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The Empowerment of the Public Service Commission to Implement the Professionalization Framework in the South African Public Sector: A Systematic Alignment Analysis

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Abstract

The South African public service is currently marred by a lot of challenges, and this has resulted into a serious loss of trust from the public and even payment for services is on the downward spiral. This is supported by the ever-rising households debt especially in municipal services such as water, sanitation, electricity and waste. Residents are not only finding it unaffordable to pay for these services but are fed up paying for erratic and poor services. This perception cuts across all government services and seems to be the order of the day even with those services that are provided by provincial and national government departments. There are many challenges within government institutions that have led to this quagmire and these include erosion of professionalism, incompetent officials who are unable to provide services, fraud and corruption that is rife in the public sector which robs communities of their rightful financial resources, political corruption where some of the politicians have resorted into self-enrichment at the expense of their communities which has led to a rift between community representatives and their communities; etc. The erosion of professionalization in the South African public sector seems to be the main cause of these challenges at least from the administration point of view. However, this phenomenon of erosion of professionalization also has political influence as part of the root causes of the evident challenges in government. Political influence has led to the appointment of incompetent officials and has increased corruption in the public sector where the same officials who are appointed irregularly get protection from politicians by doing them corrupt favours. This vicious cycle eventually affects communities who will ultimately not get services. Corruptive practices have now been endemic culture in the public service and have graduated even into sabotage of services where companies that are contracted for maintenance of government infrastructure deliberately vandalize it to get more work or orders. This has been prevalent in water and electricity infrastructure. There are instruments that have been developed by the South African government to deal with these challenges. One instrument that can address



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administrative challenges is the Professionalization Framework which, among other things, calls for ethical, capacitated and developmental state served by the same calibre of officials. The Framework alone will not solve the challenges but needs levers for its successful implementation. A bold move to review the Public Service Commission Act of 1994 was taken in 2023 with an intention of facilitating the implementation of the Professionalization Framework amongst other things. This study therefore systematically analyzes the alignment between the Professionalization Framework and the Public Service Commission Amendment Bill of 2023 to see if the latter will help in the implementation of the former.

Keywords: Professionalization; Commission; Commissioners; Public Service; Public Sector; Public Servants; Professionalism; Corruption; Political Corruption; Ethics

Introduction

Erosion of professional values in public institutions globally has sparked new debate about making professionalization more relevant to the modern-day demands. The evolving job and service demands have pushed professionalization to become a critical concept for individuals and professions seeking recognition, integrity and credibility.

Benefits of professionalization accrue not only to individuals who are professionals, but also to the professions themselves and also the society that derives protection from the professions' ethical values and standards. The benefits of professionalization include enhancement of expertise and quality of service; building of public trust; promotion of career advancement; promotion of innovation and best practices; safeguarding of consumers and public interest and strengthening of the industry reputation.

According to Durkheim (2019), the morality of a profession, if not rooted in an external authority, should be anchored in reason derived from science, research-based knowledge and education. Morality of the profession should then be the foundation for professional cohesion and socialization. Nilsson and Hertzberg (2022) maintain that the legitimacy of the professions and their control over a field of knowledge and practice relies on the moral dimension ensuring that the use of authority is for public good. From a functional perspective, Abbott (2005) maintains that professionalization is a process of delimitating a certain territory (connected to the heartland of the profession) in which the professionals have established the exclusive right to formulate central problems, find solutions, and adequately solve these problems.

There are however many barriers to professionalization, and these include failure by institutions or organizations to embrace and promote the culture of professional development; change of societal values for the worst where professionals are snubbed for doing the right thing; deep entrapments of corruption both in the public and private sector; failed leadership and morality in organizations especially in the public sector; etc.

