

PUBLIC POLICY AND BATHO PELE IN SOUTH AFRICA: TIME TO TURN OVER A NEW LEAF

M. INGLE

ABSTRACT

This paper is concerned to show that seminal public policy principles have sometimes failed to translate into improved customer service in South Africa and to discover why this should be so. After discussing various dimensions of public policy formulation and implementation, the article cites instances whereby service levels are seen to be compromised by poor execution of policy. It is submitted that inappropriate criteria for the recruitment of office bearers, and a worrying tendency to fail to distinguish adequately between public and private goods, have contributed to degraded levels of customer service which violate the spirit of Batho Pele. It is concluded that government needs to 'walk the talk' with respect to Batho Pele by ridding its administration of officials who have shown themselves to be either incompetent or corrupt.

Keywords: Batho Pele; public policy; public versus private; policy process.

1. INTRODUCTION

This article attempts to identify and clarify the optimal roles and responsibilities of the various stakeholders involved in the policy-making process. This is by way of 'unpacking' the reasons for the failure of major policy initiatives, such as the Batho Pele principles, to make any appreciable impact on the quality of service delivery in South Africa.

The paper commences with an analysis of what constitutes public policy. It then proceeds to present a simple 'stagist' model of the main logical components of the policy-making process as suggested by steps in applied problem solving. From there the discussion turns to an identification of the typical main players in any policy environment. This is followed by a closer examination of their roles and responsibilities with special emphasis on the distinction between 'public' and 'private' goods, and the need to be able to project oneself into the role of 'the client'.

The Batho Pele principles (RSA, 1997), that were promulgated in 1997 to regulate the conduct of civil servants in their dealings with the public, are used as a standard against which to benchmark some of the points that are raised. These principles are subjected to closer scrutiny in the concluding sections of the discussion which looks at the gap between policy formulation and implementation as revealed by the process of policy evaluation.

It is submitted that the blame for the systemic inefficiencies that blight public administration in South Africa, and for the failure of the Batho Pele principles to make any significant impact, lies with the implementation of questionable recruitment policies. It is argued that it was a fatal mistake to abandon an incrementalist approach, as a way of transforming the public service, and that a rigorous application of a policy of merit, without reference to artificial quotas, is the only way out of the impasse.

2. WHAT IS PUBLIC POLICY?

Policy is easiest understood if one begins with the individual human being as a point of departure and works up from there to the 'body politic'. Everyone has their own personal policies, even if these are unconscious and not articulated. A policy is akin to a personal philosophy, or set of principles, in terms of which individuals order their lives. When in doubt about what to do, personal policies may serve as overarching rationales that can be referred to in order to make a decision. For example, one might have a policy of never getting into debt. If faced with a choice between flying now and paying later, or saving up for a flight, one would obviously choose the latter course, assuming one was to stick to one's policy.

But how do people come to subscribe to a policy of never getting into debt in the first place? Answers to this would vary with individual circumstances but generally they would probably revolve around negative associations with once having been in debt. Alternatively some people might aspire to being free of obligations of any kind, or they may have taken advice from financial advisors about how best to conduct their affairs, and so forth. More generally though, a policy of financial prudence will be the outcome of everything that has gone before in one's life - this is to say that it would be rooted in lived experience. It may therefore be the considered outcome of literally thousands of 'inputs'. In a very real sense one's 'portfolio' of personal policies forms an important part of one's personal identity.

To extrapolate from the individual (personal policy) to the state (public policy) it can be said, along with Parsons (1995:14), that "a policy is an attempt to define and structure a rational basis for action or inaction". The word 'inaction' is important in Parsons' formulation because a policy ought ideally to be the outcome of a process of choosing between alternatives, and there is always the potent option of choosing to do nothing under a particular set of circumstances. There is however a world of difference between choosing to do nothing, and just so happening not to do anything. The former is usually a policy decision to maintain the status quo whereas the latter may be just the opposite of policy. Following Parsons (1995:13) this condition of not doing anything is a form of "aimlessness".

