Ethical Leadership: Resolving the Failure of Public Policies in Corruption Prevention

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ABSTRACT

Unethical conduct of political office-bearers and public officials in the South African government - in both its grand and petty forms - is most contentious and of intricate concern. Despite numerous promulgated statutes, policies and regulations to promote ethical conduct, continued reports and newspaper articles about corruption in the public service raises questions about the perceived efficacy of these prescripts. In this article the authors review the South African ethics and anti-corruption policy framework and the literature on public policy implementation as well as key causes of implementation failure. Anecdotal evidence suggests that limited success has been achieved in preventing and combatting malfeasance in the South African public service. The authors propose that the solution lies at the departmental and operational levels of public policy implementation. At these levels public office-bearers and senior public officials act both as conceptualisers and authors of policy content as well as implementation agents of such policy instruments. Three (3) implementation variables are of key concern i.e. the nature of policy content, the capacity of those responsible to implement it, and the commitment to ensure that policy is not only what is publicly expressed but also what is done in practice. Whereas policy content is of critical concern and should reflect the attributes of the implementation context, it is mainly the latter two (2) variables which receive attention in this article. Ethical leadership - a central construct which encapsulates both the implementation variables of capacity and commitment - is proposed as a sin qua non for policy implementation success.

KEY PHRASES

Anti-corruption; ethics; ethical leadership; implementation failure and policy framework

Journal of Contemporary Management
DHET accredited
ISSN 1815-7440

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1.   INTRODUCTION

The ethical behaviour - or absence thereof - of those in public office has been a matter of exhaustive discussion among scholars and practitioners of public administration. The most recent published Report on State of Capture (Public Protector South Africa 2016), augmented by reports on the work of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State established in 2018 have increased the trust deficit - already a global phenomenon - in the South African public service. Although these reports must still pass the scrutiny of a court of law, scholars and practitioners should not allow this opportunity to pass to reflect on public service integrity, ethics, and motivation.

According to Transparency International (2020), South Africa is ranked 73rd in the 2020 Corruption Perceptions Index (CPI). This index uses a scale of 0 to 100, where 0 is highly corrupt and 100 is very clean. South Africa – which is ranked with a score of 44 – is located in the Sub-Saharan Africa region which in terms of CPI is the worst-performing region in the world. This ranking calls for renewed thinking on how scholars and policymakers can ensure that the unethical behaviour of those in public office is exposed and new measures created to prevent and combat malfeasance.

Anecdotal evidence suggests that the impact of the legislative, policy and regulatory framework on the promotion of ethics and the prevention of corrupt practices by functionaries have been negligent. In this article the authors intend to review these frameworks and suggest departmental and operational remedies which fall within the legal and policy ambit of the executive and administrative authority. Such remedies do not require legislative promulgation and could be instituted without prohibition.

Whereas the legislative, policy and regulatory frameworks exist at a national level, the authors focuses on what measures could be taken at institutional levels. The promotion of an ethical culture is such a measure. Ethical leadership - the focus of this article - is a reflection of what exists at the institutional level and the authors make suggestions for how management could deal with some of the ethical and moral dilemmas facing their institutions. In this article the authors proceed as follows: the research problem is identified, a methodological perspective on how the research was designed is provided, and the objective of the study is provided as well as its sample size. The authors reviewed the ethics and corruption prevention policy framework and the most recent literature. In the literature review the types of corruption, remedies to corruption and ethical leadership as an instrument to operationalise the legislative and policy framework at national level is reported on. The article concludes with recommendations.

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ISSN 1815-7440

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2.   RESEARCH PROBLEM

It is not uncommon to be part of a discussion where the South African government is lambasted for its poor service delivery record despite having the most progressive and state-of-the-art public policies. However, from a scholarly perspective, the complex, unpredictable and iterative nature of the interface between policy and people is often underestimated. Policies could be too detailed, too general, and too ambitious while those responsible for implementing it could be inexperienced, over qualified, demotivated, or simply uninterested.

In the early part of 2000, an ethics and anti-corruption policy framework proliferated both internationally and locally. More than fifteen years on the public and private sector have been inundated with media reports on how corruption has been perpetrated at political, administrative, grand and petty levels. The question inevitably arises why this ethics and anti-corruption policy framework did not prevent corruption - in all its forms - from happening. One research avenue could be to investigate the content of such policies and whether it did not fit its implementation context, was it too vague, and were penalties conceptualised not appropriate for the transgressions. Another research avenue could be by asking questions on the implementation side and whether officials were unable to operationalise the policy content, or whether funding and resources was not forthcoming when policies were to be implemented. In this article the authors intentionally ignored the former and investigated this latter research agenda i.e. public policy at the implementation level.