It is for these reasons that South Africa, one of the countries highly plagued by corruption, developed a Professionalization Framework with a view to restore public trust of the public service. This does not come as a surprise since the Transparency International Corruption Perception Index (2023) rates South Africa at 96 in terms of corruption with Somalia rated number 1 as the most corrupt country in the world. This corroborates the earlier findings by Afrobarometer (2021) as follows:

- 64% of South African citizens said corruption had increased or become worse;
- 56% of corruption happened in the South African Police Services (SAPS) and 51% in municipalities in local government;



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- 76% of the South African citizens stated that the South African government had failed dismally to deal with corruption;
- 71% of the citizens believed that officials who are corrupt go unpunished because they can pay "authorities".

The other contributing factor to erosion of professionalization in the public sector is "nepotism" where officials who do not meet the qualification requirements of particular positions are appointed into those positions thus becoming involved in nefarious corrupt activities to appease their handlers who appointed them.

Whilst there is hope that the new Professionalization Framework within the South African context will improve professionalization, it seems there is a dire need of the support structures to realise this vision. The Public Service Commission can then be one of the instruments to be used to help in the professionalization of the public sector. It is for this reason then that this study seeks to make a systematic alignment analysis of the Professionalization Framework and the Public Service Commission Bill (2023) with a view to establish if the Public Service Commission Bill (2023) does empower the Public Service Commission to promote professionalization of the public service in South Africa.

Aim and Objectives of the Study

The main aim of the study was to do a systematic alignment analysis of the empowerment of the Public Service Commission Bill (2023) to implement the Professionalization Framework in the South African public service.

The objectives of the study were to:

- Review literature and previous studies about professionalization and contextualize the South African Professionalization Framework.
- Systematically analyse the alignment between the Professionalization Framework and the Public Service Commission Bill (2023) with a view to establish if the Public Service Commission will help in the implementation of the Professionalization Framework.

Literature Review

Legislative Provisions for Professionalization and Public Service Commission

The Professionalization Framework and the Public Service Commission are anchored on the South African legislation such as the Constitution Act of 1996, Public Service Act of 1994 and Public Administration Management Act of 2014.

Constitution of the Republic of South Africa, 1996

Section 197(1) sets up the Public Service and provides that within public administration there is a public service for the Republic which must function, and be structured, in terms of national legislation, and which must loyally execute the lawful policies of the government of the day. This is a call for professionals to be loyal and also to execute the formal and lawful policies and legislation of the government of the day. Professionals are expected to implement legislation as is without any fear or favour. It is important to note that the Constitution also provides for fair and responsible recruitment, appointment, promotion of the public servants and this is also emphasized by the Professionalization Framework for it is proven that a lot of "wrong" public servants get through the porous recruitment and selection process, and this ends up compromising integrity and service delivery competence of the public service. The Public Service Commission (PSC) is a constitutional body established under Section 196 of



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the Constitution responsible for oversight and promotion of constitutional values and principles in the public service. It is responsible for the following:

- Investigating, monitoring and evaluating the public service.
- Promoting effective and efficient performance within the public service
- Ensuring compliance with constitutional values and principles in personnel practices.
- Investigating grievances of public service employees.
- Advising national and provincial organs of state on personnel practices.

Public Service Act, 1994

The objects of the Public Service Act of 1994 are to provide for:

- The organization and administration of the public service;
- The regulation of the conditions of employment, terms of office, discipline, retirement and discharge of members of the public service.

The Professionalization Framework provides for a stronger, transparent and fair recruitment and selection process because this is one area that has been red flagged as having a lot of irregularities which leads to negative impact on service delivery.

The Public Service Commission (PSC) is empowered by Section 5(8) of the Public Service Act (1994) which reiterates the PSC's constitutional power to issue directives as contemplated in Section 196(4)(d) of the Constitution. Amongst others, it stipulates that an executive authority or head of department has to implement a directive as soon as possible after receipt of written communication conveying the directive but, in any event, within 60 days after the date of such receipt. Section 35 of the Public Service Act (1994) further reiterates the PSC's authority to investigate and consider the grievances of employees and Heads of Departments under certain circumstances.

