIC SERVICE

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ABSTRACT

There is a limited body of knowledge on the role of organisational ethics management, systems and mechanisms in promoting and driving ethics on strategic, system and operational levels. Public officials still have to be convinced of the importance of ethics within their organisations. Getting the ethics message across to large groups of employees in a cost-effective, yet powerful manner remains a challenge. An in-depth conceptualisation and contextualisation of ethics is required to strategise organisational ethics management in the public service. The article attempts to unlock the transdisciplinary relationship of philosophy and public administration to determine the significance of ethical reasoning in decision-making structures. Due to the advent of New Public Management (NPM), Public Administration faces a paradigmatic shift towards decentralisation and relativism that demands more accountability and responsibility. The article aims to explore the merits of philosophical tools and normative approaches to ensure ethical governance in the South African public service. The main research question to be addressed in this study is: “What is the role of organisational ethics management in promoting good public administration and what strategies are required to combat corruption and wrong-doing in the South African public service?” The purpose of the article is to identify elements of organisational ethics management to enhance an ethical administrative culture and promote sound public administration. The use of literature review, annual reports and official documents form part of the desktop conceptual and theoretical analysis. The article then offers suggestions for improvement.

Key Words: corruption, ethics, organisational ethics, public service, good governance

JEL Classification: Z00

1. INTRODUCTION

Public administration ought to operate within the democratic prescriptions that influence the execution of public sector activities and the implementation of measures that promote normative governance. Despite efforts by the South African government to uphold transparency and accountability, unethical conduct in various forms has persisted in recent years (Vyas-Doorgapersad & Simmonds, 2011: 58). There is a widespread perception that corruption has in fact increased since the period of political and economic transition (United Nations Office on Drugs and Crime 2004 cited in Vyas-Doorgapersad & Simmonds, 2011: 58).

As emphasised by the South African Constitution (1996), section 195(1) calls for public administration that is governed in terms of democratic values and sound principles, including a high standard of professional ethics that must be promoted and maintained. This notion is supported by the Public Service Integrity Management Framework, which seeks to strengthen measures for managing unethical conduct and to promote integrity in the public service. However, findings by the Department of Public Service and Administration (DPSA, 2017: 5) indicate that designated employees (senior managers) of government departments and certain political appointees (ministers) have failed to declare their interests. Findings (DPSA, 2017: 5) further explored that the majority of employees did not have approval to perform remunerative work outside their employment in government as prescribed by the relevant legislation and regulations. Issues related to corruption are grounded in the administration of ethics. However, insufficient research has been done on conceptualising and understanding of organisational ethics management in supporting the anti-corruption drive. The available literature focuses mainly on the broad field of ethics management and pays little attention to the management of ethical concerns as a field of specialisation. There are therefore gaps in the policy and implementation of anti-corruption measures and the related regulatory frameworks. This article is one of the contributions demanding various future studies to explore, investigate and recommend policy imperatives to advance ethics in the public sector.

2. CONCEPTUAL FRAMEWORK

The main terms used in the article are defined briefly in this section. *Ethics* can be defined as a system of moral principles relating to that branch of philosophy dealing with values on human conduct, with respect to rightness or wrongness of certain

actions and to the goodness and badness of the motives and ends of such actions. It constitutes the basic principles of correct action undertaken based on rules of conduct (Fox & Meyer, 1995: 55). The way an organisation should respond to the external environment refers to *organisation ethics*. Organisational ethics includes various guidelines and principles which decide the way individuals should behave at the workplace. It also refers to the code of conduct of the individuals working in a particular organisation (Management Study Guide, 2017: 1). *Misconduct* is an act of wrongdoing or an improper behavior which is inimical to the image of the Service and which can be investigated and proved (Okonkwo, 2014: 5). *Corruption*, according to Thornhill (2012: 140), is an offering or granting, directly or indirectly to a public official or any other person, any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for any other person or entity, in exchange for any acts or omission in the performance of his/her public functions. *Wrongdoing* includes misuse of public funds or a public assets; a gross mismanagement in the public sector; a serious breach of a code of conduct (Office of the Public Sector Integrity Commissioner of Canada, 2017: 1). Good governance, according to Vyas-Doorgapersad and Aktan (2017: 36) constitutes the application of ethical rules to government. Public sector ethics is a broader concept that deals with ethics for those who serve in the public sector.