In this article the research problem is identified as senior officials who are unable to operationalise the ethics and anti-corruption policy framework. The authors investigated whether those responsible for the implementation of this policy framework is provided with instruments to manage the expectations of the people side of public policy. Often policies are too prescriptive, legalistic and in some way removed from the practicalities of real life. It is this unwritten and undocumented area of practice and knowledge this article seeks to address. On the one side senior officials are expected to comply with the ethics and anti-corruption policy and on the other side people who naturally seek to enhance their self-interest. As the reader of this article will come to realise, ethical leadership falls within this unwritten and undocumented area of practice and knowledge.

3.   RESEARCH DESIGN

In this article the outcome of both empirical and non-empirical research is reported on. A two-dimensional research design was employed. A review of the literature provided for the main themes and debates on anti-corruption efforts and those remedies most appropriate to prevent corruption in its many forms. This research was empirical in nature and an analysis of the

content of a multiple policy frameworks including statutes, regulations, and other policies was performed. The meanings which these policies convey were analysed inductively and within an a-theoretical mindset. These texts convey meaning to its readers and set the tone on how the state and society views malfeasance (Mouton 2008:143-180).

4.   OBJECTIVES OF THIS ARTICLE

The extent of unethical behaviour displayed by political office-bearers and officials in government is bewildering, thus necessitating critical thinking and a scientific inquiry into the matter. It is also evident that corruption incidents are increasing. Corruption could be attributed to inter alia poor management and a lack of accountability. The question could be asked: What can be done to ensure that existing ethical policies geared towards organisational integrity and ethics yield positive results? This article endeavours to provide recommendations on how better the stated anomalies can be addressed.

Transparency International (2020) contends that corruption is a key impediment to democracy and its tenets. Importantly, it often causes loss of power and legitimacy in a democratic system. PricewaterhouseCoopers (PWC) (2014) explicated that politicians who are corrupt usually target large capital projects, such as dams, pipelines, refineries, power plants, roads, schools and hospitals, as investments for their pockets. Notably, corruption deters economic investments and tarnishes the social framework of society. It weakens citizen's faith in the political system, especially on the leadership apex. In addition, it causes the country to deteriorate and prevents it from advancing in various social and economic dimensions.

The objective of this article is twofold. The South African legislative framework and related polices which serve to promote ethics, ethical practices of leaders, and the fight against corruption in the public sector are reviewed. The second objective of this article is to review the latest literature on the forms of corruption, its prevention, and the role ethical leadership could play in enhancing the effectiveness of the implementation of ethics and corruption prevention policy frameworks.

5.   SAMPLING METHOD AND SAMPLE SIZE

Various sources of data were identified. For the literature review various data sources included published work such as articles, chapters in books and books. For the content analysis and the empirical part of the study, data sources included a total of nine (9) Acts of parliament, regulations and government reports. For the purpose of this article, the authors identified the most relevant and recent publications and policy documents in the area of ethics and anti-corruption applicable to the South African state. The sample of publications and policy documents was limited using the area of study as a criterion. Sampling publications and policy

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documents mean that one is selective in choosing what to read and reporting only on those sources which the researchers deem appropriate. Such sampling exposes one to weaknesses including holding a biased view of the subject matter, how it manifests in practice and theory and what is important enough to report on.

6.   TYPES AND FORMS OF CORRUPTION

Corruption manifests in two (2) broad categories i.e. political corruption and administrative corruption. The focus of a study on political corruption aims to describe corruption by political representatives and includes political patronage or nepotism, and election fraud. A study on administrative corruption focuses on corruption perpetrated by public officials. (Gildenhuys 2004:81-99.)

Administrative corruption could manifest in criminal or non-criminal forms of corruption. Criminal corruption generally has the attributes of behaviour that the Republic of South Africa (2004), Prevention and Combating of Corruption Act, 2004 (Act 12 of 2004) seeks to criminalise. Examples of such illegal behaviour include inter alia bribery, extortion, kickbacks and fraud. A crucial ingredient of such behaviour is the intent to misuse public office for private gain (Ruhiiga 2009:1090-1100). Non-criminal corruption is not addressed by Act 12 of 2004 and involves a broader type of unethical conduct which includes acting beyond delegated authority, failure to abide by procedural processes, negligence, failing to take relevant factors into account when making a decision, delaying reaching decisions, making private telephone calls using the official telephone, using government vehicles, and loafing on the job (Department of Public Service and Administration (DPSA) 2002:7-9; Evans nd:1-29; Gildenhuys 2004:81-99; Kolthoff 2007:37-42).

Klitgaard (1991:19-21) distinguishes between internal and external corruption. Internal corruption occurs within the institution and takes the form of falsifying of records or delaying internal investigations. External corruption takes the form of bribes with the purpose to obtain illicit goods or services. One could also view corruption through the lenses of 'state capture' and 'administrative corruption'. State capture refers to the influence of the formulation of laws, regulations, and decrees with the objective of favouring a specific group of individuals. Administrative corruption refers to the distortion of the implementation of laws and regulations to favour a state or non-state actor (World Bank 2000: xv-xix). Doig and Theobald (2000:1-12) provide another categorisation and distinguishes between grand and petty corruption. Grand corruption involves high level officials who extract large bribes for personal gain, while petty corruption involves low level officials who extract small amounts for personal gain.