Public Finance Management Act (PFMA), 1999

In line with the PSC's mandate to promote and monitor the efficient, economic and effective use of resources, Section 85(1)(a) and (e) of the PFMA (1999), read with Treasury Regulations 4.3, determines that the Accounting Officer must, as soon as the disciplinary proceedings are completed, report to, amongst others, the PSC on the outcome including:

- a) The name and rank of the official against whom the proceedings were instituted;
- b) The charges, indicating the financial misconduct the official is alleged to have committed;
- c) The findings;
- d) Any sanction imposed on the official; and
- e) Any further action to be taken against the official, including criminal charges or civil proceedings.

The main purpose of making such submission to the PSC is for it to determine if the whole process was fair and according to the law especially because there is a number of officials who are disciplined and found guilty of serious misconduct, but sanctions do not match the crime, and they end up getting a slap in the wrist. In such circumstances the PSC has a right to re-open the investigation.

Public Service Commission Act, 1997

The object of the Act is to provide for the regulation of the Public Service Commission (PSC) defining how members (commissioners) are appointed, conditions of appointments and their functions. Of particular to note is Section 10 (1) which states that the Commission may conduct an inquiry into any



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matter in respect of which it is authorized by the Constitution or the Public Service Act to perform. Subsection 2 provides that for purposes of the inquiry the Commission may:

- a)Summons any person who may be able to give information of material importance concerning the subject of the inquiry or who has in his or her possession or custody or under his or her control any book, document or object which may have a bearing on the subject of inquiry, to appear before the Commission.
- b) Call upon and administer an oath to or accept an affirmation from, any person present at that inquiry, who has or might have been summonsed in terms of paragraph (a).
- c)Examine or require any person who has been called upon in terms of paragraph (b) to produce any book, document or object in his or her custody or possession or under his or her control which may have a bearing on the subject of inquiry.

Any person who has been summonsed to the Commission and is found guilty of an offence can even be imprisoned.

Public Administration Management Act, 2014

The objects of the Public Administration Management Act (2014) are to:

- Promote the basic values and principles governing the public administration referred to in Section 195(1) of the Constitution;
- Provide for the transfer and secondment of employees in the public administration;
- Provide for capacity development and training;
- Provide for the establishment of the National School of Government;
- Provide for the use of information and communication technologies in the public administration;
- Establish the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit;
- Provide for the Minister to set minimum norms and standards for the public administration; and
- Empower the Minister to make regulations.

The Public Administration Management Act (2014) actually forms a foundationary basis for the Professionalization Framework which puts a lot of emphasis on promoting the basic values as enshrined in the Constitution; has a whole chapter on capacity development (continuous professional learning and development) and also puts a lot of emphasis on ethics and integrity. The Framework also provides for the setting up of minimum norms and standards where it is impossible to establish a full professional body. For example, it may be difficult to have a professional body for General Assistants in a municipality, however the norms and standards will be developed to regulate their expected professional standards.

Challenges in the South African Public Sector

The demand for social justice in the provision of services in South Africa is increasing day by day. Communities are increasingly becoming aware of their constitutional rights and public accountability by professional bodies has never been so challenged before. The public has even gone to an extent of not only demanding quality service but also putting pressure on government to discipline and fire incompetent officials.

Ngubane (2024) maintains that amongst the things that have eroded professionalization in the public sector is increasing nepotism where unqualifying personnel are employed in various executive positions. The Professionalization Framework has also identified this challenge and has the whole chapter which is a pillar on recruitment and selection to make sure that it is tightened and transparent to avoid a situation where incompetent officials are employed.



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Corruption has also contributed immensely in the almost collapse of some services in the public sector and a lot of resources that would be used to bolster service delivery are otherwise channelled to corruption. What even disturbs more is that corruption is also prevalent amongst some politicians who should be playing an oversight role against corruption. Jarbandhan (2022) maintains that public officials have been as a corrupt lot, who either enrich themselves or who aid political appointments in malfeasance and corruption.

