

**ADMINISTRATIVE NEUTRALITY IN A DEMOCRATIC STATE: A  
CRITIQUE OF CURRENT APPROACHES AND CONSIDERATIONS  
FOR POST-APARTHEID SOUTH AFRICA**



By

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## DEDICATION

This study is dedicated to my parents Kenneth and Maureen who continue to administer to me. Also to my husband, Eric for his inspiration and my son, Kyle who may one day benefit from this study.



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## DECLARATION

I declare that "Administrative Neutrality in a Democratic State : A Critique of Current Approaches and Considerations for Post Apartheid South Africa" is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of references.



**Michelle Gildenhuys Esau**

**June 1997**

## ACKNOWLEDGEMENTS

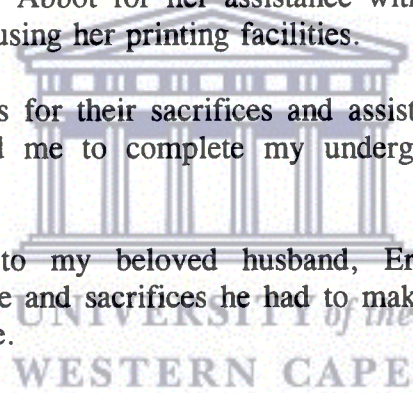
This study is a result of several influences and discussions with colleagues and classmates in the Masters group. I will be mentioning a few and wish to apologise for those whom I have failed to include.

Firstly, I would like to express my sincere thanks to my supervisor, Prof G.F. Lungu, for his guidance and valuable time spent in assisting me with this study. His inputs and knowledge was invaluable.

Secondly, I wish to thank friends and colleagues for their encouragement and enthusiasm shown in this study, notable among them are Nazeem Ismail, Chisepho Mphaisha, Lusani Madzivhandila, Enayat Hamza, and Vincent Morta. Also to Rene Abbot for her assistance with my diagram and to Fuzilet Hendricks for using her printing facilities.

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<b>TABLE OF CONTENTS</b>		<b>Page</b>
<b>Declaration</b>		(i)
<b>Acknowledgements</b>		(ii)
<b>Abstract</b>		(vi)
<b>CHAPTER 1: INTRODUCTION</b>		1
Background to the Research Problem		
Aims of the Study		
Methodology and Date		
Organisation of Thesis		
Significance of Study		
<b>CHAPTER 2: ADMINISTRATIVE NEUTRALITY IN PERSPECTIVE</b>		10
Introduction		
Meanings and Perspectives		
The Evolution of the Concept and Practice of Neutrality		
The 19th Century Reforms		
Contribution from Administrative/Management Theorists		
Chapter Summary		
<b>CHAPTER 3: EXPERIENCES OF THE UNITED KINGDOM, FRANCE AND THE UNITED STATES OF AMERICA</b>		25
Introduction		
The British Model of Administrative Neutrality		
Critique of the Whitehall Neutrality Model		
The French Model of Administrative Neutrality		
A Critique of the French Model		
The American Model of Administrative Neutrality		
A Critique of the American Model		
Chapter Summary		

**CHAPTER 4: TOWARDS A MODEL OF ADMINISTRATIVE NEUTRALITY FOR DEMOCRATIC SOUTH AFRICA** 43

Introduction

Elements of the Model

- Commitment to National Ideals and Goals
- Merit as a Basis of Appointment and Promotion
- Partisan Neutrality
- Institutional Checks and Balances
- General Fairness and Impartiality

Possible Constraints of the Model

Chapter Summary

**CHAPTER 5: CONCLUSION** 62

Concluding Remarks

**REFERENCES AND BIBLIOGRAPHY** 68

**DIAGRAMS** 61

Figure 4-1

## ABSTRACT

The ideal and practice of administrative neutrality has been problematic in the public services of liberal democracies since the middle of the 19th century. Either the ideal was interpreted very narrowly to exclude public administration from political processes, or it has been too broadly incorporated to render its meaning practically useless. However, both literature and practice continue to emphasize the importance of the ideal. This study has attempted to clarify the meaning of the concept by examining its evolution and applicability in various liberal democratic states. Additionally, the study has developed a model of administrative neutrality for the post-apartheid South African public service.

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The study was guided by three broad assumptions: and these were:

i) that the concept of administrative neutrality was not an antonym of politicization, and that whenever such meaning was imputed its applicability was bound to be compromised if not misguided; ii) that the applicability of administrative neutrality depended, among other things, on the constitutional experience and context of a given country; and that iii) administrative neutrality tended to emphasize those elements that are topical at a given time in a given country. Comparative experiences of older liberal democracies examined in the study lent support to these broad assumptions: thus, the British version of administrative neutrality has been conditioned by its

(vii)

political and administrative traditions in which the evolution of democratic political institutions dictated the subjection of administrative institutions to elected political leadership. By contrast, the French experience has reflected that country's administrative history in which public administration evolved much earlier than liberal democracy, and practices like permitting civil servants to seek political office without having to resign their posts was perceived as posing no danger to the ideal of neutrality. Similarly, the American model in which the top layer of public administrators are political appointees has been a product of its history which has had a heavy dosage of partisan patronage. However, despite the differences in terms of models and applicability of the concept the public services in all older liberal democracies examined showed a clear commitment to administrative neutrality in the form of a professionally appointed and managed public service. All the three older democracies examined here has clearly done away with the concept of patronage in the professional section of their public services.

Based on the analysis of the three older democracies, a model has been developed for post-apartheid South Africa. First, it was observed that current practices of administrative neutrality in South Africa have been heavily influenced by both apartheid and British or Whitehall traditions. However, the 1996 constitution prescribes a public service that is non-partisan and impartial, with the public service commission as the watchdog for its implementation. The study has noted that a few problems exist in the current practice of administrative neutrality. First, the practice of involving the minister in the department or premier in the province in matters of



(viii)

appointing permanent staff was regarded as anomalous. Second, that there was lack of specification of involvement by level of civil servants in partisan activities. Third, that the present arrangements do not make adequate checks and balances between ministerial responsibility for personnel and the role of the public service commission, and between the minister and the director-general. Fourth and finally, the absence of the head of the civil service who could cultivate, promote and defend the ethic of civil service neutrality.

The proposed model addresses these issues and includes the following elements: commitment to national goals as a recognition of the fact that administrative neutrality does not mean avoidance of national political ideals and goals; merit as the basis for appointment and promotion to ensure against the spoils system; partisan neutrality in which civil servants at all levels do not participate in any partisan activities, but that this provision could be reviewed from time to time as the country's administrative culture evolves; institutional checks and balances in which the public service commission, the head of the civil service, and the re-designing of the office and even title of the director-general. At the moment there are no really checks and balances vis-a-vis ministerial role in the civil service. Finally, the model recommends general fairness and impartiality of the civil service as part of the neutrality concept. The model might meet some resistance due to entrenched traditions of the past or misconstruing of the ideal of neutrality itself by current practitioners.

The study concludes by posing a few questions: what is the relationship between neutrality and civil service effectiveness? How does the

(ix)

policy of representative bureaucracy (i.e.: affirmative action) impact upon the merit principle? These and other questions have not been addressed in the study due to limitation of time and resources. Nonetheless, the ideal of administrative neutrality holds out the hope for a civil service that is emerging from the scars of apartheid politicization.



## CHAPTER 1

### INTRODUCTION

#### BACKGROUND TO THE RESEARCH PROBLEM

The problem of creating a public bureaucracy that is both politically responsive and operationally neutral has been an elusive task in multiparty democracies, not to mention one-party and other forms of democracy. In the older multiparty states of United Kingdom and the United States, for example, an attempt was made in the 19th century to minimise what was then perceived as overtly politicized aspects of the civil service through the introduction of merit criteria for appointment into career grades. The Northcote-Trevelyan Report of 1854 in Britain and civil service reforms of 1880s in the United States were undertaken to minimize political patronage (Van Riper, 1958). Later many ex-British colonies made similar efforts to safeguard administrative neutrality with varying degrees of success and failure. Practical attempts at creating neutral civil services in the West were complemented by the development in academia of the politics-administration dichotomy. Wilson (1887) was among the pioneering proponents of the need to separate administration from politics. Often misunderstood and misinterpreted, Wilson's emphasis was not so much on the sharp distinction between the

two spheres of government, but on the need to recognize operational neutrality of administration in the interests of both impartiality and efficiency. The notion of administrative neutrality, though not yet known by that name, received a further impetus with the development of scientific management theory. The theories of Taylor (1911) and Fayol (1949) though more associated with business management did contribute in no small way to the evolution of the notion of administrative neutrality, especially with efficiency as the overriding objective. It is a well known fact that Taylorism helped precipitate a strike in an army factory, an event which eventually led to the summoning of Taylor before the United States Congress. Similarly, Fayol made no secret that his "universal" principles would be applicable to any type of organizations, especially the public sector (1949). Similarly, Fayol's disciples - Gulick and Urwick (1937) consulted with the United States government on the need to apply management principles in the American civil service. The emphasis of scientific management theorists was unmistakably on the technical efficiency of administration with tangential regard for environmental (i.e. political) factors.

Administrative neutrality received a further boost from Weber's description of the ideal type of bureaucracy. Weber's characterization of bureaucracy clearly attests to the fact that to be rational and efficient administration had to be politically neutral : "sine ira et studio" ("without hatred or passion") (Weber, 1968). Weber's work was widely read after the Second World War and has had a pervasive influence on advocates of professionalism in administration. However, theoretical developments were themselves not settled, that is, they did not come to any convergence on the notion of administrative neutrality. Consequently they failed to guide practice in any meaningful way. The application of the concept both in the United States and British Commonwealth was always partial, contradictory and often inconsistent. When most of the colonies became independent in the 1960s (and South Africa adopted the policy of Apartheid in 1948) it became more difficult to apply the concept. The collapse of constitutional rule in most African countries and the subsequent advent of one-party states and military regimes meant that the ideal of a neutral administration lost much of its support. Within the South African oligarchy, apartheid was in essence a negation of a neutral bureaucracy, though some of its outspoken supporters claimed that the civil service was neutral as much as they claimed that its political system was democratic (Lungu, 1993).