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Corruption according to Kaufmann and Vincente (2011:195) is illegal and dishonest conduct by people who are in power. According to Kaufmann and Vincente (2011:195), corruption can be regarded as a form of unethical and dishonest behaviour by a person mandated with authority and power for personal gain. Corruption includes fraud, forgery and bribery. Zajac and Comfort (1997:5) give an expanded definition of corruption as "violation of human rights, civil or legal, resulting in unfair treatment of people". Unethical conduct according to Mayer, Aquino, Greenbaum and Kuenzl (2012:556) is an action that falls outside of what is considered morally right or proper for a person, a profession or an industry. They further expound that unethical behaviour include any deeds that violate the law such as theft or violence.

Notwithstanding the type of corruption, its consequences remain dire. Corruption has a negative impact on society. It also often costs lives in terms of loss of health, money, and freedom. Fundamentally, corruption is vast and can comprise social, economic, political, and environmental aspects (Transparency International 2020).

Zajac and Comfort (1997:6) identify three (3) levels of ethical failure, namely marginal failure, malicious failure, and symptomatic failure. They describe marginal failure as involving procedures, operations, rules and routines and they regard this type of failure as minor in comparison with the other two (2) types. An example of marginal failure is record-keeping mistakes, which can harm innocent people. Malicious failure is associated with misuse of public resources; corruption is regarded as a moderate form of this type of failure (Zajac & Comfort 1997:5). Organisational characteristics that contribute to malicious failure include poor internal monitoring and control mechanisms, rules and procedures, and inadequate ethics training.

7.   REMEDIES FOR UNETHICAL CONDUCT AND CORRUPTION

A differentiated and nuanced typology of corruption - as described above - requires a multitude of different remedies. Different authors propagate different approaches to preventing corruption. Stapenhurst and Langseth (1997:311-313) argue for the promotion of an integrity system in combating corruption. Such an integrity system embodies a comprehensive view of reform, addressing corruption in the public sector through government processes including such matters as leadership codes and organisational change, and through civil society participation which refers to the democratic process, the media and the private sector.

At the systemic level, states should advance the creation and promotion of a National Integrity System (NIS). The NIS is promoted through the utilisation of a number of interdependent pillars including public sector anti-corruption strategies; watchdog agencies; public participation; public awareness; accountability of the judicial process; the media; the private

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sector and international business; and international co-operation (Langseth, Stapenhurst & Pope 1997: 1-32; Pope 2000: 1-303; Webb 2005: 151-165; World Bank 2000: 1-138).

Arguing for what seems to be a more focused intervention, Rose-Ackerman (1999:5-6) and the World Bank 2000: xxiii-xxiv underscore the inadequacies of the creation of integrity systems in preventing corruption. In the view of Rose-Ackerman (1999:5-6) - and at the institutional level - the primary objective of government should be to change the way it does business by increasing the costs and reducing the incentives of engaging in malfeasance. Even if systems of ex post control are tightened through enhanced enforcement and monitoring, the incentives for pay-offs would remain, thus creating new pockets of corruption.

Webb (2011:100-111) summarises various public service corruption prevention measures which include enhancing a professional public service, improved remuneration, ethical codes, rewarding performance as an incentive, imposing penalties for malfeasance, the hierarchy as remedy, contracting for public services, and increasing costs and reducing benefits. Klitgaard, Maclean-Abaroa and Lindsey Parris (2000:27) support this assertion when they point to the inadequacy of emphasising ethics and the promotion of a new set of attitudes in preventing corruption. Rather, a cold-blooded look at monopoly power, discretion and accountability is required. In an earlier publication Klitgaard (1991:74-93) appeared less critical of the softer approach to prevent corruption. He differentiated equally between five (5) groups of corruption prevention methods i.e. recruitment and appointment; changing rewards and penalties; gathering information; restructuring the principal-agent-client relationship; and changing attitudes.

Lynch and Lynch (2003:373-374) propose a different approach to preventing corruption and one which would be supported by virtue ethicists. To them 'codes of ethics and the use of a conformist, legalistic approach to ethics may be useful, but they clearly do not eliminate corruption. If people are clever and sufficiently motivated by personal gain, they can always find a way to reinterpret the rules to their advantage or simply to ignore the rules with impunity'. A better tool for confronting corruption could be for society to develop virtuous people and select them as public officials.

Lynch, Lynch and Cruise (2002:347-369) propose that the individual should develop internal controls that will guide their actions and behaviour; rather than being externally imposed. This remedy should be interpreted in the context of Kohlberg's theory on moral development. In Kohlberg's theory individuals may progress to more advanced levels of cognitive development: from one level where self-interest dominates behaviour or another level where the interest of society are of greater importance.