How then should 'public policy' be understood? Howlett and Ramesh (nd.:5) claim that, "the agent of public policy-making is a government... when we talk

about public policies we speak of actions of governments". Although organisations, interest groups, and private individuals "influence what governments do, the decisions or activities of such groups do not in themselves constitute public policy" (Bekker, 1996:29-38).

Just because a policy happens to be a 'public policy' does not necessarily entail that it is benign. Apartheid was a policy which most people nowadays would agree was abhorrent. This leads to an interesting distinction made by Craythorne (2003:252) who says:

A policy is not a strategy. A policy is an accepted or proposed course of conduct, and a strategy may contain a number of policies...[for example] municipalities need to formulate policies on tariffs... and a credit control and debt collection policy. It is necessary to clearly understand what policy is, certainly before any attempt is made to draft and adopt a policy. Policy is concerned with the future, but it has to be formulated in the present and, all too often, the factors which influence it happened in the past.

At least two inferences can be drawn from Craythorne's thinking. One is the 'principle of subsidiarity' (Etzioni in Parsons, 1995:53) which states that, a bit like a Chinese doll, there may exist macro-, meso-, and micro-policies embedded within higher-order policies. In other words there are generic, hierarchical policies that serve to inform subsidiary policy making which may take place at, say, the local government level. An example of this is given by Chothia and Jacobs (2002:146) who see the South African government's overriding policy concerns as being those that will help it to meet its objectives of "economic growth, job creation and social development". Obviously other spheres of government should ideally not formulate policies which might undermine these overarching goals. If one is really to have 'autonomous spheres' of local government though, it should, theoretically, be possible to make policies that fly in the face of centrally determined policy.

A second observation that might be derived from Craythorne is how deceptive and slippery policy can be. Was apartheid a policy, or a strategy disguised as a policy? Are policies as straightforward as they might appear? Not when they are Machiavellian, as they so often are. "Machiavelli was fascinated by power and outcome, with the use of policy to obtain whatever were the objectives of power-holders..." (Parsons, 1995:42). For those of this persuasion, policy is the strategy by which goals are reached. This apparent deviousness is not necessarily to be condemned (indeed some might call it 'statecraft') but it complicates the situation because it may entail hidden agendas - covert versus overt policy. The question to ask of any given policy then is whether there is some deeper policy informing it, or to what degree the policy is designed with some overarching strategy in mind. Depending on how this is understood it can have far reaching implications for how bureaucrats choose to expend their energies.

A good example of the kind of caution that needs to be exercised when evaluating policy, was provided by Chothia and Jacobs (2002) in their discussion of President Mbeki's Policy Co-ordination and Advisory Services (PCAS) agency. This nominated body, which was accountable only to the President, and which was in effect a kind of 'super-Cabinet', was ostensibly meant to ensure that all government policy was properly co-ordinated. No one would want to quibble with that, indeed it is probably an essential function, but was that all the PCAS was about? As Chothia and Jacobs suggested, one could have seen in the PCAS a somewhat sinister and undemocratic centralisation of power, and this led them to speculate about what the President's long-term agenda really was. Be that as it may, the point is that one can easily see how, in the realm of public policy, not all is as it seems. And when things are not as they seem to be, it is only a matter of time before confusion arises. Which master should officials serve - the code of conduct enshrined in Batho Pele and the Constitution, or their Minister? Arguably, nowhere did this confusion arise more starkly than in the Department of Health over the HIV/AIDS issue (Campbell, 2003; Natrass, 2004).

3. THE PUBLIC POLICY PROCESS

Swanepoel (2000:88) is adamant that the public policy process "is not linear. It does not start at one point and end at another. Instead the policy process is cyclical, representing a continuous spiral". He does not commit himself to whether this is an upward or a downward moving spiral, (or an equilibrium between the two which might result in going around in circles), but for the sake of the present discussion a spiral with a primary trend that tends upwards will be assumed.

Not everyone sees spirals when viewing the policy process however. Howlett and Ramesh (nd.:12) profess to see something that more closely resembles a jumping jack ("an ad hoc and idiosyncratic process") with stages in the cycle that are often "compressed or skipped" and that are frequently revisited. Parsons (1995:79) says of the 'stagist' model for representing the policy process that, although it bears little resemblance to what actually happens in the real world, "it affords a rational structure within which we may consider the multiplicity of reality". Given that a model is of necessity a conceptual picture that people use to represent something to themselves, so as to grasp it more easily, there seems no good reason to forego the stagist approach, just so long as one remembers not to mistake the map for the road.

