

History was made this week

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History happened this week, though it might not have felt like it. There was no uprising of the poor. There was no civil war. No government fell. Yet something major happened, nonetheless. The Public Service Amendment Bill was passed by the National Assembly.

The Bill still has to be endorsed by the NCOP and be signed off by the President. If or when this happens, it will be one of the most important reforms of government since 1994. It reduces the discretion of politicians in the recruitment of public servants and in making operational decisions in departments. In this regard it lays the foundation of a modern, professional public administration.

One of the great continuities between the Apartheid period and the post-Apartheid one is the [politicisation of government](#). The infamous Broederbond served as a backdoor into government appointments. In the 1980s as the National Party waged war against political opponents in the name of the ‘total onslaught’, career civil servants were replaced by spies and officials loyal to the military-intelligence complex. Corruption flourished and civil administrations began to break down.

When the ANC came to power in 1994 it did not trust these officials to implement its policies. Who could blame them? The terms of the negotiated settlement, however, prevented the new government from firing them. If it could not replace them, the ANC would override them by appointing its own people to positions of seniority in government departments and entities.

The foundational piece of legislation of the New South Africa, passed even before the new constitution was ratified, was the Public Service Act of 1994. It reintegrated the tricameral administrations and former Bantustan governments into a unitary state on the territory of South Africa’s 1910 boundaries. Ironically, South Africa’s decolonial moment consolidated the post-Apartheid Republic on the base of South Africa’s Imperial artefact – the Union of South Africa.

The Public Service Act also gave politicians very wide discretion in government administrations. It grants an executive authority responsibility for decisions regarding the structure of the department including its internal organisation, planning, human resources management and so on. It is also responsible for the recruitment of staff, as well as managing their performance .

Who is the executive authority? Depending on the sphere of government or the public institution, it is either the President, a cabinet minister or at Provincial government level, a

member of the executive council or MEC. In other words, the Public Service Act makes politicians responsible for recruitment and appointments in government departments, not to mention operational decisions related to its structure and so on.

In the early days of the transition, the power of politicians to deploy people of their choice to key positions in government served the Republic well. There were some historic achievements in state-building in the South African Revenue Services and in the National Treasury. Even then, however, the limits of political discretion were becoming visible. In the first place, the ANC did not have enough skilled and outstanding people for all the jobs that needed to be filled. Moreover, not all politicians were patriots committed to the public good. Many were party hacks; some were just venal. They were not interested in appointing the right people for the job, but the right people for themselves or for the ANC.

Things got worse as internal conflict in the ANC escalated to near civil war at Polokwane in 2007. Battles in the party spilled over into battles in public administrations. On top of this came state capture. President Zuma and his allies used their powers, derived from the Public Service Act, to deploy their people into key positions in departments and in State Owned Enterprises. Who can forget newly appointed Minister Des Van Rooyen arriving at the National Treasury with his Gupta officials in tow?

The problem here is not cadre deployment. The problem is South Africa's de jure model of politicised administration. New work by myself, [Michelle Le Roux and Rafael Leite](#) shows how appointment criteria in government departments are mostly non-existent. The only criterion for the commissioner of police, for example, is that they do not have a criminal record. They do not need to have any experience in the police or any minimum qualification. Likewise, in the case of the South African Revenue Service (SARS), the appointment of the Commissioner is a political consideration. The South African Revenue Service Act 34 of 1997 merely states that "the President must appoint a person as Commissioner" (S6(1)) for a renewable term not exceeding five years (S6(2)). And so it goes on. This situation gives the President wide discretion to appoint whoever they want.

Consider how different this was until as recently as 1997 in South Africa. Prior to then the Public Service Commission functioned as a vast and powerful statutory body with powers to determine appointments in departments and to shape their internal organisation. These powers were taken away from the PSC in 1999. Elsewhere in the world, it is common that state officials are appointed through a process that is carefully insulated from political interference. Even in the United States, which has a model of civil service that is comparatively more politicised than many other countries, in 2016 only 4000 posts were political appointee positions out of a federal civil service of almost 3 million people.

Now we can understand the significance of the Public Service Amendment Bill. It offers to significantly reduce political discretion in departments and, effectively, gives the power to recruit staff and to make operational decisions to Director-Generals and Heads of Departments. This is how it should be.

There are two further pieces of the reform puzzle, however, that need to be put in place. The reform of the Public Service Act must go hand-in-hand with the professionalization of public servants and local government officials. Cabinet has approved a professionalization framework in this regard. Secondly, and what is currently missing is an effective accountability structure. Who appoints the DG and how are they removed? How do elected politicians make sure that the officials do not become a law unto themselves? The amendment of the PSA is only the beginning.

If South Africa ever finds a path to prosperity and security, historians of the future may well find that this week marked the beginning of the country's new present.

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