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In advancing the aforementioned schools of thought, Rossouw (2008) distinguishes between a compliance-based and a value-based approach to managing ethics. Whereas the compliance-based approach focuses on the imposition of external controls and compliance with policies and rules, the value-based approach focuses on the development of integrity and requires individuals to internalise ethical values. The value-based approach identify the less formal aspects of ethics management including inter alia communicating moral expectations with employees, visible punishing of offenders, ethics training, and appraising ethics performance of employees by making it a stand-alone key performance area. With a value-based approach to ethics management, senior officials are expected to demonstrate commitment to their own ethical conduct.

The limitations of a compliance-based approach to prevent and combat malfeasance - with its emphasis on the formulation of policies and the establishment of structures - are widely published (Webb 2012:96-108). In the study by Anechiarico and Jacobs (1995: 43-175) of corruption in New York City contracting processes, it was found that corruption prevention policies and structures not only reduce public service efficiency and effectiveness, but also create more opportunities for corruption. In Frederickson's (1997: -236) view, anti-corruption measures/ethics controls such as conflict of interest and whistle blowing policies have not only brought about a reduction in corruption, but also lead to a reduction in administrative discretion; increased democratic controls; the inhibition of workflow, creativity and responsiveness; and the reduction of the effectiveness of public administration. Procedural controls introduced to reduce corruption have caused government to become slow, non-risk taking, bureaucratic and unresponsive.

Hoekstra, Belling and Van der Heide (2008) found limited success with the compliance-based approach and its emphasis on external controls and the imposition of rules, procedures and prohibitions on employees. In their view a compliance-based approach should be supplemented by a value-based approach with an emphasis on the development of internal self-control of individuals, the promotion of trust among employees, and the promotion of a culture of responsibility.

8.   REVIEW OF THE POLICY FRAMEWORK FOR CORRUPTION PREVENTION

When the policymaking function is the focus, it is also important to distinguish between the various policy levels including the political, executive, administrative, and operational policy levels (Cloete *et al.* 2018). For the purpose of this article, the authors are mainly interested in the departmental and operational policy levels. After all, when the focus is on administrative

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corruption or the management of integrity violations among officials within a department, corruption prevention policies at the political and executive levels are less significant. The generic anti-corruption, fraud prevention, and whistleblowing policies are typical examples of policies at the administrative and operational policy levels.

8.1 Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)

The Constitution of the Republic of South Africa, 1996 foresaw the potentially corrosive effects that corruption could have on most aspects of society. Section 195(1) of the Constitution indicates that ethical conduct is one of the requirements for the public service. Most importantly, this section of the Constitution also informs the laws, policies and programmes that government has put in place over the past 26 years in an attempt to root out corruption in society.

8.2 Prevention and Combating of Corruption Act, 2004 (Act 12 of 2004)

Prevention and Combating of Corruption Act, 2004 (Act 12 of 2004) has the objective to criminalise corrupt activities and to provide for measures to report and investigate corruption. The Act defines the general offence of corruption in respect of public officers, foreign public officials, agents, members of the legislative authority, judicial officers, and members of the prosecuting authority. Sections 12 and 13 criminalises inter alia the act of accepting and/or giving any form of gratification to improperly influence the procurement of any contract with a public body, or the awarding of a tender.

Chapter 5 of the Act provides for the penalties relating to corrupt offences, as well as the establishment of a Register for Tender Defaulters. Penalties may range from imprisonment for a period not exceeding three (3) years to imprisonment for life depending on whether the conviction is imposed by a Magistrate, Regional or High Court, including the option to impose a fine. Additionally to the fine, the Court may impose a fine equal to five (5) times the value of the gratification involved in the offence. The court may also order that the particulars of a convicted person or enterprise, in accordance with section 12 and 13, be recorded in the Register for Tender Defaulters.

Significant implementation obstacles appear in respect of this Act. The successful prosecution and conviction of alleged corrupt officials depends on proper investigation and the gathering of sufficient evidence. Often investigating officers are overloaded with cases and this could prove to be a major obstacle in the successful conviction and imposition of suitable penalties on a corrupt official (Fourie 2008:8). Furthermore, the Register for Tender Defaulters has since its inception in 2005 remained empty (Davids 2009; Naidu 2010:8).

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8.3   Public Service Proclamation, 1994 (Proclamation 103 of 1994)

In addition to civil and criminal proceedings, the public service could institute disciplinary action against alleged perpetrators of corrupt activities (Elliot 1999:157; United Nations Office on Drugs and Crime 2004:243). Chapter VI of the Public Service Proclamation, 1994 (Proclamation 103 of 1994) deals specifically with inefficiency and misconduct among public servants in state departments. Section 20 of the Proclamation defines what behaviour can be seen as misconduct including acts which are to the prejudice of the administration, discipline and efficiency of a department; the acceptance or demand of any commission, fee or pecuniary or other reward in respect of carrying out, or the failure to carry out, his or her duties; and any contravention of the prescribed code of conduct or any provision thereof.

Section 30 of the Proclamation 103 of 1994 conditionally allows employees to undertake remunerative jobs outside of public service employment. This has potential detrimental effects on service delivery, as public servants may focus on their private jobs, thus compromising their key performance areas within the public service.