What then does the policy process look like? What stages does it have? Howlett and Ramesh (nd.:9-15) survey a number of different scholars' models and then come up with a synthesis of their own. They argue that, "the operative principle behind the notion of the policy cycle is the logic of applied problem-solving". This more managerialist approach can be depicted as follows:

Table 1: Five stages of the policy cycle with relation to applied problem-solving

Phases of Applied Problem Solving	Stages in Policy Cycle
Problem Recognition	Agenda Setting
Proposal of Solution	Policy Formulation
Choice of Solution	Decision Making
Putting Solutions into Effect	Policy Implementation
Monitoring Results	Policy Evaluation

Source: Howlett and Ramesh (nd.:11)

Certain of these stages will be referred to in the sections that follow.

4. WHO ARE THE PUBLIC POLICY STAKEHOLDERS?

In the developmental literature the words 'stakeholder' and 'roleplayer' are often used interchangeably but strictly speaking this seems incorrect. Surely a roleplayer is someone who is involved, whereas a stakeholder is someone who is committed in some way? A stakeholder has something to lose, even if it is only a potential gain, but a roleplayer can normally walk away from a situation without incurring any loss. The classic analogy, used in business schools, is that of what went into making a breakfast of bacon and eggs - the chicken was involved (roleplayer), but the pig was committed (stakeholder).

That said, the arena of public policy making is one of those where 'stakeholder' can legitimately be used synonymously with 'roleplayer' if only because it is hard to think of anyone who does not stand to lose in some way from bad or misguided policy. Typical stakeholders would be:

- political office bearers (the President, MECs, ministers, councillors);
- bureaucrats (management, officials and staff);
- civil society (unions, NGOs, special interest groups, voters);
- institutions or organs of state (parliament, judiciary, Constitutional Court).

With the possible exception of the HIV/AIDS Treatment Action Campaign (TAC) (TAC, 2004; Cameron, 2005; De Waal, 2006), South African pressure groups have yet to test whether it might be much easier to shape public policy by going directly to the Constitutional Court than by working through the usual channels that lead to the legislature. Morton and Knopff (2000:13) explain how, with Canada's adoption of a Charter of Rights and Freedoms in 1982, special interest lobby groups (notably environmentalist and feminist organisations) preferred to short-circuit parliament by going directly to the Supreme Court. Morton and Knopff contend that:

Encouraged by the judiciary's more active policymaking role, interest groups - many funded by the very government whose laws they challenge, have increasingly turned to the courts to advance their policy objectives... Not only are judges now influencing public policy to a previously unheard-of degree, but lawyers and legal arguments are increasingly shaping political discourse and policy formation.

Indeed, Morton and Knopff (2000:79) see Canada's very democracy as being under threat, not by "the student with a protest placard" but rather the "public interest lawyer, or the technocrat with an environmental impact statement"!

The point of the foregoing is to show that the policy environment is populated not only by human beings but also the institutional and legal framework in which these humans operate. Thus, in addition to political parties and interests groups, "discussion documents, Green Papers, White Papers, draft bills, bills and eventually parliamentary laws or Acts" (Scheepers, 2000:20) must also be taken into account.

But might a democracy be thought of as a stakeholder? Can a policy (for example the White Paper that contains the Batho Pele principles) itself be a stakeholder in the policy environment? The answer must be 'yes' on both counts because for both a good deal is at stake, and both could suffer great damage from a deterioration in the policy environment. To understand this environment more easily it may be helpful to distinguish between three definitive stakeholder functions - that of supplying inputs, that of actually making policy, and that of implementing it.

Supplying inputs is relatively easy and arguably everything within the policy environment does this by default anyway, because the policy environment is itself so all-inclusive. Thus it is that already existing policies (such as Batho Pele) can, by the mere fact that they exist as a precedent, have a formative influence on new policy. There is of course a world of difference between supplying inputs and having anyone take any notice of them.