3. THEORETICAL FRAMEWORK

Social science is defined by Clifford Geertz (cited in Porta & Keating, 2008: 25), as “not an experimental science in search of laws but an interpretative science in search of meaning”. The relationship between ethics and social science is often conceived as complementary, both disciplines cooperating in the solution of concrete moral problems. Not only applied ethics but also certain parts of general ethics have to incorporate sociological and psychological data and theories from the outset. Applied ethics depends on social science to assess the impact of its own principles on the concrete realities which these principles are to regulate as well as to propose rules of practice to adapt these principles to their respective contexts of application (Birnbacher, 1999: 1).

Many social science theories have therefore been used in research on ethical issues. Some of the significant ones include pluralism, where “all theories of this sort reject utilitarianism’s single standard of right conduct. Morality is defined by more than one standard and these are not necessarily consistent” (Gert, 1988, 97-159). Theories of social justice are another case in point. They “reject utilitarianism’s refusal to consider who is benefited or harmed [claiming that] who is benefited is

as important as how much” (Illinois Institute of Technology, 2017: 2). Examples are John Rawl’s *A Theory of Justice* (1971) and Gauthier’s *Morality by Agreement* (1986).

Similarly, virtue theories that “reject the utilitarian connection of the [objectively] right with the actual outcome of an act ... are teleological rather than deontological. For these theories, the objectively right act is the one a person of a certain type [‘the virtuous person’] would choose. Virtue is a complex of virtues, including justice, courage, temperance, and judgment. At this point, virtue theories become very different” (Center for the Study of Ethics in the Professions, 2017: 1). Examples are Lawrence Becker’s, *Reciprocity* (1986), Alasdair MacIntyre, *After Virtue* (1981) and James Rachel’s *The Elements of Moral Philosophy* (1999).

Theories of relativism, are prescriptive about “how we should act [‘moral relativism’] or a rejection of the very possibility of such a single theory [‘meta-ethical relativism’]” (Center for the Study of Ethics in the Professions, 2017: 2). This article utilises the social contract theory (Thomas Hobbes, John Locke, Jean Jacques Rousseau, David Hume) that emphasises “government moral obligations as well as the limits within which the government may exercise these. Such limitations are imposed on the government by putting into place checks and balances” (Koenane & Mangena, 2017: 62). In South Africa, the checks and balances are established in the form of institutional, regulatory and legislative frameworks (Integrity Management Framework; Constitution of the Republic of South Africa, 1996); the Investigation into Serious Economic Offences Act of 1991 (Act No. 117 of 1991); the Reporting of Public Entities Act of 1992 (Act No. 93 of 1992); the Audit Act of 1992 (Act No. 122 of 1992); the Public Service Act of 1994 (Act No.103 of 1994); the Protected Disclosures Act of 2000; and the Prevention and Combating of Corrupt Activities Act (Act No. 12 of 2004) all of which govern ethics in the public service. In addition, there are anti-corruption measures available such as South Africa Corruption Index to investigate the level of maladministration in the country.

4. CORRUPTION IN THE SOUTH AFRICAN PUBLIC SERVICE: CONTEXTUAL FRAMEWORK

In the post-apartheid era, the South African government has responded forcefully to the challenges of corruption. The minister of Public Service and Administration is empowered by section 3 of the Public Service Act, 1994, to establish norms and standards in respect of integrity, ethical conduct and anti-corruption. This mandate is further supported by the mandatory requirements of the United Nations

Convention against Corruption. In terms of Article 8 of the convention, member states are encouraged to establish measures and systems requiring public servants to make declarations to appropriate authorities regarding their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public servants.