8.4   Public Service Regulations, 2001

Further measures for ensuring ethical conduct in departments are stipulated in the Public Service Regulations, 2001 issued in terms of section 41 of the Public Service Proclamation, 1994 (Proclamation 103 of 1994). In Chapter 2 of the Public Service Regulations, the code of conduct issues guidelines for the conduct of public officials inter alia public officials' relationship with the legislature and the executive, the public and other employees, as well as the performance of their official duties and the conduct of their private interests. The code of conduct prohibits an employee from using his or her official position to obtain gifts and benefits for themselves during the performance of their official duties and obliges an official to report corruption, fraud, nepotism and maladministration to the appropriate authorities. It further requires an official to avoid any official action or decision-making process which would result in improper personal gain; and requires an official not to favour relatives and friends in work related activities and never to abuse their authority.

Chapter 3 of the Public Service Regulations, 2001 requires senior managers on a post level 13 to 16 in the public service to declare inter alia their personal financial interests in private or public companies, directorships and partnerships, ownership in land and property, and gifts and hospitality received (Fact Sheet: Monitoring Compliance with the Requirements of the Financial Disclosure Framework for the 2011/2012 Financial Year: Public Service Commission 2012:1). Disciplinary measures may be instituted, if it is determined that an official used his or

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her position to improperly gain a benefit and that a conflict of interest existed. Any senior manager who fails to disclose such interests is guilty of misconduct.

Processes are in place for amending the Public Service Regulations (2001) to improve the Financial Disclosure framework. These amendments would compel all public servants within the employ of the public service to divulge their interests for the improvement of effectiveness, rather than imposing this requirement on members of the Senior Management Service (SMS) only. In the 2015-2016 financial year a total of 828 SMS members concealed their involvement in companies. This amounts to more than 8% of all such members. During the same financial year approximately 17% of all SMS members were involved in activities that could be construed as having potential conflicts of interest. This includes 1243 on post level 13 (director), 345 at post level 14 (chief director) and 117 at post level 15 (deputy director-general). Seventeen members at the level of director-general were found to be having potential conflicts of interest (Public Service Commission 2017).

8.5 Public Finance Management Act, 1999 (Act 1 of 1999)

The Public Finance Management Act, 1999 (Act 1 of 1999) is a corner stone of the management of ethics and integrity in state departments. Similar to other reform measures introduced since 1994, Act 1 of 1999 has the objective to measure outputs and outcomes, rather than inputs and processes. Accounting officers are held accountable for the performance of their departments, i.e. efficiency, effectiveness and economy, rather than compliance with a vote. The promulgation of Act 1 of 1999 inevitably changed the focus of the Auditor-General to reporting on the output and outcome (results) of a department, rather than on its compliance with rules (Doyle 2002:33-34; National Treasury 2000:3-5). The promulgation of Act 1 of 1999 - following on the repeal of the Exchequer Act, 1975 (Act 66 of 1975) - had its objective to improve service delivery and reduce unwanted and unnecessary bureaucratic controls and processes. It would provide greater management discretion, but - at the same time - create more opportunities for malfeasance

In terms of the section 38 of the Act, accounting officers of a state department must ensure that the department has and maintains inter alia effective, efficient and transparent systems of financial and risk management and internal controls; a system of internal audit under the control and direction of an audit committee; an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective (National Treasury 2000:26). Section 38 (c)(ii) requires the accounting officer to take effective and appropriate steps to prevent unauthorised, irregular, fruitless and wasteful expenditure and losses resulting from criminal conduct. Criminal conduct would include corrupt acts. The accounting

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officer must as part of risk assessment identify corruption risks and implement fraud prevention plans (Anti-Corruption Co-ordinating Committee, no date: 5-6)

Furthermore, Section 38 (h) of the Act obligates an accounting officer to take effective and appropriate disciplinary steps against any official in the service of the department who contravenes or fails to comply with a provision of this Act, commits an act which undermines the financial management and internal control systems of the department, or makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure. Similarly, in terms of section 81-86 of the Act an accounting officer who fails to uphold the provisions of section 38 (h) of the Act could be subjected to disciplinary and/or criminal proceedings. Penalties for a criminal conviction include a fine or imprisonment not exceeding five (5) years.

The significance of internal controls were emphasised by the National Treasury in 2000 in its Guide for Accounting Officers: Public Finance Management Act. The purpose of the Guide was to familiarise accounting officers with the changes to their responsibilities introduced by the Public Finance Management Act, 1999 (Act 1 of 1999). In the Guide the National Treasury emphasised the importance of internal control systems, procedures and processes to minimise the risks of inter alia fraud, negligence, and error. The National Treasury expressed its concern of the weaknesses in the internal control systems of the public service and ascribed them to new officials who do not appreciate the separation of duties.