The issue of neutrality in the civil service has once more surfaced, now that multiparty democracy is slowly returning on the continent, and the apartheid regime has been dismantled in South Africa. The debate still rages as to how best to reconcile the two seemingly mutually exclusive values in a democracy : a civil service that is responsive to political will of the party in power, and at the same time one that will operate efficiently and impartially in serving members of the public. A third complication in the debate has arisen from the new democratic constitutionalism which emphasizes human rights for all citizens - bureaucrats or not. Should bureaucrats be allowed to openly disagree with the policies of the party in power? Should they be allowed to stand for political office? And if they are unsuccessful, should they be allowed to return to the civil service? Will ministers of the ruling party have confidence in such bureaucrats? These and other concerns form the subject-matter of this study. For too long civil servants have been abused on the continent generally, and South Africa in particular. Politicization has not necessarily made African civil services positively responsive to political will, and the rhetoric of neutrality, where it has been tried out in practice, has not led to efficiency. Yet African civil services in the post-one party era are called upon to be both responsive and efficient. A fresh look at the concept, then, is necessary to shed light on theoretical and practical

difficulties surrounding it, to draw lessons from experiences in well-tried democracies and to suggest ways in which it might be implemented in democratic South Africa.

### **AIMS OF THE STUDY**

This study has attempted to do the following:

i) critically review the concepts of neutrality in public administration, especially its important constituent elements of partisan impartiality, anonymity and merit appointment,

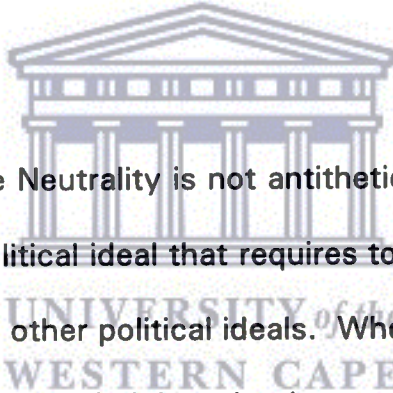
ii) examine the experiences of older democracies that have greatly influenced the practices in newer developing democracies; specifically, the older democracies here are limited to the United States, France, and Great Britain. (The United States has the oldest written democratic constitution, and her status as a world power easily makes her political experiences and practices creep into the political thinking of new states. France is the mother of egalitarian democracy, especially through its famous 18th century revolution. She also has had a big empire in Africa, and administrative practices in Francophone Africa are still under considerable French influence. Great Britain is the mother of parliamentary government, and the chief designer of civil service neutrality which most commonwealth countries around the world, including South Africa, attempt to



follow). The focus on these three countries, is therefore, deliberate, but experiences from other countries have been highlighted where necessary for illustrative purposes, and

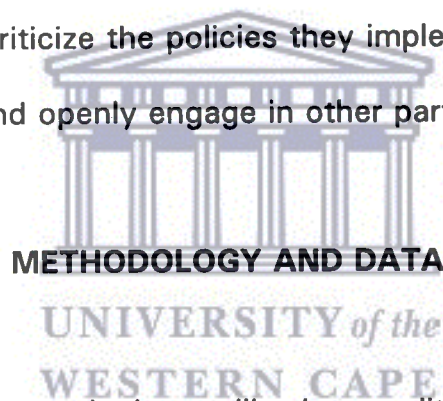
iii) based on both the theoretical critique and evaluations of practices develop a model of administrative neutrality appropriate to the needs of a nascent democratic South Africa.

In pursuing these aims this study has been guided by the following broad assumptions:

- 
- I Administrative Neutrality is not antithetical to politicization; it is itself a political ideal that requires to be recognized and balanced with other political ideals. When it is negated the integrity of public administration is greatly compromised.
- II The applicability of administrative neutrality depends among other things, on the constitutional experience and framework of a given country. Thus for example, the American presidential system has different arrangements for realizing the concept from the ministerial system in Great Britain. The French, who seem to be in between, also exhibit features of both systems;



III Administrative Neutrality tends to emphasise those elements that are topical at a given time in a given country. By the same token, violation of the concept is more pronounced in those elements that militate against the governing political variables. Thus in one-party states of Africa partisan neutrality was the first to be violated, while the merit principle still had some strong advocates. Soon, however, the focus of human rights might lead to freeing civil servants to openly criticize the policies they implement, or stand for elections and openly engage in other partisan activities.



As a critique this study has utilized a qualitative approach to research. It has critically evaluated the literature and experiences of the countries mentioned above. A critique normally involves outlining main tenets, arguments, or elements of a model, and then assess in its strengths, weaknesses, inconsistencies and by way of contrasting, draw upon practical evidence to support the assessment.

It has drawn upon both primary and secondary, and tertiary data. Primary data include original documents like government reports, codes of civil service conduct, and parliamentary debates. Secondary data consist of books, journal articles, newspaper items, and conference/seminar presentations. Anecdotal opinions and impressions of individuals in politics and the civil service - both past and those now serving - were also included. Additionally, this researcher's own intuitive impressions have been brought upon to bear on the study. Certain personal insights, intuitions, and impressions may find no parallels in other sources, and these, too, need to be recognized in any research, for no matter how "objective" the study may be it cannot escape "the personal touch" of the researcher.

The study has been limited by both time and resource considerations, and also by the prescribed length of the mini-thesis.

## ORGANISATION OF THE THESIS

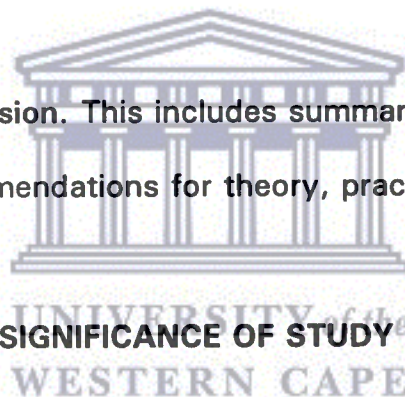
The rest of the study is arranged as follows:-

**Chapter 2: Administrative Neutrality in Perspective.** This is a conceptual and historical review of administrative neutrality: an outline of its central tenets.

**Chapter 3: Experiences of the United Kingdom, France and the United States of America. Partisan Neutrality: different approaches to partisan neutrality in the US, France and UK and current issues surrounding this element.**

**Chapter 4: Towards a Model of Administrative Neutrality for a Democratic South Africa. Proposes a model of administrative neutrality for a democratic South Africa.**

**Chapter 5: Conclusion. This includes summary, conclusions and recommendations for theory, practice and research.**



Most studies do not address the issue of administrative neutrality directly or adequately. Usually, the topic is discussed under the umbrella of other themes, or it is treated in a journal article or a chapter in a book. Obviously, the theme of administrative neutrality is related to other themes in public administration (Lungu, 1993), but it is necessary to conduct a focused, indepth discussion on it if it is to be adequately appreciated by both theorists and practitioners. This study is likely to be a pioneer effort in this direction. It is likely to contribute to the growing literature on public administration

generally and on the problem of neutrality in particular. It is also likely to raise new questions for theory building and research. Finally, it is hoped that many practitioners in the new South African government will find the study useful as they grapple with the intricate politics-administration problematique.



## CHAPTER 2

### ADMINISTRATIVE NEUTRALITY IN PERSPECTIVE

#### INTRODUCTION

The notion of administrative neutrality is a controversial one in current public administration debates. Some argue that it is not possible for both public officials and the systems they work in to be neutral, because the institution they operate is political. Yet time and again the term keeps creeping in discussions, textbooks, and even vehemently advocated by practitioners. One of the major concerns with current appointments in the South African Public Service, for example, is that they are made on political considerations. Candidates, it is alleged, are expected to be "politically correct" or be adequately recognized to belong to the party of the minister in charge of the department or premier in charge of the province. Such appointments have attracted widespread criticisms from advocates of a meritocratic or neutral civil service. Such concerns suggest that the notion of administrative neutrality is, after all still alive, and perhaps even necessary for an effective civil service. Yet little is known about the subject: usually discussions are short and superficial. This chapter

attempts to provide a conceptual and historical review of the concept of administrative neutrality.

### **MEANINGS AND PERSPECTIVES**

The term political neutrality sounds like an irksome misnomer in public administration which has increasingly accepted its political role in governance. Public officials operate under political leadership, and they serve political ends, an ineluctable fact that led Mainzer (1973) to label his book "political bureaucracy". Indeed the political nature of government administration has earned it the qualificative **public** to distinguish it from other types of administration. Viewed from this perspective, then, the very mention of the term administrative neutrality sounds superfluous, self-contradictory, and to some powers that be, subversive. Shortly after gaining political independence in the early 1960s many African leaders did not accept and in some cases even tolerate the concept of administrative neutrality because it meant some sort of camouflage of neo-colonial designs (Simwinga, 1978).