The new post-apartheid government in South Africa has enacted a number of legislative frameworks to promote a culture of honesty and good governance which may in turn lead to effective and efficient service delivery. The Constitution of the Republic of South Africa, 1996, is the supreme law of the country and it mandates the Public Service Commission (PSC) to promote a high standard of professional ethics. Among other prescriptions it calls for promoting and instilling values such as accountability, integrity and transparency. The constitution emphasises that the mandate of the PSC should be exercised in accordance with the relevant legislation, regulations, guidelines and rules and that there be strict monitoring by the various ethics actors.

While analysing the effect of an anti-corruption system in South Africa, Manyaka and Sebola (2013: 75) point out that “South Africa suffers from high levels of corruption that undermine the rule of law and block the state’s capacity to effect development and socio-economic transformation”. They maintain that the current regulatory framework measures have proved ineffective and that there are a serious concerns about the need to combat corruption and unethical behaviour. Among the gaps in the regulatory frameworks are the following:

- There is inconsistency on the acceptance of gifts by members of the public service; this makes it difficult to institute enforcement measures. Chapter 2 of the Public Service Regulations (2016) prohibits an employee from using his/her position to accept gifts or benefits. Chapter 3 of the Public Service Regulations requires members of the Senior Management Services (SMS) to disclose details of gifts valued at R350 or more.
- To compound the problem, the Prevention and Combating of Corruption Activities Act, 2004, defines gifts and hospitality as a form of gratification, so acceptance of such favours could constitute an offence of corruption.
- Furthermore, the Financial Disclosure Framework (2012) requires that members of the SMS must make an annual disclosure of their financial interests to the relevant executive authority. This stipulation has resulted in non-disclosure of financial interest by non-designated employees (levels 1-12).

These examples of weak institutional capacity must be addressed if unethical conduct and corruption in the public service is to be curbed. In addition, there is

evidence that weak institutional capacity leads to financial misconduct, as shown in the Public Service Commission Report (2015). This report (the latest available to date) exposes unethical financial misconduct in the public service for the year 2013/14, citing the following:

- There were 754 finalised cases of financial misconduct reported in this timeframe, of which 290 (38%) cases were reported by national departments and 464 (62%) cases were reported by provincial departments.
- The total amount of money involved in these finalised cases of financial misconduct reported by national and provincial departments was R208 268 012.35
- The type of financial misconduct involved and description of cases reported by departments fall into categories such as: corruption, fraud, financial mismanagement, theft, misappropriation and abuse, and gross negligence. A statistical breakdown of the 754 finalised cases for the 2013/2014 financial year, shows that 209 (27.7%), the highest percentage, were categorized as '*Misappropriation and abuse*'. This was followed by '*Financial mismanagement*' with 155 (20.6%) cases; '*Theft*' with 150 (19.9%) cases and '*Corruption*' with 18 (2.4%) cases.

The existence of a law enforcement/organisational control framework has not prevented weaknesses from appearing in the public sector's internal capacity to combat corruption (Naidoo, 2017: 74). The Department of Service and Administration (DPSA) and the United Nations Office on Drugs and Crime (2003 cited in Naidoo (2017: 74) also observed that the public sector has uneven capacity to enforce and comply with the anti-corruption legislation, especially in the areas of risk management and fraud prevention. In addition to legal and institutional frameworks, South Africa has "no fewer than 12 anti-corruption agencies" (Boone 2002 cited in Majila, Taylor & Raga, 2017: 94) that often fail to achieve their mandate. The reasons highlighted by Majila (2012 cited in Majila *et al*, 2017: 94) are weak political will, lack of resources, political interference, inadequate laws, insufficient accountability, and failure to involve the community. In addition, Africa Check (cited in Majila *et al*, 2017: 94) emphasised that "key anti-corruption institutions are in turmoil".