On the face of it, it looks as though nothing could be easier than making policy. Simply decide how you want the world to be, and then make up policy as you go along. This is true in the trivial sense that nothing could be easier than painting a picture - except if it happens to be one of Vermeer's masterpieces. It is perhaps only once policy outcomes have been evaluated, several years down the line, that policymakers come to appreciate how very difficult policy-making is, if it is good policy one is after, and that good, effective policy-making is in fact an art form. It is much like making law anyone, no matter how obtuse, can conjure up laws, but it takes the skilful touch of a master legislator to craft law and to pitch it in such a way as to achieve a pre-determined outcome, without leaving a damaging trail of unforeseen side-effects (Hart, 1961; Kennedy, 2004).

South Africa is arguably still in the process of finding out that policy and law-making are difficult arts, and not a matter of waving a magic wand or a big stick. It may have been in anticipation of this that Geldenhuys (1996:20-21), drawing on van der Vyfer, voiced the following concern:

At local government level the most important power is the power to make policy...[but] there must be a certain level of education and intellectual sophistication among most members of society within a specific municipality... where no democracy can guarantee good local government... [or] live up to its proponents' expectations of securing responsible and responsive rule.

Suffice it to say that actual policy making, as distinct from advocacy, is the prerogative of politicians and this will be revisited in the discussion of roles and responsibilities which follows.

There may be a vast gap between what a government claims it wants to do and what it actually does, on the ground. Howlett and Ramesh (nd.:3-6) characterise the study of "what governments actually do", as opposed to what they "should or ought to do", as "policy science". As they go on to say, "the question of a government's capacity to implement its decisions is a significant consideration".

Policy implementation is the phase where the politicians expect the civil servants and the bureaucrats to give concrete expression to the politicians' visions and ideals. Unfortunately this is the stage where the wheels sometimes come off the policy train. Part of the reason for this is that civil servants may have private policies of their own that they are not prepared to subordinate to the politicians' public policies. Contemporary South Africa can fairly be described as being policy-rich but implementation-poor and this will be elaborated upon in a later section with reference to the Batho Pele principles.

5. ROLES AND RESPONSIBILITIES PUBLIC VS. PRIVATE

Parsons (1995:2-13) is at great pains to draw out the distinction between public and private goods. This is a critical distinction to appreciate in order to cut through to the core of the confusion that often bedevils the implementation of policy in South Africa. Parsons remarks that "there has always been a tension or conflict between what is held to be 'public' and what 'private'... the liberal idea(l) of a clear distinction between the public and private began to collapse from the late nineteenth century onwards". To the rescue came:

the development of 'bureaucracy' as a more rational form of organisation. 'Public administration' evolved as a means by which the 'public interest' could be secured through a *neutral* [own emphasis] class of civil servants whose task it was to carry out the will of those

elected by the people.

It is the inability, on the part of a new cohort of public servants, to distinguish between the public and the private that has resulted in the high levels of corruption and mismanagement that are thwarting the emergence of an effective public service in South Africa (Bauer, 2005, 2007; Kroukamp, 2006). Why should this be?

Everyone fulfils several roles in life. One may be a husband, a father, a son, a grandfather, an uncle, a cousin, and 'a family man' all at once. Each of these roles has a mode of conduct which is appropriate to it. Usually these modes are acquired instinctively through conditioning, upbringing and culture. But this is just a sub-set of the roles an individual may play in life. People also interact with the world beyond their immediate family context and here, in the domain of one's profession for instance, one may assume the roles of expert, boss, novice, manager, or even criminal, within the realms of politics, sport, industry, academia or whatever. To make life even more complicated people are expected to assume a number of social roles such as citizen, club-member, church-member, school-board member and so on. Within this complex matrix of criss-crossing roles people have to learn to conduct themselves appropriately. There are no manuals to consult, or diplomas to register for, in order to master this balancing act. How then should people know what to do?

The art of playing a role is not dissimilar from stage acting. It may take a conscious effort of the imagination to project oneself into the role, or indeed the mix of roles, people are expected to play at any one time. To do this requires developing empathy - the ability to step into the other person's shoes, to see things from their point of view. Empathy is what is implicitly demanded of the civil servant with the Batho Pele requirements that "citizens should be treated with courtesy and consideration" and that, "...citizens should receive a sympathetic, positive response" (RSA, 1997:8).