However, critics of post-independence African administration have never stopped to evoke aspects of neutrality when evaluating its performance and this has continued to this day. A fresh review of the concept, then, is necessary if there is to be meaningful

discussion or implementation of the concept. One approach to examining neutrality is to consider what is regarded as its antonym: politicization. Ordinarily, politicization and neutrality are seen as deadly enemies, one being conceived as an all-out strategy to diminish the other. This dichotomization can be explained by the fact that more often than not politicization has been undertaken as a capricious strategy to interfere in civil service appointments by politicians, on the one hand. On the other hand, neutrality has been advocated as a direct confrontation to politicians bent on tempering with professional administration, and in some countries such advocates have earned labels like 'cold' 'hypocritical' and 'subversive'. The reality of public administration - politics relationship is not exactly what the negative characterization found in textbooks and political speeches often suggest. There are several instances when administrators and politicians harmonise, or there would not be the art and profession of public administration. An examination of some definitions reflects this reality. Finer, one of the proponents of neutrality, defines the concept thusly:

By neutrality is meant impartial service with equal loyalty rendered to any chief of whatever incoming political party...It requires of the civil servant that he exercise all his talent and intellectual gifts and that he use appeal (not force) of character

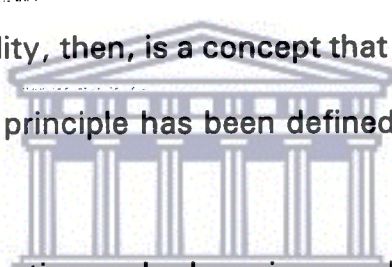
to advise his minister on the value to the nation of the minister's declared objective and yet to yield to him when that objective has been decisively fixed by the former (Finer, 1965,p.436).

This definition has several dimensions and limitations. First, Finer identifies neutrality with a civil service in a multiparty context. Neutrality, in this case, is to serve ministers in a non-partisan manner. More important, however, is Finer's inclusion of the role of civil servant in participating in decision making. In some contexts, neutrality was interpreted to mean that administrators merely implemented policy and not made or helped determine it. Finer's definition dispels this view, and clearly states that administrators are and should be involved in the policy determining process, but that in doing so they should advise politicians regardless of political party the latter might belong. Neutrality, in this sense then, does not deny the administrator the political role of determining policy, it only requires that he/she be beyond partisan viewpoints.

Finer's definition also suggests that administrators are politically committed, but to national and not party goals. This is an important insight, because public administrators are at the centre of politics, of policy determination and of allocating values, but with the important proviso that they do so in national and not partisan interests. However, insightful as Finer's definition is, it omits some

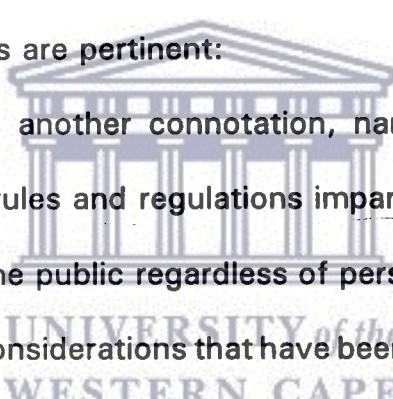


important aspects of the concept. Finer refers to neutrality with regard to serving politicians of any political party in power, but the issue begins well before that service is rendered. The administrator must first be appointed, and one of the important criteria for classifying a civil service system as political or neutral is the nature of appointment of permanent officials. The term political or politicized is applied to a civil service if its officials are appointed on partisan considerations, and neutral if appointed on the basis of merit criteria. Neutrality, then, is a concept that embraces the merit principle. The merit principle has been defined thusly:



recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointments...assuring fair treatment of applicants and employees without regard to political affiliation, race, colour, national origin, sex, religious creed....[and] assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or nomination for office (Stahl, 1971, p.13).

Stahl's definition of a meritocratic civil service has the several elements of neutrality. Appointment on the basis of competitive ability, and not on partisan ground or political patronage, fair treatment of all employees other than favouritism based on political criteria, and avoiding using civil service positions to promote overtly political party causes. However, Stahl's definition focuses on the treatment of personnel within the civil service system, but does not address the issue of rendering public services neutrally. Here, Lungu's observations are pertinent:



Neutrality has another connotation, namely, that officials should apply rules and regulations impartially when serving members of the public regardless of personal, ethnic, racial or any other considerations that have been explicitly declared irrelevant in a given democratic state (Lungu, 1993, p.11).

Thus, neutrality is a multidimensional concept, requiring permanent civil servants to work above partisan considerations and other irrelevant criteria when they apply for jobs, when they advise ministers, or when they render services to the public.

So far this discussion has dealt with what neutrality is but has not addressed what it usually is assumed to be by the members of the public or even by the civil servants themselves but is actually not. Neutrality, as Finer (1965) already observed does not mean

avoiding politicians or working in isolation from them. Some civil servants take an exaggerated view of the concept and wish to physically avoid meeting politicians. This, of course, is the wrong way to go about the practice of neutrality. Second, neutrality does not mean lack of political commitment on the part of permanent officials: they are and must be committed to national political goals. Third, neutrality does not mean avoiding civic responsibilities of not voting for political parties, or even as will be discussed in the next chapter avoiding joining a political party of one's choice. Civil servants may or may not belong to the ruling or opposition parties; their neutrality comes in when they play roles as civil servants: they are not expected to play the roles of partisan fighters when discharging official duties.

Neutrality also does not mean that the civil servant has no position to take. Marx, one of the astute observers of the politicization-neutrality debate has this to say:

[it is] an abuse of administrative neutrality for the civil servant to avoid personal involvement in public decisions, or as a justification for hanging tightly to the coat tails of those bearing political responsibility (Marx, 1957,p.137).

Thus, a civil servant who refuses to take a position or simply submits herself/himself to the views of a minister is not being neutral but merely irresponsible.

## **THE EVOLUTION OF THE CONCEPT AND PRACTICE OF NEUTRALITY**

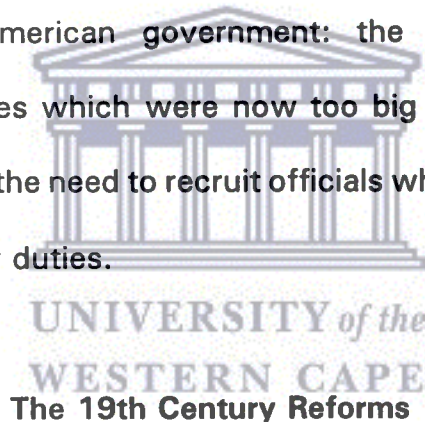
The idea that public officials must serve members of the public **impartially**, or indeed that they should be recruited on the basis of competency rather than favouritism or some other partial considerations is neither new nor unique to our time or contemporary liberal democracy. Many ancient civilizations had also cherished the ideal, though in a somewhat unspecified manner. A manuscript on the ancient Egyptian civil service contains the following advice to public officials:

Be courteous and tactful as well as honest and diligent:  
all your doings are publicly known and must therefore  
be beyond complaint or criticism. Be absolutely impartial:  
always give a reason for refusing a plea: complainants like a  
kindly hearing even more than a successful plea (Civil Service  
Manuscript from Egyptian Pharaohs - c.3000 B.C.).

Reference to impartiality and competence runs through the literature of the Greeks, especially Plato in his **Republic**. Even here on the African continent, some ancient or precolonial kingdoms embraced the ideal of an impartial, competent public servant. Precolonial Dahomey and Lozi (Western Zambia) employed two types of officials: hereditary and merit officials. It was said that those appointed on merit were the core of indigenous public services, and were also set against hereditary officials who often spent more time on plotting against the monarch (Gluckman, 1965; Colson, 1958; Fellers, 1956).

However, the evolution of the principle of neutrality as advocated and practiced today is associated with the rise of western industrial economy and the emergence of multiparty politics. By the beginning of the 19th century government business in most western European countries had grown complex due to corresponding changes in the economy and industry. Parallel to these changes was the development of multiparty democracy, especially in Britain. According to Page (1992) Britain, France and Germany needed to reform their recruitment systems in favour of merit through examinations. The situation was more unbearable in England and later in the United States when ruling political parties lost to the opposition and were required to vacate all their seats. Slowly a situation developed in which a non-political, more

permanent civil service emerged, giving rise to what Parris (1969, p.36) refers to as a "class of non-party officials capable of serving any government which the tides of electoral fortune might return to power." A more dramatic situation was the American spoils systems which reached its height in the 1840s during the Jacksonian era. A victorious political party had to inherit all government positions and fill them in, especially through partisan appointments (Van Riper, 1958). Two serious problems had confronted the American government: the impermanency of government services which were now too big to manage on the spoils system, and the need to recruit officials who were competent in discharging their duties.



Britain, France, Germany and the United States had all engaged in civil service reforms, emphasizing the need to recruit civil servants on the basis of merit. However, we will focus on British and American reforms, because these had a lasting impact on the characteristics of civil service systems in South Africa and Anglophone Africa generally. The Northcote-Trevelyan Report of 1854 marked a new landmark in reforming the British civil service. The Report, based in part on practices in the East India Company, and in part, on the demands and needs of a rapidly industrializing

economy, recommended that recruitment to the civil service be based on merit, and that a nonpartisan, permanent civil service that was politically "anonymous" be instituted. This would be equivalent of Weber's irresistible demand of a modernizing economy, namely the need for an impartial bureaucracy that would serve that state efficiently (Weber, 1922, 1968). It was not until the reforms of 1870s that the ideas of the Northcote-Trevelyan Report took root.

So pervasive has the influence of this Report been that many civil services based on the British model still bear its features, despite many attempts to reform and modify them (Myers and Lacey, 1996, p.343).

American presidential patronage system was seriously challenged by the growth and complexity of its own civil service. After the civil war attention of government critics turned on public administration and the vices of patronage. However, it was not until 1883 that the Civil Service Act, sponsored by Senator Pendleton (hence the Act is also referred to as the Pendleton Act) that presidential patronage was effectively dealt with at the federal level. American reforms did not entirely remove presidential patronage which still exists with regard to topmost jobs in the federal services (referred to as political executives), but at least there was a clear line drawn between a permanent federal civil service and a thin layer of political executives (Page, 1992).