Furthermore, the Guide emphasises the importance of the internal audit function, audit committees and fraud prevention plans. The internal audit function is to support senior management in its appraisal of the adequacy and effectiveness of internal controls (Centre for Business and Professional Ethics (CBPE) & South African Management Development Institute (SAMDI) 2006:129-131). The audit committee, in terms of the Guide, has the responsibility to liaise between management, internal, and external auditors, and to review the effectiveness of the department's internal control systems. Most significant - and for the purpose of this article - is the provision in the Guide that departments institutionalise fraud prevention plans to manage the risk of fraud through the use of internal control systems and the promotion of an ethical culture. The unintended consequence of the promulgation of Act 1 of 1999 - to create opportunities for corruption - had to be mitigated by the creation of an ethical culture. It is this latter emphasis - on ethical culture - which seems to have fallen off the agenda of the public service.

8.6   Protected Disclosures Act, 2000 (Act 26 of 2000)

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The Protected Disclosures Act, 2000 (Act 26 of 2000) makes provision for the protection of an employee who discloses information regarding any conduct of the employer, or an employee of that employer, that is inter alia believed to be a criminal offence; a failure by a person to comply with any legal obligation; or harmful to the health and safety of an individual - either in the public or private sectors. This Act thus protects the whistle- blower from being subjected to disciplinary action, dismissal, suspension, demotion, harassment and intimidation, and provides certain remedies for such occupational detriment. In practice, however, the whistle-blowers often face many institutional and career obstacles when they report a colleague or supervisor for malfeasance (CBPE & SAMDI 2006:118-123).

8.7   Public Administration Management, 2014 (Act 11 of 2014)

As a way of rooting out corruption, a universal approach was implemented through the Public Administration Management Act 11, of 2014, which was signed into law by the President in December 2014 and instituted a legal framework that would ensure uniformity in all areas of the public administration. The Act provides employees in the public sector with the opportunity to gain back the trust of the public, which corruption (real or perceived) has eroded, and warrants more than an effort from public servants (Public Administration Management Act 11 2014). Its aim is to raise "the bar of integrity high", as the public service strives to be exemplary in terms of how public servants should conduct themselves. The Public Administration Management Act 11 2014:6) emphasises a high standard of professional ethics as a basic principle for the state.

8.8   Public Sector Integrity Management Framework, 2013

Public Sector Integrity Management Framework is reported to be the most notable of efforts to contain and eradicate corruption in the Public Service. This framework was approved by Cabinet in 2013 to integrate previously fragmented anti-corruption efforts (Ramathlodi 2015/2016: 3). The framework also contains new and far-reaching proposals for managing existing policies, such as public servants and remunerative work outside the public service (Public Sector Integrity Management Framework 2013).

The major objective of the Public Sector Integrity Management Framework is to manage integrity and strengthen measures and standards to promote ethical conduct within the public service. The framework would address issues of unethical conduct, such as bribes, financial interests, hospitality and immigration bribes and other benefits.

There are numerous challenges evident in the public service, particularly regarding the execution of anti-corruption measures and ethical compliance. Section 7 of the Public Sector Integrity Management Framework summarises all the measures that address ethical

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governance. Departments are currently not responding positively to directives contained in the framework. Their poor response is combined with a delay in the implementation of those measures contained in the framework, to such an extent that it can take months before disciplinary processes are instituted. Equally, there are trivial discrepancies on a variety of sanctions to be applied.

8.9   National Development Plan 2030

A critical mass of highly professional public servants is central to the priorities of the current administration. The set of priorities in the National Development Plan relating to the public service is carried forward in outcome 12 of the Medium-Term Strategic Framework (MTSF) 2014-2019, through the following eight (8) key priority areas: an interface of a political administration which is stable, a career of choice, sufficient specialist and technical professional skills, effective and efficient operations and management systems, procurement systems that deliver value for money, increased accountability and responsiveness of public servants and citizenry, enhanced intergovernmental institutionalisation and coordination; and improved machinery to endorse ethical conduct in the public service (National Planning Commission 2013:6).

While Lubisi, Mathe and Ngcaweni (2015:28) note that corruption is partly a symptom of weak management and operations systems, it is also largely attributed to values and dispositions. Values cannot be taught in the same way as facts and theories can be taught. Radebe (2015:24) explains that values can be internalised only as deep systems of competence, as opposed to techniques and conspicuous performance measures. The DPSA, through the Bureau of Anti-Corruption, is prioritising and fast-tracking disciplinary cases in the public sector. According to Radebe (2015:26), corruption will continue to suppress the development of the constitutional democracy.

Significant policy initiatives have been taken to prevent and combat all forms of corruption. The statutory framework described above reflects only some of these initiatives. Within departments - as administrative executive institutions - multiple policy efforts have been underway. These include drafting and institutionalising departmental policies on whistle blowing, anti-corruption, and fraud prevention, and strategies and procedures on anti-corruption. Despite these policy efforts, political and administrative corruption appears to flourish.