Just as one learns to cultivate a manner of bearing which is proper to one's public and private personae, just so one learns to distinguish clearly between public and private goods. The time for which a state employee is paid, during which to fulfil tasks, is a public good which must not be used for private ends, the employee's or anyone else's. To negotiate this complexity takes a good deal of skilful juggling. It is usually where public goods get appropriated, for private ends, that the trouble starts (The Star, 21 March 2009). The councillors who think that the rules for using municipal vehicles do not apply to them, the municipal officials who appropriate resources that are intended for the benefit of the poor... the list of potential examples is endless.

Each public/private combination calls for a different 'role configuration' and, to compound the difficulties, each role configuration comes with its unique set of responsibilities. Thus, to return to Batho Pele, a municipal clerk who passes

his working day as though he were a paid union official is abusing his position, no matter how competent a trade-unionist he is, unless he has been specifically mandated by his municipality to work for the union.

To sort out any confusion which may arise necessitates being very clear on:

- in what capacity (public or private) actors are operating;
- when they are doing so (working hours or not);
- in what sector (their own or someone else's); and
- whether or not they have received a specific mandate or instruction to do so.

Perhaps the golden rule is that officials and politicians should confine themselves to doing what they are paid to do - that is fulfilling their responsibilities, during their working hours. As a rule politicians are expected to formulate policy and bureaucrats to implement it, although in the real world exceptions to the rule will always occur. In all cases however what is essential is that actors' roles be clearly spelt out by their superiors who should have a clear overview of what is going on, and who must be able to recognise abuse of the taxpayers' interests when they encounter it. This calls for the level of sophistication referred to by Geldenhuys earlier.

6. THE GAP BETWEEN POLICY FORMULATION AND IMPLEMENTATION

It is by virtue of processes of monitoring and evaluation (M&E) that the gap between policy goals and policy outcomes is determined. The road to hell is paved with good intentions. Why do some policies come unstuck, and in what ways does this happen?

The seventh Batho Pele principle, 'Redress', states that "if the promised standard of service is not delivered, citizens should be offered an apology, a full explanation and a speedy and effective remedy...". A media report some years ago concerning the operation of satellite police stations in Soweto (Sunday Times, 13 August 2003) provides a classic instance of the Batho Pele principles being compromised due to an inability to distinguish between the private and the public interest:

The South African Police Union (SAPU) urged police management... to close satellite police stations in Soweto at 4pm each day following attacks on the stations. SAPU's president said, "SAPU is in favour of all satellite stations in the area being closed at four in the afternoon. Perhaps the community will suffer but they can't sacrifice the lives of police officers at the satellite stations".

The SAPU president was appealing for the private interests of policeman to take precedence over the public interest - the community's welfare. Naturally

policemen do not want to be killed in the line of duty but the way to go about protecting them is not to sacrifice the public interest to their private interests, and the SAPU president should have applied his mind to the logical consequences of what he was demanding. Taking the SAPU president's attitude to its extreme would result in the absurd outcome that policemen should be paid to stay at home because being a policeman is too dangerous. Surely the remedy should be to put more policemen on duty - not to 'shut up shop'.

Under the rubric 'Consultation', Batho Pele states that, "Citizens should be consulted about the level and quality of the public services they receive...". But as Hamlet observed, this "is a custom honoured more in the breach than the observance" (see Atkinson, 2007; Centre for Development Support, 2007a, 2007b). The Batho Pele principles were contained in what was only the second White Paper to be issued by the new post-1994 government and they were released into a policy environment of considerable idealism - the following year, 1998, saw no fewer than 20 White Papers published (Scheepers, 2002:319).