### **Contribution From Administrative/Management Theorists**

Reform efforts in Europe and America went parallel with theoretical developments in the field of both public and private management. At about the time of British and American civil service reforms at the turn of the century Woodrow Wilson wrote his famous essay "The Study of Administration" (Wilson, 1887) in which he argued for a role of public administration that was distinct from politics. Much misunderstood and misinterpreted Wilson's essay was nonetheless an influential piece of writing that supported the notion of a politically neutral public administration. He was joined by Frank Goodnow (1900) who argued for the need of administrators to be non-partisan when executing government policy.

Theoretical developments were also taking place in business management. At the turn of the century Frederick Taylor developed a theory of Scientific Management which emphasized the need to "scientifically recruit, train and place workers"(Taylor, 1912). Although Taylor's observations were made within the context of private corporations his theory spread to the public and other sectors, and by the 1930s scientific management became the "in-thing" of many public and private organizations. Taylor's efforts were augmented by those of Fayol and Weber. Henri Fayol, a Managing Director of a mining company in France wrote a book in



1916 titled **Industrial and General Administration**. Fayol's objective was to develop a science of administration that would be applicable to any type of organization (Mouzelis, 1974). His definition of administration and the famous 'principles of administration' have become part and parcel of modern administrative concepts and vocabulary. His followers Gulick and Urwick (1937) clarified and expanded his concepts. Taken together, administrative science called for a public administration that was competent, politically neutral and based on merit. Perhaps one of the most influential contribution to the concept of a politically neutral and competent public administration was the essay written by Max Weber (1922) but translated into English after the Second World War. Weber's ideal type of bureaucracy clearly predicated a public administration that was not partisan: "officials are appointed and not elected" he wrote, and that such appointment was based on "merit" as opposed to a patrimonial bureaucracy that made nepotism and patronage appointments. Weber had gone further to suggest that the only way politicians could control bureaucracy in a liberal democratic state was through parliamentary oversight, and not through partisan appointments (Albrow, 1970; Aberbach, 1979).

Postwar contributions to the concept were not focused, and writers like Finer (1941) treated it under the umbrella concept of responsibility. However, Finer (1965) does discuss the concept of

administrative neutrality within the context of the postwar period. His emphasis is that while officials should not act as partisan officials, they nonetheless must be committed to political goals of the nation. The debate on administrative neutrality in Africa has tended to be confused if not contradictory. With the introduction of one party rule and military regimes the attack on the concept of neutrality was not unexpected, and many scholars tended to reject the concept on the basis that administrators played political roles and could not therefore be neutral (Bwalya, 1980; Haque, 1996). If anything African scholars have added more confusion to the concept than they have clarified it, perhaps partly because they were afraid to write fearlessly on public administration systems that had between 1965 and 1989 degenerated into one-party patronage sector of government.

### **CHAPTER SUMMARY**

This chapter has reviewed the concept of administrative neutrality, and its brief history of evolution within the context of liberal democracies. While the concept is contentious, authors seem to agree that neutrality does not imply isolation from politics, but that appointment of officials in the permanent part of the public service should not be made on partisan or patronage grounds, but on merit.

It also means that administrators qua administrators cannot cultivate partisan interests, and that when serving members of the public they should be impartial rather than partisan.

The theories of management that developed at the end of the 19th century and throughout the 20th century also directly and indirectly support the notion of a civil service that is purged of partisan patronage and one that is recruited on competence and merit. These aspects of the concept need more debate in the African context, especially now that many countries are returning to the multiparty system they had abandoned in the 1960s and 1970s. The next chapter examines three models of administrative neutrality and how they have been adjusted to fit current realities. Both the new South African and other democratizing African governments may gain insights on how to design their neutral models for the future.

## CHAPTER 3

### EXPERIENCES OF THE UNITED KINGDOM, FRANCE AND THE UNITED STATES OF AMERICA

#### INTRODUCTION

While maintaining its essential features, liberal democratic states have evolved various models of the ideal, with each country adapting it to its peculiar political circumstances. What is evidently common in them all is the presence within the public service sector of a section which can be referred to as the permanent civil service. What really differs among them is the size and role of that part of the civil service that is appointed on political grounds (or the political executives). In this chapter a sample of three well known liberal democratic systems: Britain, France and the United States of America are examined. Administrative neutrality as practised in these three old liberal democracies are significant in that they have and continue to influence the ideals and practices of civil service systems in many Third World countries, either through colonial heritage, or through administrative technical assistance programmes or through both processes. The experiences of these countries are pertinent when discussing the African case generally, and the South African case in particular. British and French versions of

administrative neutrality have been introduced on the African continent mainly through colonialism. The American version has come in mainly through technical assistance programmes. The South African public service system has largely been based on the British model of neutrality, albeit a modified one, but there are efforts at adapting some elements from both American and French practice.

#### **THE BRITISH MODEL OF ADMINISTRATIVE NEUTRALITY**

By far the most widely adopted model of neutrality in many parts of the world is the Whitehall or British one. Almost all countries which were formerly colonies of Britain and are now part of the British Commonwealth have in some way or the other adopted the Whitehall model. Perhaps more than other liberal democratic public services, the Whitehall model has evolved a neutrality system that can be regarded as the most stringent and demanding on civil servants. Rooted in the Northcote-Trevelyan Report of 1854, the Whitehall neutrality model has been remarkably consistent over the past century that it has been in existence, and has survived several attempts to modify it (Fulton Committee, 1968). According to Birch(1973) and Smith and Stanyer(1976) the Whitehall neutrality model has the following features:

- (i) merit recruitment into the civil service;
- (ii) anonymity of the civil service;
- (iii) partisan impartiality of the civil service; and
- (iv) emphasis on the role of policy execution by the civil service.

These were the very features that the Northcote-Trevelyan Report (1854) had emphasized. The principle of merit was meant to be an antidote to nepotism and the spoils system, though later critics pointed out that the 1854 report was class-biased, because it had emphasized Oxbridge (Oxford and Cambridge) qualifications for recruitment (Dressang, 1975). Concomitant to the merit principle is the requirement that senior civil servants should not participate in political activities. Kernaghan and Langford (1991, p.66) observe that there are three categories of civil servants in relation to political activities in Britain: these include (i) the **politically free** group, composed of junior civil servants who are allowed to engage in party politics, (ii) the **intermediate** group, comprising of middle level civil servants and is permitted to engage in low-profile partisan political activities, and (iii) the **politically restricted** group, comprising of senior officials who are forbidden to engage in any partisan activities.

Closely related to the merit principle is the ideal of civil service anonymity. Civil servants are prohibited from making

political statements in public on matters of policy or actions of their departments. Instead, the minister, as an elected official makes such public statements. In return civil servants are protected from public attacks and criticisms which are instead directed at the minister. The anonymity principle was adopted so that "political blame and praise should only be levelled at those who can be removed from office by democratic procedures" (Smith and Stanyer, 1976,p.180). This principle has become a well acknowledged convention in Britain, as Birch points out:

The tradition of civil service anonymity is deeply rooted and is generally respected by ministers, by backbenchers, and by others concerned with government. Many journalists, for instance, know the names of the leading officials but rarely publish them.

Group spokesmen are in a similar position: when the leaders of the National Farmers' Union are upset about the annual price review, they well know the officials with whom they have been negotiating, but they do not criticize them in public, they criticize the minister (Birch, 1973,p.174).

In return for protection from the public the civil servant must manifest the ideal of impartiality. This means that he/she cannot be a spokesperson for any political party qua civil servant. The



Whitehall model has gone further to require that civil servants should not stand for political office unless they resign from their posts. The anonymity principle helps them to avoid engaging in overtly partisan publicity or writing. Impartiality also implies that civil servants can work with ministers or secretaries of state from any political party in power without being identified with views of any side.

The policy execution principle implies that the minister makes policy and civil servants implement it. This sharp role distinction has been dismissed as an inaccurate reflection of the politician-civil servant relationship: for even the 1854 Report and civil service manuals acknowledge and urge civil servants to be actively involved in policy formulation by advising the minister, drafting policy memoranda and bills, and even writing political statements for the minister, but the real meaning of the policy execution principle is that final responsibility for decisions on ministry/departmental matters ultimately lies with the minister. It is the minister who finally announces or withdraws policy matters in public: officials may make informational statements on departmental issues as anonymous 'spokespersons' but political statements are exclusive responsibility of the elected politician.

There are also other features of the Whitehall model that have aided the neutral role of civil servants either directly or indirectly.



One such feature is the official secrecy to which civil servants subscribe through an oath. Adherence to official secrecy has aided the principle of anonymity, of official silence and withdrawal from the public front. A related feature of the Whitehall model is that while civil servants generally take official action in the name of the minister, they take all civil service actions in the name of the **permanent secretary**, the head of the management part of the civil service in a ministry/department. All public correspondence with ministries is addressed to permanent secretaries, and all letters of executive nature are signed by or on behalf of the permanent secretary. It is this official who answers for financial and other operational matters of the ministry before public accounts committee, who, like the minister, takes blame for all shortcomings of the civil service nature committed by subordinates in his/her ministry. This practice, too, ensures that ordinary members of the civil service are more removed from the public or political front.

### **Critique of the Whitehall Neutrality Model**

The Whitehall neutrality model has much to recommend it: the elements of impartiality, selection and promotion based on merit, and a civil service that serves loyally any political party in power are all plausible. /Indeed, the British government recently acknowledged the value of the neutrality ideal as it has been

practised over the last century, despite efforts at modifying it:

It is our conviction that the values of impartiality, integrity, objectivity, selection and promotion on merit, and accountability, should act as unifying features of the British Service...We believe that the case for a permanent, politically impartial Civil Service is as compelling now as it has been for well over a century (United Kingdom, quoted in Myers and Lacey, 1996, p.343).



However, there are a few problematic issues with the model.