Due to identified weaknesses in anti-corruption measures, "South Africa is the 64th least corrupt nation out of 175 countries", according to the 2016 Corruption Perceptions Index reported by Transparency International. Corruption ranking in South Africa averaged 49.43 position from 1996 until 2016, but reached an all-time high of 72nd position in the year 2013 (Trading Economics 2017). The Corruption Perceptions Index ranks countries based on the extent of corruption in their

respective public sectors. The perceived level of corruption is measured on a scale of 0 to 100, where zero is the most corrupt and 100 indicates a corruption-free country.

However, according to Lynch (in Raga & Taylor, 2007: 4) and (Vyas-Doorgapersad & Ababio, 2010: 425), the public sector, as is the case in individual behaviour, is constantly changing in reaction to new leadership, environmental influences and socio-political development. Government and society cannot promote and enforce ethical behaviour solely through the utilisation of ethical codes of conduct or by the promulgation of a plethora of legislation. Social mind sets are often entangled in a micro-ethic paradigm. People tend to equate moral values and moral norms, making them apply only to their personal relations and the structures within which they interact. South Africa needs an organisational culture that not only supports ethical behaviour, but also defines and underpins right and wrong conduct at an individual level as well as in the institutional sphere.

5. ORGANISATIONAL ETHICS MANAGEMENT: THE WAY FORWARD

Measures to combat corruption, according to Vyas-Doorgapersad (2007: 297) will only be successful if the right ethical climate has been established and inculcated in the public sector when the ethical behaviour of public officials can be measured and monitored. The article therefore suggests that the South African Public Service needs to establish an organisational ethics management programme to combat maladministration. The rationale is that “problems of misconduct are not just typical of modern public administration. The problems did not just arise three or four decades ago; in fact, they already existed as early as the government itself” (Bowman & Williams, 1997: 519). What has changed in the last several decades is the way ethics are perceived. Ethics is now understood not only as an attribute of a person, an individual, but also as an attribute of the organisation as a whole (Unruh, 2008: 290). The prominence and necessity of cultivating this attitude has increased from making organisations ‘better’ to being absolutely critical for effective functionality of organisations (Trevino & Nelson, 2010: 56). Menzel (2005) concurs, suggesting that a widely-accepted assumption has emerged that ethics improves organisations’ performance (Menzel, 2005: 150). Ethics management is now accepted as the best practice standard in dealing with employees’ ethical and unethical behaviours. As such, ethics management is understood as an effort to maintain public service values and standards, a solution for the declining public trust in government, and a response to society’s changing values in which citizens

are increasingly more assertive and demanding (Maesschalck, 2004: 30). The significant elements of organisational ethics management are discussed below.

Organisational ethics is “the ethics of an organisation, and it is how an organisation responds to an internal or external stimulus. Organisational ethics is interdependent with the organisational culture” (Matthews 2014: 1). Matthews further emphasises that “organisational ethics express the values of an organisation to its employees and/or other entities irrespective of governmental and/or regulatory laws”. Organisational ethics also demand the implementation of a code of ethics. According to Kelchner (2014: 1) a code of ethics in an organisation is a set of principles that is used to guide the organisation in its decisions, programmes and policies. An ethical organisational culture implies that the leaders as well as the employees adhere to a code of ethics.

The term ethics management is not the only alternative in referring to such management activity. Another preferred term is integrity management. The shift of terminology from ethics management to integrity management was due to “a growing understanding that integrity is a keystone of good governance” and that integrity is a condition for all activities in government to be legitimate, trusted and effective (Organisation for Economic Co-operation and Development (OECD), 2009: 6). However, the term ethics management is still widely used because it suggests an active approach in making ethical decisions. In ethics management, two major approaches have been distinguished in the literature (Maesschalck, 2004: 42).