Erosion of ethics and integrity amongst officials and politicians has also negatively impacted professionalization in the public sector. Every year the Auditor-General finds that at all levels of government (local, provincial and national level) some officials are doing business with the state and are not declaring their interests. If officials were professional enough, they would not be doing business with the state because they know it is against the law, however they continue to do it out of greed. Public servants should be selfless and put the interests of the public first. Jarbandhan (2022) emphasizes that within an ethically sound public service, service is held above self-interest, and public officials are held to account for their actions.

The other area that has seriously compromised professionalization in the public sector is performance management. There is not a single government department or municipality that can boast a very effective performance management system that results into impactful changes in the lives of communities. In fact, the current performance management system is a tick-box exercise with easy to achieve targets and has very little impact on service delivery. The Professionalization Framework calls for a complete overhaul of the performance management system in the public sector.

Professionalization Framework

The Professionalization Framework draws its strength from the South African National Development Plan (NDP 2030) which states that a developmental state is a capable state. This also aligns with the Medium Term Strategic Framework (MTSF 2019-2024) which foregrounds the government's strategic commitment to build a capable, ethical and developmental state. To achieve, this government must implement key interventions including:

- Professional, meritocratic and ethical public administration;
- Improved leadership, governance and accountability;
- Functional, efficient and integrated development;
- Mainstreaming of gender, empowerment of youth and people with disabilities; and
- Social compact and engagement with key stakeholders.

The Professionalization Framework recommends five (5) pillars as follows:

Pre-entry, Recruitment and Selection

The fundamental anchor of the professionalization of the public sector requires tightening of the pre-entry and entry into the public service. There is a proposal for a curriculum review by Higher Education Institutions (HEIs) so that qualifications can have more professional focus and emphasis and also proper grounding on ethical values to shape professionals with high work ethic and integrity. The Framework proposes tightening of occupation-based competency assessments and pre-service entry examinations for entry in the public service. It also proposes formalization of integrity assessments to be mandatory in the public sector. It also boldly proposes that an Accounting Officer of a department or state enterprise or municipality must have a Masters or PhD degree to be appointed in the Accounting Officer position. It also proposes that politicians should not be directly involved in the interviews of public servants. An independent body can be appointed by the Executive Authority to do the recruitment and selection and then come up with the recommendations on successful candidates.

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Induction and On-boarding

Induction and workplace orientation for all newly appointed employees should be mandatory and should happen at least a month before the start of employment if not, during the first 2 weeks of employment but not beyond a month after employment. Induction must be intensive and have assessments which should form part of the onboarding which means that if an employee fails the onboarding assessment, he or she can still be unable to be on-boarded.

Planning and Performance Management

The Framework emphasizes the need to overhaul the current planning, performance management and appraisal systems including performance standards and assessment instruments for various categories of employees. There is quest for greater involvement of professional bodies in performance management and appraisals. A 360 degrees kind of performance is proposed where clients (public) are also involved in the performance reviews.

Continuing Learning and Professional Development (CLPD)

All senior managers need to be professionalised (belong to a professional body) and continuing learning and professional development to be mandatory with a maximum CLPD points to be attained every year for a senior manager to continue practising in the public sector. This will be done by determining appropriate training and learning pathways to assist in the professionalization of certain categories of employees. A CLPD framework will be developed to shape and streamline the CLPD activities and partnerships with higher education institutions and professional bodies will be established in this regard.

Career Progression and Career Incidents

Career management must be in line with national policies and should always include considerations for career guidance, career education and career adaptation to support public servants in their careers. There is a proposal to set a minimum number of years before promotion and also introduction of promotion examinations. It is also proposed that the revolving door policy (movement of senior officials from one department to the other) be reviewed to consider expert knowledge and relevance of qualifications. The recognition of prior learning (RPL) should also be reviewed to eliminate its abuse.

Public Service Commission Amendment Bill (2023)

The objects of the Public Service Commission Amendment Bill (2023) are:

- To regulate the Public Service Commission in accordance with the provisions of section 196 of the Constitution;
- To regulate the procedure of the appointment of commissioners of the Public Service Commission;
- To provide for the establishment of the Secretariat of the Commission to support the work of the Commission.