First, the prohibition of senior civil servants from joining political parties and seeking political office has been questioned recently. Kernaghan and Langford(1991,pp.61-71) argue that denying public servants the right to seek political office or join political parties could be regarded as a denial of their human rights. The concern, of course is that a full extension of such rights to civil servants would undermine public confidence in their impartiality. This concern, nonetheless does not seem to be justified in view of the practice in continental European systems in which civil servants are permitted to join parties, and compete for political office without first resigning from their posts. There has been no public outcry

against such a practice and public confidence in the civil services of these countries has not been shaken as a result.

The second criticism of the model centres around anonymity. Some critics point out that ministerial responsibility in which all actions or inactions of the department or ministry are taken in the name of the minister is both a farce and irresponsible. A farce, because within the department, another officer, the permanent secretary, also takes praise or blame for the actions/inaction of the department, and also accounts to parliament through appearances before various committees. So the doctrine of ministerial responsibility is not actually exclusive of civil servants: it is in practice shared by the permanent secretary. A related issue here is that the practice of either the minister or permanent secretary taking ritualistic blame for mistakes committed by their officers, whether or not they themselves are personally involved reduces this responsibility to a mere ritual. Thompson observes thus about this ritual:

high officials regularly accept 'full responsibility' for decisions of their subordinates, whether or not the superiors had anything to do with decisions. This ritual depreciates the democratic value of ascriptions of responsibility since the persons who actually made the decisions escape scrutiny (Thompson, 1983, p.240).

Thompson's point touches the issue of irresponsibility for the civil servants. If, indeed, ministerial responsibility shields civil servants from public scrutiny, then it encourages them to be irresponsible in a way. It hinders transparency of their actions to the public, and even when ministers or permanent secretaries take the blame there has been no case in recent history in Britain, or elsewhere in the Commonwealth, where a minister or even a permanent secretary has actually been punished for accepting mistakes of his/her departments.

The ideal of policy execution as an exclusive role of civil servants vis-a-vis policy determination has not been supported by practice. Administrators are involved in policy determination in various subtle ways: they research into policy issues, draft ministerial memoranda and speeches, departmental bills and other documents, they advise the minister on various policy matters, and usually such advice is based on the departmental view of the civil servants rather than political goals of the elected politician (Kellner and Crowther-Hunt, 1980). It is true that under this neutrality model ministers make final decisions and take ultimate responsibility for them, but it is very rare that such final decision will contradict departmental positions projected by civil servants. Thus, if the model projects neutrality in the sense of civil servants being passive implementers of public policy, then it is inaccurate: the only merit

of such neutrality lies in the **final taking** of responsibility by the elected politician.

### **THE FRENCH MODEL OF ADMINISTRATIVE NEUTRALITY**

The British model discussed above evolved in a context where political development preceded bureaucratic development. The situation is reversed in France, where the evolution of a strong bureaucratic state preceded political development and stability (Owen, 1990). The concern of politicians has not been so much to keep bureaucrats out of politics as with making them respond to political direction. Bureaucrats have a great mistrust of politicians, partly because modern French political history has been unstable, but more so because the bureaucracy itself is well entrenched in the political system. Thus, unlike Britain, the French government allows civil servants to contest for political office and to belong to political parties, as long as such partisan involvement does not interfere with their work as public servants. In a country where bureaucratic tradition is well established, the extension of such political rights to civil servants poses little threat to their impartiality.

However, the French system of neutrality is embodied not only in the bureaucratic tradition as described by Weber, but also by the system of **ministerial cabinets**. These are staff chosen by the

minister on the basis of political affiliation and they vacate their jobs with the change of ministers. Cabinets are expected to manage the minister's political agenda, liaise between the minister and career civil servants on various programmes of the department/ministry. In this sense they are regarded as catalysts or 'shakers' of the civil service in order to make the latter more responsive to the direction and will of the elected politician. Each ministry has a fixed number of personnel working in cabinets, with bigger ministries having relatively higher number of personnel.

According to Siwek-Pouydesseau (1975) there has been a trend in recent years to appoint experienced and well trained administrators to cabinets, so that while the appointment process appears to be overtly partisan, a considerable number of personnel in cabinets are actually former career bureaucrats, thus emphasizing a typical French administrative theme of bureaucratic dominance in state affairs. Some critics regard this trend towards recruiting career officials to cabinets as a dilution of political appointment, and in a way an extension of the merit system. Nonetheless, the essence of the cabinet system is that no matter who is appointed to it, the term of office begins and ends with a particular minister who makes the appointment in the first place.

### A Critique of the French Model

The French model of administrative neutrality appears to be more implicit in the traditions of the bureaucracy than in its explicit features. Ostensibly, the system appears to be very politicized: the permission of civil servants to be actively engaged in politics, and the existence of **ministerial cabinets** is suggestive of a system that is heavily politicized. Yet many observers of the French system acknowledge that:

French civil servants literally dread politics. The fear of taking on any responsibilities reinforces this attitude. In their strategy with regard to cabinets central administration directors feel they do not have to be cognizant of political problems (Siwek-Pouydesseau, 1975, p.206).

This, probably, is the safeguard against the fears of politicization that have led to a different response in Britain; and allowing civil servants to actively participate in politics does not pose any serious danger to the civil service impartiality. This situation may augur well for France given her administrative traditions, but it surely could create problems for new states, as it has done in its former colonies of Africa, where such a tradition is fragile. Moreover, the creation of **ministerial cabinets** are in several respects a duplication of work that is or could be adequately undertaken by career civil servants.



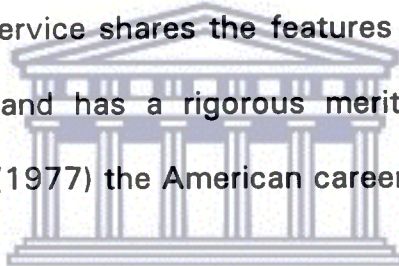
It is an expensive system, especially for poor countries like those in Francophone Africa.

### **THE AMERICAN MODEL OF ADMINISTRATIVE NEUTRALITY**

The popular stereotype of the American bureaucracy is that it is overpoliticized by patronage appointments, and any mention of administrative neutrality may sound strange if not misplaced. While this stereotype is far from the current reality obtaining in the contemporary American civil service system, it is not without a background. The founding of the American government was imbued with the values of popular control of the government through elected institutions and individuals. Like in England, the development of the bureaucracy was preceded by that of firmly entrenched political institutions determined to subject the civil service to the directives of elective representatives of the people. Thus, for example, the entire responsibility for the bureaucracy was placed under the executive direction of the president of the United States, who, until the civil service reforms of the later 19th century, literally appointed all officials in the executive branch. This practice reached its peak in the middle of the 19th century under the presidency of Andrew Jackson. When a new president came into office the reigns of government fell to him to appoint all members of the civil service, including lowest ranks, on the basis of partisan

considerations. This was a typical spoils system. When civil service reform was undertaken at the end of the 19th century, the spoils system was still retained at the top: the current American civil service system is still characterized as very politicized, since almost the top five layers of the civil service is filled in by partisan appointments made by the president, and most senior of them are subjected to the screening by a committee of Congress.

However, despite the remnants of a spoils system at the top, the American civil service shares the features of other advanced industrial societies and has a rigorous merit system in place. According to Heclo (1977) the American career bureaucracy rests on three principles:

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- (1) that the selection of subordinate officials should be based on merit - the ability to perform the work rather than any form of personal or political favouritism; (2) that since jobs are to be filled by weighing the merits of the applicants, those hired should have tenure regardless of political changes at the top of organizations; and (3) that the price of job security should be a willing responsiveness to the legitimate political leaders of the day (Hecllo, 1977, p.20).

Apart from recruitment, promotion and tenure based on the merit system the American civil service is not bound by neutrality conventions found in the British system; civil servants can and do articulate their political views, and can canvass for partisan causes in their private capacity as citizens. Moreover, the existence of a considerable size of top officials appointed on partisan consideration seems to favour civil servants who articulate their personal political views. This, however, should also be seen in the context of the American constitution. The spoils system at the top is kept in check by subjecting presidential appointees to scrutiny of a Congressional committee which either confirms or rejects the candidates. In addition, political appointments in an advanced industrial economy like America cannot completely ignore competence: while not necessarily nominating the best the president chooses among persons who are at least qualified to handle the jobs they are appointed to. Thus, while partisan appointments are visible at the top of the American civil service, these are not necessarily straight-arrow postings without regard to ability, and they have to pass the screening by Congress.

### **A Critique of the American Model**

One of the criticism of the American neutrality model is that it has a heavy share of political appointees, a feature which new

democracies need to be careful of. While the American experience is obviously tied to its political and constitutional history and experience it may lead to problems in developing countries where the development of a political culture of democracy is only beginning to show signs of emergence, and where political appointments are unlikely to be supported by a well schooled society where skills and training are abundant. Within the system, however, there appears to be an overemphasis on the role of political executives, as if to suggest that career officials on their own cannot respond to political directives. Hecllo (1977) reports that due to the preponderance of a heavy partisan senior layer of officials it is not uncommon to have subtle interference in civil service appointments from the top. A final problem with the system is that there are frequent big shifts in personnel which accompany changes at the elections, and this is as expensive as it can be disruptive.