The Batho Pele White Paper set new standards in accessibility and was a trail-blazing policy document which incorporated what was almost a paradigm shift - that the customer comes first. The question now, 14 years later, is whether it was mere window dressing? Has Batho Pele been implemented with anything like the level of political will it takes to live up to its high-mindedness? Any policy that proves to have been too ambitious sets itself up for being shot down and one could advance literally hundreds of serious breaches of the Batho Pele principles by way of showing that they are not being adhered to (Public Services Accountability Monitor, 2011). This tendency for South African policy to over-reach itself in its ambitions touches on the issue of 'paradigmatic' versus 'incrementalist' approaches in policy style (Howlett and Ramesh, nd.:184-197; Parsons, 1995:67-77).

The eighth Batho Pele principle states that: "Public services should be provided economically and efficiently in order to give citizens the best value for money". In what one might say was a Freudian slip, the Batho Pele document (RSA, 1997:30), in a rare lapse into faulty expression, says that, "... the customer comes first, last, and all the time". It is the 'last' in this formulation that is worrying (see for example Volksblad, 27 February 2009 relating to Department of Health officials in the Free State being given leave from work in order to engage in political campaigning).

There is a real concern that many government departments, and especially local authorities, have lost sight of the fact that they have customers to whom they are supposed to be rendering a service. If one looks at budgeting priorities one gets the impression that some institutions exist as ends in themselves. Their main priority appears to be to provide inflated salaries to as many staff members and hangers-on as possible. In the process the actual

services that should be rendered become 'residual', to be provided as and when finances allow, which they rarely do (see The Times, 31 March 2009).

Botes, Brynard, Fourie, and Roux (1992:289), warn that, "Public servants must act cautiously so as not to catch the watchful eye of the public media". Unfortunately the general media is now so overwhelmed with tales of corruption and mismanagement (see for example Public Service Accountability Monitor, 2011) that public servants have to be quite exceptionally delinquent to get any attention from that quarter. There is a certain irony in Ramaphosa's comment on the pre-1994 government that, "South Africa is cursed with one of the most unaccountable governments imaginable" (Geldenhuys, 1996:14). Has the passage of time shown that, back then, Ramaphosa did not exercise his imagination sufficiently? Should one cast aspersions on the Batho Pele policy itself for the dysfunctionality of sections of the public service? Or does the fault rather lie with senior politicians and management who set a poor example? Was the policy simply not implemented properly? These are the questions anyone who embarked on an evaluation of Batho Pele would have to confront.

7. TIME TO TURN OVER A NEW LEAF

The policy environment is much more nuanced and complex than at first meets the eye. The blame for the level of confusion that sometimes seems to exist within the public service, as to who should be doing what, cannot however be laid at the door of the policy process per se. Many functions of state that interface with civil society are extremely complex but this does not mean they cannot be managed in a coherent fashion.

South Africa has implemented recruitment policies that easily degenerate into the sacrifice of expertise and excellence on the altars of nepotism and patronage (Atkinson, 2007:8-12). It also suffers from a severe loss of 'institutional memory' whereby virtually a whole layer of experienced bureaucrats has been eliminated, without sufficient value ever having been placed on the skills they took with them (Johnson, 2009).

When a system functions smoothly the false impression is created that nothing could be easier than to perpetuate its smooth running (the electricity supply is an obvious example). A superficial analysis of a smoothly functioning system belies the care, know-how and skill that went into creating that state of affairs in the first place. Arguably, South Africa has been over-hasty in ridding itself of its 'old-guard' bureaucrats. This paradigmatically-induced rashness has dictated that its 'public service chickens' are now coming home to roost (Edwards, 2010).

What South Africa needs now is responsible, competent management. It is time to forego discriminatory employment policies and to move beyond chanting the 'lack of capacity' mantra. Government should weed out the

unqualified political appointees it has burdened the public service with, and do all it can to attract talented, motivated managers without reference to anything other than merit and proven track records. As Tomlinson (2004:20) observed, apropos of 'lack of capacity', it has "become a code for corruption, political infighting, and failures of management and leadership."

It is however unfortunate that an institutional culture of mediocrity, once entrenched, has a way of perpetuating itself. A burning question is whether the public service, given its present condition, has the wherewithal to pull itself up by its own bootstraps. Overarching policies like Batho Pele are progressively undermined by employing personnel who are not equal to the job (Volksblad, 19 March 2008). This negative impact on service levels is compounded when these individuals, in their turn, hire even less suitably qualified staff.

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