The first of these approaches is the compliance approach, or the ‘low road’. It relies on controls beyond the individual level, also called external controls. Examples include ethics legislation; codes of ethics; and other rules, control mechanisms, and control institutions with extensive powers. In this approach the emphasis is on checking and monitoring to make sure the employees at least comply with the law. The second approach is referred to as the integrity approach, also called the ‘high road’. It emphasises individuals’ internal controls, specifically the self-control exercised by each individual. This self-control is expected to guide each individual to his/her highest potential or highest level of moral integrity. The related measures are, among others, a statement of values and interactive ethics training (Maesschalck, 2004: 42). Nevertheless, the two approaches should not be seen as a dichotomy. They should instead be understood as the opposite ends of a continuum, the compliance-integrity continuum. It must also be acknowledged that organisational ethical management “does not address ethics as a management

function only [but views] organisational ethics management as a new Human Resource Management strategy that links ethical performance advancement and ethical under-performance with disciplinary processes". This is because when corruption is left unattended it tends to get out of control and may harm the entire society (Mafuniswa, 2000: 19).

Richter and Burke (2007: 157) make another relevant point when they stress that the application of ethical management requires effective external and internal compliance. In other words there must be low road and high road control. Corrective measures must be in place to deter corruption at all levels and should apply to all public officials. When it comes to executive functions, good ethical management of employee's performance is the reason for the low levels of corruption during or in the process of business transactions, performance management and evaluation. Good management of ethics is important in keeping employees within the prescribed code of conduct (Richter & Burke, 2007: 170). Lutabingwa and Nethonzhe (2007) support this suggestion and further suggest two approaches to combat corruption. The first approach is a "compliance based approach [that] is ... used to solve corruption because it focuses on strict adherence to administrative procedures and rules which are written down stipulating what public officials should do and must not do". It is essential that there be written rules that apply when faced with a particular situation. These prescribed rules, they argue, "are imperative for detecting wrong-doing and how the deviation of rules must be dealt with" (Lutabingwa & Nethonzhe, 2007: 83). Another approach, suggested by Lutabingwa and Nethonzhe (2007: 85), is what they call the "integrity management approach", which falls under the principles of ethics management. This approach focuses on results or outcomes that follow from officials' decision making and it pays more attention on what was achieved rather than how it was achieved, although the approach also encourages good behaviour.

Ethical administrative culture can also be added as a significant element of ethics management. This, according to Ayee (1998: 12) is a way of ensuring that change in the public service will assist in minimising the opportunities of unethical behaviour and practices through the introduction of improved work methods, monitoring and evaluating public officials' decision making, developing financial management systems and reviewing the anti-unethical measures taken every three to five years with the aim of introducing further improvements.

Based on the policy suggestions discussed above, the following guiding principles are captured in a five-component ethics programme (Landman, Undated: 3), requiring an organisation to:

- *Commit*: Ensure executive and senior management commitment to the programme.
- *Assess*: Measure the organisation's ethical effectiveness and ethical culture.
- *Codify*: Develop a code of ethics, i.e. a statement of values and conduct provisions (code of conduct) that communicate with each other.
- *Formalise*: Set up formal ethics structures and systems, such as an ethics office with ethics officer(s); an ethics committee; ethics training; ethics communication systems; an ethics line (encompassing a whistle-blowing line/hotline for reporting observed misconduct and a help line for advice).
- *Integrate*: Make the formal structures work efficiently and build an ethical culture that legitimises ethics discourse and conduct.

Underpinned by social construct theories, this article emphasises that organisational ethical management principles are essential for transparent public administration. Vyas-Doorgapersad and Simmonds (2011: 70) suggest that when viewed in conjunction with values and morals, such principles serve as the cornerstone of accountable and responsible conduct at all levels of governance. Using philosophical tools (taking a normative approach) helps public administrators to think rationally and to be committed, ethical policy-makers.

6. CONCLUSION

Chapter 10 of the Constitution of the Republic of South Africa (1996) stipulates that democratic values and principles must be followed at all levels of public administration. These values and principles demand that a high standard of professional ethics be promoted and maintained. In order to fulfil these binding obligations, the public service has to become fully accountable and transparent. Organisational ethics management is imperative in the South African public service. There must be ethical leadership, an ethical organisational culture, ethics training, and a definitive ethics strategy. If ethical standards are set up and well monitored, ethical performance will follow and an ethical character created, all of which will contribute towards establishing a value-driven public administration.

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