### **CHAPTER SUMMARY**

This chapter has briefly reviewed three models of administrative neutrality: the British, French and American. All the three models employ the merit principle in recruiting, promoting and retaining their civil servants. However, the British model goes further to impose some restrictions on its senior civil servants from engaging in political activities, while both the American and French

systems have politicized top officials, and permit their career civil servants to engage in partisan activities as individuals. While the British system appears to be too restrictive in an era of human rights, it appears to hold out more advantages especially to new democratizing systems. The experience in many developing countries of Africa has been that political appointees have been a disaster for the civil service systems, and to allow civil servants a free hand in politics would greatly impair the integrity of the civil service. May be as a democratic political culture evolves and societies become more schooled and supportive of the culture of efficiency, American and French political executives could be considered. Nonetheless, if there is any lesson to be learnt from the three models examined, it is that country experiences and evolution of political and administrative cultures are important. The British culture of neutrality extends almost over a century, the American civil service tradition is equally about a century, while France's bureaucratic tradition goes as far back as the 17th century. The right balance between politicization and neutrality, therefore, is not something to be instantaneously accomplished: it must be allowed to evolve according to a country's political and administrative realities. Another lesson to be learnt is that politicization in advanced countries does not evoke the same images or reactions or even represent the same reality in developing countries. Political

divisions and instability in most third world countries makes any reference to politicization of the civil service sound like a negative influence.



## CHAPTER 4

### TOWARDS A MODEL OF ADMINISTRATIVE NEUTRALITY FOR DEMOCRATIC SOUTH AFRICA

#### INTRODUCTION

Some of the features of administrative neutrality of the three systems discussed in the previous chapter have been adopted in South Africa - both during and after apartheid era. During the apartheid era, administrators were supposedly appointed on non-partisan basis, and were expected to avoid direct engagement into active politics. The Commission for Administration had served as the regime's public service commission. However, the entire apartheid bureaucracy, while manifestly adhering to conventions of a liberal democratic state, was actually thoroughly politicized. Many observers and critics of the apartheid bureaucracy have clearly pointed out the over-politicized nature of civil service appointments, and the very creation of separate institutions to serve four different racial categories was by its very nature politicization. Moreover, direct appointments to the South African civil service were tied to partisan association with the National Party, and at the top grades, to exclusively white male Afrikaners (Mogkoro, 1992). The post of



director-general (formerly known as "secretary") was held by members of the National Party, and more significantly, was placed under direct supervision of the minister. Unlike the British practice where the permanent secretary is permanent and reports to the secretary to the cabinet, and not to the minister, the apartheid practice was to subject this post to the direct supervision of the minister.

Post-apartheid practice is still evolving, but it has inherited some features of the old bureaucracy while developing its own version of administrative neutrality. Section 195, Chapter 10 of the 1996 constitution stipulates that:

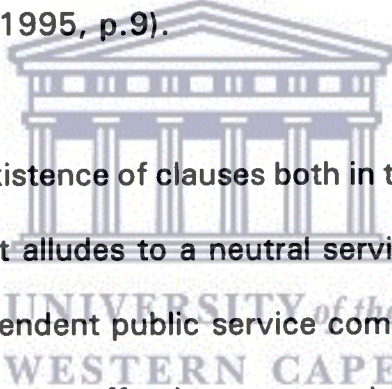
Public administration must be governed by democratic values and principles enshrined in the constitution, including the following principles:

....(b) Efficient, economic and effective use of resources must be promoted..

....(d) Services must be provided impartially, fairly equitably, and without bias...(South Africa, 1996, p.107).

Section 196 in the same chapter establishes a public service commission which is charged, among other things, with the responsibility to regulate employment in the public service in accordance to the principles stated in Section 195. The constitution does not explicitly prohibit recruitment on the basis of political

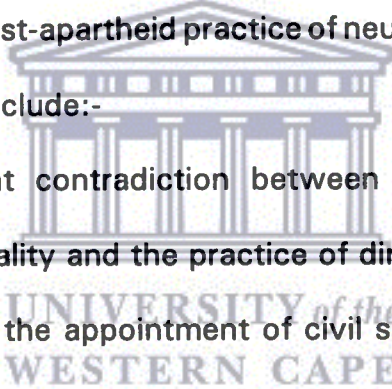
affiliation, but the terms "efficient and effective" are suggestive of a merit system as opposed to the spoils system. In any case the stipulations governing employment in the public service are usually not contained in a constitution, and details of such regulations are to be found in public service regulations or statutory instruments, which are yet to be produced. The **White Paper**, published in 1995, envisages a South African public service that should be "faithful to the Constitution, non-partisan and loyal to the Government of the day" (South Africa, 1995, p.9).



Despite the existence of clauses both in the Constitution and the **White Paper** that alludes to a neutral service, and despite the creation of an independent public service commission answerable to parliament on matters affecting personnel issues in the public service, the actual practice does not emerge as one that is nonpartisan. There are still several instances where partisan considerations loom very high. Appointment to the public service, especially senior posts, have to be approved by the minister, and in the case of director-generals by ministers or provincial premiers. According to an official at the Public Service Commission in Pretoria, the role of the Commission is to ensure that the process of recruitment is fair, but ministers are heavily involved in such appointments(South Africa, 1997). This is one of the issues that

have to be resolved. Another issue is that while officials may be appointed with the approval of politicians their conduct is expected to remain partisanly neutral. Additionally, public servants are forbidden from taking active part in politics, from publishing or revealing any information regarding their work, or serving members of the public with a partisan bias. In short, they are political appointees expected to play neutral roles.

The current post-apartheid practice of neutrality has a number of gaps and these include:-

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- (i) an outright contradiction between espoused ideal of political neutrality and the practice of direct involvement by a politician in the appointment of civil servants beyond the post of "confidence";
  - (ii) lack of clarity on the political activities that civil servants can be engaged in, and lack of specification of involvement by levels of civil servants in partisan activities;
  - (iii) lack of checks and balances between ministerial responsibility for personnel and the role of the Public Service Commission, and between the minister and director-general;
  - (iv) the crippling absence of a head of civil service who can cultivate, promote and defend the ethic of civil service neutrality along other elements of a democratically health

public bureaucracy; and

(v) a disregard of the level of political development and maturity of the country in relation to the ability of public officials to shoulder responsibilities under tempting political conditions.

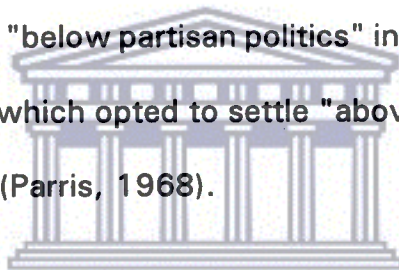
### **ELEMENTS OF THE MODEL**

A model of political neutrality in the South African public service must take cognizance of the conditions prevailing in the system as well as political aspirations and realities of the country. Much has been said publicly about the so-called "home grown" models of institutions: politics, the constitution, and others, but a realistic model must seek to marry the needs and realities obtaining in the country, on the one hand, and the obvious parallel situations experienced by countries in more or less a similar position to our own. The proposed model, therefore, has elements of both types.

#### **(i) Commitment to National Ideals and Goals.**

The first and foremost component of the proposed neutrality model is the commitment on the part of public officials to broad national political ideals and goals. Reference to "political ideals and goals" should not sound surprising because officials play political roles, only that these roles are above partisan considerations. They must accept or at least operate within the framework of national

ideology, an accepted economic system, and values like human rights that are enshrined in the constitution. In the case of South Africa it means that administrators must be imbued with the values of a liberal democratic state. Ideals like popular sovereignty, equality, respect for human rights and dignity, consultation, accountability, transparency and others stated in various sections of the constitution. Finally, of course, there must be an acceptance of political leadership of the day: this implies that public administrators settle "below partisan politics" in a manner similar to the British monarch which opted to settle "above partisan politics" in the 19th century (Parris, 1968).



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**(ii) Merit as Basis of Appointment and Promotion.**

A second element of the model is emphasis on merit as the basis of appointment and promotion at all levels, save perhaps the post of director-general which is discussed under a different section below. Merit appointments are undertaken to ensure competence of personnel, and also to ensure that there is equal chance for employment among applicants. However, it is also assumed that properly qualified personnel are more likely to adhere to professional ethics and partisan neutrality than those appointed on the spoils system. Competent staff are generally more confident about their work and do not need political umpires to support them. A Merit

system also implies that the public service commission take full charge of appointments in the public service, thus completely removing the approving role of the minister as is the case now in South Africa. This, in fact, is the constitutional stipulation, and the practical diversion in which an elected politician is involved in approving civil service appointments is an aberration which must cease.

### **(iii) Partisan Neutrality**

A third important element, one that flows logically from the merit principle, is partisan neutrality. Arguments have been made in favour of allowing civil servants to take part in political activities like being active members of political parties, standing for elections and other visible partisan roles as is the case in some continental European countries (e.g. France and Germany). Such arguments are based on the issue of human rights, that civil servants must enjoy civic and political rights like any other citizens. Opinion of practitioners, scholars and the courts is divided in a number of countries, for example Canada. An attempt to allow civil servants to actively participate in partisan politics in the late 1980s was both strongly supported and opposed by politicians and judges in Canada (Kernaghan and Langford, 1991). In the South African case, it is recommended here that at least during the founding years of democratic governance in a society that had been deeply divided

along racial, gender and class lines, civil servants be confined to low-level political activities. Such activities include: the right to vote for parties of their choices. Beyond that all civil servants must not actively belong to any political party, and if or when they wish to do so, they must first resign from their posts. This is the traditional Whitehall partisan neutrality model, but it is unsuitable for relatively new and unstable political environments. Even the British modification of allowing low-level officials to engage in active politics is not recommended for South Africa, for juniors, armed with partisan authority could easily undermine their seniors' authority, especially in a highly racially and politically divided country like this one. This recommendation is also based on the experience of Commonwealth Africa in the postindependence era. During the early years of independence many former African British dependencies had formerly declared full partisan neutrality of their civil servants. However, in practice they violated this precept with consequent negative effects on the efficiency and effectiveness of their civil service systems. During the one-party era, public servants in many countries were allowed to engage in partisan activities while holding their posts. Many, however, chose not to participate in partisan politics, and elected politicians also got suspicious when civil servants engaged in high political activities. In any case, the highly partisan nature of one-party civil service systems added to



the institutional ineffectiveness and decay in many African countries.