9.   ETHICAL CULTURE AS A SIN QUA NON FOR EFFECTIVE POLICY IMPLEMENTATION:

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The South African public service has not yet proven its ability to effectively implement its own public policies Presidential Review Commission on the Reform and the Transformation of the Public Service in South Africa 1998: Chapter 2). Policy implementation is the process of translating decisions into action. It requires the drafting of administrative and operational policy to guide the activities of public officials through the application of procedures and manuals. Successful policy implementation requires decisions on how policy should be implemented, who should be involved in its implementation and when it should be undertaken. Implementation cannot occur without the setting of standards, the allocation of resources, building capacity and the application of a monitoring system to evaluate the achievement of objectives. Furthermore, successful implementation requires the translation of policy by public officials to ensure compliance to the behest of the statute; the allocation of sufficient resources; an orchestrated effort amongst various role players; political and legal support; and a conducive socio-economic environment (Doyle 2002:185-189).

Brynard (2006:196-203; Doyle 2002:185-189) views policy implementation as those actions undertaken by public and private individuals that are directed at the achievement of objectives set forth in prior policy decisions. Differently stated, policy implementation is the conversion of physical and financial resources into concrete service delivery outputs in the form of goods and services, or other outputs designed to achieve policy objectives.

A distinction can be made between the formal Weberian type of implementation - generally viewed as top-down implementation - and the importance of informal patterns of relationships which were the focus of social scientists in the 1930's and 1940's. In addition to Max Weber's bureaucracy, administrative theorists began to appreciate the importance of the more informal aspects of organisational life. Aspects such as organisational values, relationships, and standard operating procedures could significantly influence the outputs and outcomes of policy implementation (Hill & Hupe 2009:1-50).

Successful policy implementation and the achievement of policy objectives could be thwarted by a number of variables. The 5-C Protocol which includes the following variables: commitment, content, context, clients and coalitions, and capacity. To effectively implement public policy requires adequate commitment amongst personnel, appropriate policy content, a suitable implementation context, the support of clients and coalitions, and capacity in the form of adequate tangible and intangible resources. Alternative service delivery mechanisms such as partnerships, privatisation and outsourcing could contribute by increasing the capacity of the public service (Brynard 2005:649-664; Brynard 2006:194-203; Warwick 1982).

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Okumus (2003:871-882) refers to eleven factors which could be grouped together within four (4) inclusive factors which are significant in public policy implementation. These four (4) inclusive factors are strategic content; strategic context; operational process; and outcomes. Within the factor of strategic context, Okumus refers to the significance of variables such as organisational structure, culture and leadership as part of the internal environment. Organisational culture is a shared understanding by employees of how they do things within their institution. Organisational culture could have - similar to the variables of communication, control, and organisational structure - a significant influence on the implementation of public policy.

Culture appears to be a significant variable in the implementation of public policy. This variable is also significant in the implementation of ethics policies. Trevino, Butterfield and McCabe (1998:447-476) state that ethical culture influences behaviour directly and can be observed in an institution's formal and informal control systems, including its rules, reward system, and norms. Ethical culture according to Trevino and Weaver (2003:3) is formal and informal behavioural control systems, such as authority structures, reward systems, leadership, policies, codes, and decision-making processes, which can support both the ethical and unethical conduct in an organisation. Ethical culture is usually defined as those aspects that stimulate ethical conduct.

Kaptein (2008) developed a measure for the ethical culture of private sector organisations. He identified eight (8) virtues of ethical culture namely transparency, discussability, feasibility, supportability, congruence of values of supervisors, congruence of values of management, clarity and sanctions. These virtues are in many ways similar to the 5-C Protocol as described above. Kaptein's virtues are possibly a more refined measure with its focus explicitly on measuring the ethical culture within institutions.

Using a different approach to public service ethics, the virtue approach - with its emphasis on integrity is significant. Kaptein (2014:19) views integrity as principles embedded in persons, such as honesty, morality and quality of character. Scholars such as Cox, La Caze and Levine (2018:888), Cartier (2018:58) and Dodek (2018:103), regard ethics as being synonymous with integrity which encompasses truthfulness and reliability or a state of accurate actions. A newly constructed model of integrity was framed by Erhard, Jensen and Zaffron (2010:71) as a state of wholeness, or being absolute, sound, ideal, unimpaired, and uninterrupted. Kaptein (2014:19) elucidates that integrity should not be viewed as a two-way construct, but as a multidimensional theory that comprises conformity to a set of laws, social expectations and moral values, including ethics associated with attitudes and actions. Integrity is a complex

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construct with alliances to conventional standards of morality especially those of truth telling, honesty, and fairness (Cox *et al.* 2018).

10. ETHICAL LEADERSHIP: FILLING THE VOID AT OPERATIONAL LEVEL

It is important to consider the link between leadership and ethics. Ethical leaders can be viewed as being principled and displaying fairness in their decision-making processes. Ethical leaders usually care about the people they lead and society at large (Brown & Trevino 2006:601). Equally, Mafunisa (2000:26) refers to ethical leaders as leaders who behave ethically in their professional and personal lives and who are exemplary. The characteristics of ethical leaders include trustworthiness, honesty, integrity and caring (Disoloane 2010:436). Leaders are essentially regarded as people who set clear ethical standards where their subordinates are punished or rewarded when those standards are not adhered to. Brown and Trevino (2006:602) also indicate that ethical leaders practise what they say and also act as good role models for ethical conduct. This view is supported by Sebola (2018:62) who says that "walking the ethical talk should not be left to chance".