The Bill seeks to achieve the government's objective of building a capable and ethical public service and administration. It also tightens independence of commissioners and eliminates conflicts of interest. It also removes the Commission from the Public Service Act of 1994 to ensure its independence. The mandate of the Commission has been extended to municipalities, their entities and public entities. It will also improve the Commission's ability in responding to the problem of corruption.



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Clause 4 introduces a recommended National Qualification Framework (NQF) level 8 qualification and experience of at least 8 to 10 years in the relevant fields. Schedule 1 to the Bill is introduced and requires commissioners to take an oath of office or solemn affirmation before a Judge President of the relevant division of the High Court or other judge.

Clause 5 deals with disqualification from appointment as commissioners in line with the Constitutional provisions. Clause 6 deals with the provision relating to the renewal of the commissioners' term of office which is five years (original term is five years renewable for another five years). A commissioner must not be a member of a structure of a political party or political organization and must not take any other additional work except if they have obtained permission form the President of the Republic.

A commissioner maybe removed from office on account of misconduct, incapacity or incompetence. Clause 8 provides that the remuneration of commissioners shall be determined by the President, thus moving away from aligning the salaries of commissioners to what a Director-General in the public service earns, as this tends to confuse the commissioners to be officials.

Clause 13 provides for that a department, public entity or a municipality that receives a report of the Commission directing it to act in a particular way under a particular law, must respond by providing the Commission with the plan of action in implementing the advice, directions or recommendations of the Commission within 60 days or within such shorter period or longer as may be stated by the Commission in the relevant report. The executive authority including the Mayor and Council of a municipality, should he or she be unable to implement the decisions of the Commission due to good reasons, must revert to the Commission with reasons to take the Commission's Report on review in court.

Clause 14 provides that a commissioner as well as a member of staff of the Commission must act independently and without any fear or favour in the implementation of the Commission's mandate. This clause further prohibits an employee of the Commission or a commissioner from rendering assistance in any manner in which the employee or a commissioner might have vested interest.

Clause 15 deals with the obstruction of the Commission in the exercise of its powers or the performance of its functions. Any person found guilty of obstructing the Commission is guilty of an offence and liable on conviction to imprisonment of up to 12 months or a fine of up to R50 000.00.

Systematic Analysis of the Alignment between the Professionalization Framework and the Public Service Commission Bill (2023)

The challenges that are addressed by the Professionalization Framework are:

- Political interference
- Blurred lines in the political and administrative interface
- Nepotism
- Fraud and corruption
- Lack of professional ethos
- Poor planning and performance
- Poor service delivery
- Toxic culture in government institutions
- Exodus of good professionals from government institutions

To address these challenges, the Framework proposes professionalization of all positions in government, including municipalities so that there are professional and ethical service standards for officials to adhere to and also increased accountability to communities.



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The Public Service Commission Bill (2023) has one of its founding principles as improving its ability to respond to the problems of corruption in the public sector hence its mandate has also been extended to municipalities. The introduction of Clause 4 which recommends a qualification requirement of NQF level 8 (honours degree) and experience of 8 to 10 years is surely an indication of recruiting educated and experienced commissioners. That marks a professional entry requirement which means they are likely to uphold professional values. The introduction of Schedule 1 which requires commissioners to take an oath also promotes ethical commitment and integrity which will be replicated in their job.

Clause 6 also extends the tenure of commissioners to 10 years which coincidentally aligns with the recommendation by the Professionalization Framework to have the tenure of Accounting Officers extended to 10 years. The rationale is to ensure security of tenure so that both the commissioners and accounting officers are not tempted to get into corruption or overlook corruption for their own benefit because of a shorter tenure and weary about their future. The extension of tenure also provides for better planning and effective implementation of the strategy which can therefore contribute positively to achieving professionalization of the public sector.