Where political environments are relatively unstable and new like South Africa, allowing public servants to engage in partisan activities is to court disaster. Moreover, the new civil service is likely to continue to recruit new members whose main challenge will be to develop professionalism at personal and departmental levels. Allowing new, inexperienced officials to engage in overtly partisan activities would, in this author's opinion, not augur well for South Africa. Already the involvement of ministers in the appointments of civil servants in their departments is causing much uneasiness, especially with regard to public confidence in its civil service's impartiality or independence. Already there is a stereotyped talk of 'ANC departments' and 'NP civil servants' both at national and provincial levels. May be as the civil servants gain confidence and develop adequate professionalism, say after ten (10) years, the partisan neutrality requirement could be reviewed and relaxed.

The requirement of partisan neutrality also includes restraining officials from making public statements or policy pronouncements. Such statements and pronouncements would obviously reflect the partisan policies and programmes of the government of the day. Here, perhaps, clear guidelines could be developed by the public service commission on civil servants' public

comments and communications with the public. The idea behind partisan neutrality is, as has been observed above, to ensure that the public service settles below partisan politics in order to enable it serve any political master better. Continental European models are not as yet suitable to the new South Africa. Bureaucracy in many European countries developed well before democratic political systems became stabilized: the South African scene is one in which the democratic system is in its early infancy, and the bureaucratic system is still foreign to the majority of the population. In other words, despite the relatively long existence of white government in the country, both democracy and the civil service are relatively new to the majority of South Africans, and especially to those who are joining the civil service now.

#### **(iv) Institutional Checks and Balances**

The neutrality model being proposed here will require safeguarding through institutional checks and balances which are at the moment either weak or missing in the South African public service. The most important institutional safeguard is the public service commission which must interpret constitutional provisions on the civil service into realistic and appropriate civil service regulations or standing orders. At the moment the public service commission acts as a watchdog, ensuring that the process of

recruitment and promotion is fair. According to Muthien(1997) the new public service commission has decentralized its powers to ministers, and one of its roles is to "check on the political executive" (p.12). Such a role may be understandable for a new body which is experimenting with new ways of managing the public service. However, the delegation of the responsibility for human resource management to ministers does not augur well for civil service impartiality. There is no guarantee that they will not engage in partisan appointments, and if they do that the new public service commission will have the clout to stop them. The public service commission must not only be a watchdog: it must re-assume the responsibility of recruitment, promotion and related personnel practices in the public service. It must be responsible for all appointments from deputy director-general to the lowest professional scale.

The second element in this institutional configuration should be the establishment of the office of head of civil service, and preferably the current director-general to the President and Secretary to the Cabinet be made head of the civil service. This arrangement is already in place in many Commonwealth countries. The post of head of civil service is significant in several ways: it provides the service with a focused leadership, with an office that can promote and defend professionalism, while the public service

commission really focuses more on recruitment, promotions, developing regulations and similar watchdog functions. The head of the civil service is its chief manager, its supervisor and monitor. General administrative matters of the public service are supervised by this officer. In addition this officer is the administrative supervisor and coordinator of director-generals. It is this officer who should consent to their leave, travel arrangements and not, as is currently done, by departmental ministers. If ministers are supervisors of their chief executives beyond policy matters, then there are no sufficient checks and balances in the public service. The scenario should be as follows: director-generals are chief advisors to their ministers on policy matters of their departments: they advise, explain and help the minister defend the policies of the department in parliament. However, for administrative purposes, the director-general reports to the head of the civil service. For financial and other portfolio activities, the director-general is accountable to various bodies: public accounts committee of parliament, and other parliamentary standing committees; to the director-general of Finance or Expenditure for budgets, to the director-general of Public Service and Administration for personnel matters.

The third element is the political appointment and suitable title for director-generals. The common practice in the Commonwealth is that permanent secretaries, an equivalent to

South Africa's Director-General, is regarded as a post of confidence and incumbents are appointed by heads of governments. Ministers may be involved in their appointment, but the final choice lies with the head of government, and dismissal or removal is also effected by the same authority.

It is recommended here that director-generals be appointed by the State President with the advice or recommendation of the public service commission. This is likely to remove the personalization of the choice of these officials by ministers or provincial premiers. In fact this would set in a proper checks and balances system with regard to this office, because the appointing authority would not be the same at the supervising authority or the portfolio authority. The involvement of the State President is to underscore the national importance of this office for the civil service in each department and province, and the different points of accountability show its relative independence from any one office of authority. It is important that incumbents in this post are seen to be impartial, rendering advice to ministers of any political party in power, rather than those from the party of the appointing authority. The title director-general had been introduced during the Botha administration at the peak of apartheid. It does not reflect the subordinate role of service rendered by the incumbent under the political direction of elected officials; rather it makes the incumbent

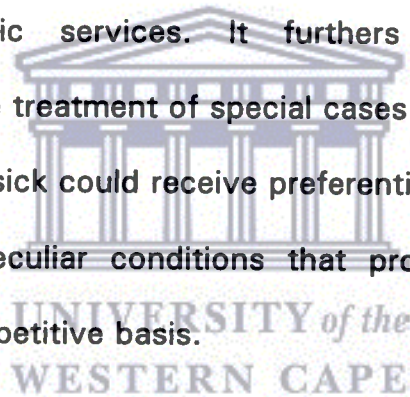
sound like the boss. Additionally, the title sounds more suitable for a military rather than a civil service administration; little wonder that military rulers of Nigeria abolished the title of permanent secretary and opted for director-general for this post in 1978. The initial title of Secretary, a modification of the British permanent secretary, is a more appropriate title for such an official in a liberal democratic state. It emphasizes the ideal that officials, not matter what their role in policy making may be, are **servants** and not **directors** of public policy in a liberal democracy. It is recommended here that the title revert back to that of Secretary; it is functionally more descriptive and politically more neutral than the robust title of director-general.



#### **(v) General Fairness and Impartiality**

A model of administrative neutrality would be meaningless if officials had all the nonpartisan attributes without commitment to fairness and impartiality when serving members of the public. Impartiality here denotes an attitude beyond mere partisan neutrality; it implies that the public official be fair to members of the public in other respects: impartiality with regard to race, gender, age, ethnicity, language, religion and other criteria that usually interferes with fair and impartial treatment of members of the public. In this sense, neutrality is not a cold or impersonal type of

behaviour, but one that is positively imbued with values of recognizing and treating members of the public as human beings with equal worth dignity. This is an important aspect of neutrality especially that the recent past of the South African public service has a notorious record of violating human rights through racial, ethnic and gender discrimination. Fairness must also involve a recognition on the part of the official to give special consideration to certain groups who have been disadvantaged in the past in the provision of public services. It further implies positive discrimination in the treatment of special cases: the handicapped, the elderly and the sick could receive preferential treatment in the services due to peculiar conditions that prohibits them from qualifying on a competitive basis.



### **POSSIBLE CONSTRAINTS OF THE MODEL**

The model of administrative neutrality proposed here could face a possible uphill battle or outright resistance and rejection. First, the model may sound like an affront to existing practice or indeed to current attempts at innovating in this regard. For a considerable length of time South Africa has had no head of the civil service: the apartheid regime did not have the office, and this has continued for three years into the new regime. To introduce such an office might sound like being nostalgic about British colonial practices. Yet,



much of the present system of government is essentially British in outlook, and there are certain posts and practices which logically call for certain offices as originally designed in the original system.

Second, ministers may resist losing the power and influence they have already tasted in the area of human resource management. Unless it could be proven that the new system of human resource management is not working, ministers and others who support the system may resist suggestions to the contrary. It is not certain whether or not the involvement of politicians in this area would not introduce elements of partisan bias, and experience elsewhere in Africa, especially with one-party states has clearly shown that when politicians are in charge they inevitably turn administration into a partisan arena. Hecló (1977) for example, observes that in the United States political executives exert considerable partisan preferences over the appointments of career officials, despite legal safeguards. Politics-administration relations are still evolving in South Africa, and all ingredients that have led to negative politicization in postindependence Africa are present in this country, too. But even the highly politicized administrations of one-party states in Africa never actually gave ministers such powers over human resource management.

Another possible constraint to this model may be the tendency to relax political involvement of civil servants in partisan