According to Webb (2017:97-112) ethical leadership could take on various dimensions. Heres (2014:38) - for example - defines ethical leadership as the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships, and the promotion of such conduct to followers through two-way communication, reinforcement, and decision-making. Heres (2014: 15-280) is explicit in describing ethical behaviour as context specific. Normatively appropriate conduct depends on inter alia the institution's own moral norms and values, the primary and secondary values, and the society at large (Heres 2014:36). Expectations of ethical leadership depends on other variables too e.g. structural characteristics of the work environment, the level of formalisation, and work context. For example, the work context may require a leader to demonstrate more task orientated behaviour, or more people oriented behaviour (Heres 2014:56).

Another conceptualisation of ethical leadership is provided by Heres and Lasthuizen (2012:441-466) where they describe the attributes of the moral person versus the moral manager. Their literature review pointed to the existence of two (2) main dimensions of ethical leadership: the moral person, and the moral manager. Ethical leadership of the moral person relates to the individual's moral character as well as the moral nature of the individual's own decision making and behaviour. Integrity, trustworthiness, responsibility are the main moral traits of ethical leaders. Ethical leaders make decisions that are consistent, coherent, and constant, and treat followers justly and fairly.

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The second dimension of ethical leadership relates to four (4) sub-dimensions: role modeling, reinforcement, communication, and empowerment. These dimensions fall within the scope of what public managers should include in their day-to-day work schedules. Role modeling refers to the extent that the leader's behaviour and decision making is visible and salient, and negative and conflicting signals are not sent out. Reinforcement concerns the use of formal and informal measures to reward and punish virtuous or malicious behaviour. Communication refers to the extent that leaders communicate, the extent to moral implications of decisions, and having open discussion of individual and organisational values. The last dimension of the moral manager refers to the empowerment of followers. Ethical leaders empower their followers to participate in decision-making and allow them to voice their own concerns and perspectives. Leadership should be strong in respect of both the moral person and the moral manager dimension (Lawton, Rayner & Lasthuizen 2013:167).

In a publication by Webb (2012: 96-108), the negative correlation between ethical culture and corruption has been reported on. The results indicated that increased ethical culture coincides with reduced levels of administrative corruption. This article sets the agenda to empirically investigate to what extent increased ethical leadership - as a sub-component of ethical culture - would affect the levels of corruption among sub-ordinates or followers.

11.   CONCLUSION AND RECOMMENDATIONS

In this article, the authors sought to investigate why a comprehensive ethics and anti-corruption policy framework appeared not to be effective. Anecdotal evidence - much informed by South Africa's ranking on the TI index of corrupt countries, the Public Protector report (2016) on the State of Capture as well as recent media reports on the revelations at the Zondo Commission of Inquiry - suggests that political and administrative corruption is most probably on the increase.

This policy implementation failure could be ascribed to either inappropriate policy content or implementation difficulties, or perhaps a combination of both. However, as argued above, the authors chose to investigate the implementation context and determine which variables could negatively impact on policy success. Knowledge about the implementation context could serve as a useful instrument to senior managers in operationalising the key feautures and objectives of executive and departmental policy.

The comprehensive ethics and anti-corruption policy framework consist of both executive and departmental policies and include inter alia the Constitution of the Republic of South Africa, 1996; Prevention and Combating of Corruption Act, 2004 (Act 12 of 2004); Public Service Proclamation, 1994 (Proclamation 103 of 1994); Public Service Regulations of 2001; Public

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Finance Management Act, 1999 (Act 1 of 1999); Protected Disclosures Act, 2000 (Act 26 of 2000); Public Administration Management Act 11 of 2014; Public Sector Integrity Management Framework 2013, the National Development Plan, 2030 and various institutional departmental policies.

Effective public policy implementation requires more than the promulgation of public policy. In this article, the authors identify an ethical culture and ethical leadership as key ingredients for effective implementation. For example, leaders are expected to communicate the moral implications of their decisions, and have open discussions of individual and organisational values. The empowerment of followers as a dimension of the moral manager is equally important. Ethical leaders empower their followers to participate in decision-making and allow them to voice their own concerns and perspectives.

This article concludes with two (2) recommendations. On a pragmatic level, and to effectively implement the ethics and anti-corruption policy framework, senior public officials should ensure that their behaviour reflects both dimensions of ethical leadership. Such behaviour could be monitored by the relevant public service institutions using well developed survey indices. On an academic and scientific level, empirical research is required to determine whether a correlation between ethical leadership and the manifestation of corruption exist, and if so, what the strength of this correlation is. This article - which served to review a selected set of policies and literature - only served to set the agenda.

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