Depoliticization of the Commission is also aligned with depoliticization of administration where both the commissioners and senior managers including Accounting Officers are not allowed to be members of political structures. This will also help in improving the political administrative interface and promote professionalization because leadership at the Commission and administrative level will be purely done by professionals not politicians. Prohibition of doing another work by commissioners is also a positive move since it will make them focus on the work at hand and that improves even the level of professionalism amongst themselves. It is also interesting that a commissioner maybe removed from office because of misconduct. This will make them lead by example in eliminating misconduct in the public sector.

Clause 13 which requires institutions to implement the Commission Report within 60 days will also improve administrative action that needs to be taken against officials who have committed misconduct and that promotes professionalization. Whilst the executive authorities are able to review the Commission's Report in a court of law, that is also a deterrent to make it difficult for executive authorities not to implement the Commission's Report.

Clause 14 also enhances professionalization of the public sector since it enables commissioners to act independently without any fear or favour. This increases the number of integrity institutions and will help eliminate nepotism, fraud and corruption and any unprofessional conduct in the public sector.

Clause 15 poses imprisonment or a fine for anyone who obstructs the work of the Commission. This will also go a long way as a deterrent, when dealing with corruption since those who will be investigated will shun obstructing the investigation since this is viewed as obstruction or defeating the ends of justice.

Research Methodology

The study used a systematic alignment analysis between the Professionalization Framework and the Public Service Commission Amendment Bill of 2023 to establish if the latter will help in the implementation of the former. The study also used framework analysis as an analysis technique.

Research Findings

The main finding of the study is that there is a provision in the Public Service Commission Bill (2023) to promote and improve professionalization in the public sector. The alignment is as follows:



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- The NQF level 8 qualification and 8 years' experience requirements will improve the professional status of the Commission itself and that will be replicated in the public sector.
- The extension of the tenure of commissioners to 10 years will improve planning and performance of their work since they will have the security of tenure and probable continuity which will make them implement effective plans to promote professionalization of the public sector.
- Depoliticization of the Commission will also contribute positively towards depoliticization of the administration and thus improve the interface between politics and administration.
- Prohibition of commissioners from doing another work will also enable them to focus on their work and that also means a dedicated focus on improving functionality and performance of the public service.
- The mandatory 60 days implementation of the Commission's Report after investigation will surely improve consequence management in the public sector.
- The authority provided to the Commission to act without fear or favour will improve efficiencies in dealing with unprofessional conduct in the public sector.
- Imposition of a fine or imprisonment of anyone obstructing the work of the Commission will also be a deterrent to any act of obstructing justice and will enforce consequence management.

Recommendations

Whilst it is appreciated that the Public Service Commission Bill (2023) has given "teeth" to the Public Service Commission, there are further recommendations as follows:

- Government institutions to use the services of the Commission.
- The Commission to be empowered to open and follow up on criminal cases emanating from their investigations.
- The Commission to be involved in processes such as recruitment and selection and performance management reviews of government officials.
- The Commission to work closely with professional bodies and recommend removal of unprofessional officials from the sector.
- The work of the Commission to be extended to conduct integrity tests and lifestyle audits of government officials.

Conclusion

The main aim of the study was to do a systematic alignment analysis of the empowerment of the Public Service Commission Bill (2023) to implement the Professionalization Framework in the South African public service. The literature review included legislative provisions of professionalization in the South African context and included the Constitution Act of the Republic of South Africa (1994), the Public Service Act of 1994, Public Administration Management Act of 2014, Public Finance Management Act of 1999 and Public Service Commission Act of 1997. It also discussed the challenges prevalent in the South African public sector, the Professionalization Framework and the Public Service Commission Amendment Bill of 2023. The research method that was used was a systematic alignment analysis between the Professionalization Framework and the Public Service Commission Amendment Bill of 2023. The conclusion of the study is that there is an alignment between the two however there are other recommendations made by the study which will make the Public Service Commission more efficient and effective.



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