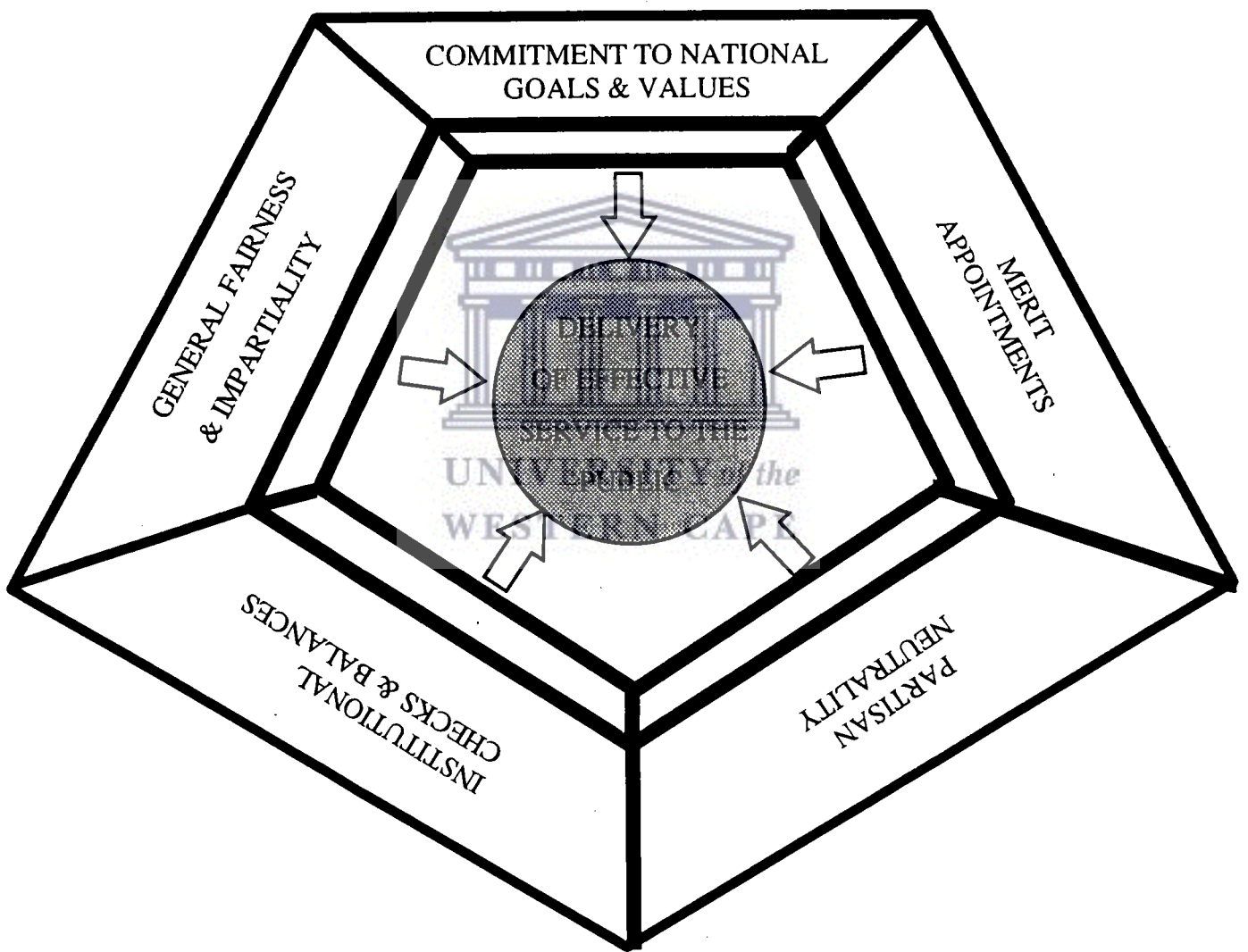
politics. There are strong arguments, not only in South Africa but also in other countries for relaxing political restrictions on civil servants. The European practice is a strong appeal and also proof that administrators can engage in partisan activities without jeopardizing their impartial roles as career officials. However, the bureaucratic tradition is well entrenched in Europe, while both South Africa and Africa generally have a weak background in this regard. To allow career officials to engage in partisan activities at this juncture of South African political history may be premature: it surely must wait for further political evolution.

A well known reason for resistance to change and innovation is the issue of costs. If introducing the office of head of civil service would entail prohibitive costs, then those opposed to such a proposal would reject it on that basis. The office of the head of civil service would probably require the creation of a secretariat, often referred to as cabinet office, with a few assistants and offices. An effective office could actually reduce overall costs of the civil service over time, and some of the supposed benefits, if realized, could offset initial costs.

#### **CHAPTER SUMMARY**

This chapter has presented five (5) compounded elements of an administrative neutrality model for a new democratic South Africa. These elements are discussed separately for purposes of

clarity only, for operationally they are interlinked. First, the model does not deny the political roles played by non-elected officials; rather it recommends that whatever roles - political or technical - are played by these officials they are subject to the overall supervision and direction of elected officials. Second, the model emphasizes the need for appointed officials to desist from playing and promoting partisan interests: it does not prohibit them from being politically committed to broad national goals: accepting to work under any government of day, pursuing national or general or public interest, promoting national political ideals and ideology like liberal democracy. Third and finally, for the model to succeed certain institutional checks and balances are needed to keep the neutrality ideal alive. The roles of the public service commission need to be reviewed so that it can really safeguard constitutional provisions for a neutral public service. The current involvement of ministers in civil service appointments must cease because they smack of some degree of the spoils system. Finally, the office of director-general needs to be subject to several checks and balances to ensure its neutrality and fairness as the highest office in the department/ministry, and that the title itself be changed to one that rhymes with the democratic ethos, namely that of "secretary" rather than the imperious one of "director-general".



**FIGURE 4-1**

## CHAPTER 5

### CONCLUSION

This study began as an attempt to critically review the concept of administrative neutrality and its application in some contemporary liberal democracies. Based on the review the study has proposed a model of administrative neutrality for the new liberal democratic state of South Africa. The concept of administrative neutrality is laden with difficulties, precisely because public administration cannot and is not by definition politically neutral. However, the neutrality addressed here must be understood in a relatively narrow context, namely partisan neutrality of appointed officials. A review of the experiences of older liberal democracies: Britain, France and the U.S.A. suggests that there are variations in the application of the concept; however, what emerges from these systems is both the attitude and practice of regarding the professional or permanent appointed officials as non-partisan personnel. In all older democracies professional officials are appointed on merit and not on partisan considerations, though in both France and the United States there exists a group of officials appointed by the incoming party generally referred to as "political executives" in the USA and "cabinets" in France. These groups do

not in any way compromise the neutrality of professional civil servants.

It was observed in the review, too, that South Africa had adopted the British model of administrative neutrality, though corrupted with apartheid practices. The British model of administrative neutrality which may be regarded in several respects as an extreme form, has been recommended for the new South Africa. First, this model fits the type of government, namely the cabinet system, that has been adopted by South Africa. Second, the extreme case of excluding "political executives" of the American type, and "cabinets" of France is necessary for a new democracy in South Africa, especially during the founding years of democracy. South Africans generally, and those being recruited to the public service generally (or indeed those from the old service) are not yet adequately familiar with the practice of administrative neutrality, and to introduce innovations like that of the American political executives or French cabinets may at this stage prove dysfunctional. The British system in which senior appointed officials are prohibited from participating in active partisan politics is recommended, but for all not just senior officials in South Africa, during the first and second phases of democratic governance to avoid confusion and create some stability in the present system which is relatively fragile at present.

In the model that has been proposed, a number of salient elements has been emphasized. For example, it has been argued that appointed officials must be politically committed to national ideals and policies, because it is in this sense that they are public officials. Second, it has also been argued that appointments to the public service be made by the public service commission, rather than by individual departments and provinces with the heavy involvement of ministers and premiers as is the case at the moment. It is important that the source of appointment be seen to be as neutral or impartial as possible. However, an exception has been made of the post of director-general, being the post of confidence. Nonetheless, to highlight its national importance, it has been recommended that the State President make the appointments to this important post at the recommendation of the public service commission. The current practice of ministers appointing their own directors is not recommended, while that of putting them on a five-year contract have not been addressed in this study.

The neutrality model has further emphasized the need for checks and balances with regard to the operation of the office of director-general, and has further recommended the establishment of the post of head of civil service, an officer operationally responsible for the civil service while the public service commission remains the watchdog, especially on personnel matters. This office should be



seen as an institutional support mechanism that can defend and advance professionalism in the public service as stipulated by the 1996 Constitution. Finally, the model has emphasized the notion of neutrality in its broadest sense of being impartial and fair in serving members of the public. The whole idea behind neutrality is for public officials to be effective and efficient in dealing with members of the public, so neutrality that includes the notion of fairness and impartiality is one likely to promote efficient and effective performance.

However, there are a number of issues that have not been addressed in this study but are nonetheless worth raising. The issue of permitting public servants to stand for or seek political office as part of their human rights has not been addressed. Nonetheless, it is implicit in the model that perhaps the realization of such rights could wait for further political development and stability, for human rights are not absolute and must be balanced by other public interest considerations like, in this case, impartiality. It is more important at this stage of South Africa's political development that its public officials are seen to be non-partisan than enjoy their right to seek political office which might jeopardize impartiality of the service.

A related issue has to do with the contracts given to director-generals. There is an argument for making senior public management posts contractual ones, and thus making incumbents

work hard. However, the notion of contract removes job security from public officials, and job insecurity could in a way contribute to politicization in the civil service, as incumbents could easily resort to questionable methods of seeking political support and umpires. It is one practice that should be closely watched and reassessed from time to time.

At the moment issues of administrative neutrality and their bearing on the South African public service have not received systematic attention from scholars and researchers. What this study has done is raise some issues which could be taken up in detail and thoroughly researched. Questions like: do political appointees help make the professional civil service more responsive to public policies of the government of the day? Do neutral permanent secretaries of the British type promote a more effective civil service? And in both instances, under what conditions could each type of appointment be effective? Has the involvement of ministers in the choice of civil service appointments in South Africa helped make the public service more effective?

Finally, this study has not addressed the issue of affirmative action as a form of politicization, partly because this theme has been and still is a subject of several academic dissertations, but also because it is one of the national ideals enshrined in the 1996 Constitution which the public service should uphold. However, it

would be of interest to study the effects of affirmative action on politicization of the public service. Questions like: are affirmees likely to be partisan in their outlook? or partial in the treatment of members of the public? Hopefully, this study will have provoked interest in this linkage between affirmative action policy and neutrality as it has been discussed in this study.

### **CONCLUDING REMARKS**

The subject of administrative neutrality, often dismissed as a misguided myth by some, is of critical importance to the operations of civil service systems in new democracies like South Africa. Deep political and racial divisions, militant inter-party rivalry and suspicion, and the recruitment of relatively new members to the public service necessitate that the ideal of neutrality be closely watched, and that lessons from many African countries where civil wars have occurred due in part to the failure of governments to uphold aspects of neutrality, especially impartiality and fairness, must not go unnoticed by South Africa. Neutrality has potential for building a new nation out of deep divisions, and it has potential for making the public service a stabilizing influence in a new democracy.

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