Political Patronage in South Africa Local Government: Is the Local Government: Municipal Systems Amendment Act Helping Matters?

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Abstract

One of the lead precursors to unstable local governance in the contemporary South Africa pertains to the embedded culture of political patronage. It is believed that the provisions added to the newly amended version of the Local Government: Municipal Systems Act 3 of 2022, which among other things, limits the political rights of officials, will somehow counter the existing patronage patterns. While this Amendment Act is a step in the right direction in as far as professionalisation of the local government sector is concerned, the question that this article attempts to answer is: will this attempt to insulate officials from politics result in stable municipal administrations, ethical conduct, professionalism, service delivery and less political interference? In addition, what are the ramifications that political parties are likely to encounter as a result of the curtailed political rights of their members? One of the findings is that the inserted changes are going to destabilise, firstly, the intra-party arrangements at political level, and secondly, will uproot elements of favouritism, nepotism and to some extent frustrate the existing culture of patronage in municipalities. However, it must be acknowledged that this is not going to be easy, given the damage already done such as bloated organograms, and the practice of cadre deployment which is facilitated by ruling parties in councils. With local government being at the coalface of service delivery and development, professionalisation is crucial but there is also a need to cultivate and encourage a strong ethos and philosophy of praxis underpinned by *Ubuntu*, the African philosophy.

Keywords: Political patronage, Local government, Amendment Act, *Ubuntu* philosophy, South Africa.

Introduction

A municipality is a platform for human and socio-economic growth and development in all decentralised states across the

globe, South Africa included. Following South Africa's inception of independent and democratic rule in 1994, concerted efforts have been geared towards the rationalisation of municipal existence in terms of structure, functions, finances and management. Much of these efforts are carried out by scholars in academia, members of civil society groups, practictioners and policy-makers alike within the field of P(p)ublic A(a)dministration. As an addition to these efforts, the current article seeks to make a theoretical contribution by focusing on the thorny subject of political partronage. As the article will show, political partronage or partisan politics is an impediment to the quest for professionalisation of bureacracy within the municipal sector in South Africa. More recently, political patronage has been identified as a main orginator of both the 'demon' and 'refuge' of corruption, amongst other negative practices (PoliticsWeb, 2018). This poses a huge challenge to public administration as an art of governance, especially in the South African local government where patronage continues to thrive. Already, there is a welter of evidence relating to political patronage in both authoritative and academic literature and this includes one of the ground-breaking studies titled "Patronage divides us" by MISTRA. However, in response to this milieu, in 2022 President Cyril Ramaphosa signed into law the Local Government: Municipal Systems Amendment Act 3 of 2022, which seeks to professionalise the local (public) administration with a particular interest in barring municipal officials from holding political office. The key purpose of this article is to assess the sufficiency and capability of the Local Government: Municipal Systems Amendment Act 3 of 2022 in dealing with political patronage in municipalities. The question asked, therefore, is whether the attempt to insulate officials from politics results in stable municipal administrations, ethical conduct, professionalism, service delivery and less political interference. This article is a report of the seminal work that was organised by the authors in 2023 under the academic body the South African Association of Public Administration and Management (SAAPAM), where this same topic was discussed by policy-makers and experts.

The Creation of Hegemony in the Public Service Through Patronage: Some Contextual Issues for Consideration

This section is designed to highlight some crucial issues for contextual purposes. As always, context is important. It provides the scope within which a phenomenon can be understood, as well as the direction from which a discussion must ensue (Manyaka, 2018). For the sake of this section, two critical contexts are considered to understand the culture of political patronage in the contemporary South Africa, where reference is also made to some cases of patronage in the previous political regimes.

Pre-1993

South Africa is a country that has endured the brutality of the apartheid government system, where most of the population was racially discriminated against and systematically subjected to cruel laws that favoured the minority white population. The pre-1993 period is characterised by segregation laws and policies that government then operated under (Tshamano, Shopola & Mukonza,

2021). Under this regime, despite the existence of typical public service laws like the Public Service Act of 1984, which intended to address questions of partisan and political patronage in state administration, acts non-conformation to such laws could not be hidden either from high echelons of state or in the homelands (which were established in terms of the Group Areas Act of 1913). The homelands administration is one of the many examples of patronage, although reference to it does not seek to suggest that there are no other instances where partisanship and patronage were dispensed during the apartheid era. In fact, it can be said that because the design of the apartheid political system was a prototype of the Westminster system where the term of senior government officials would be aligned with the term of office of the politicians, patronage was therefore relentless.

In a study that explored political corruption, John Hyslop (2005:783) characterised a homeland administration in the apartheid South Africa as the "exemplification of a massive patronage network" that the leaders of the Transkei, Bophuthatswana, Venda and Ciskei (TBVC) states presided over. Others further indicate that the establishment of this homeland system was in fact a sign that the apartheid government was not ready to have an impartial and rule-based public administration (Chipkin & Meny-Gilbert, 2012). The bureaucratic arrangements of these TBVC states were led by co-opted traditional leaders and consisted of senior black officials who largely came from royal lineage. In other words, this system prioritised royal lineage over merits which, as Maserumule (2017:99) observed, was deliberate, "as skilled black officials would have created a class of bureaucracy that would have threatened the apartheid state and white privilege".

Even with the *trias politica* wherein the activeness of the executive, legislative and judiciary in the discharge of state responsibilities would inextricably shape public service, the actions of the executive in as far as the creation of black administrations, TBVC states in other words, and the extent to which employment practices did not follow provisions of the Public Service Act, were not questioned either by parliament or even the judiciary that is responsible for interpretation of statutes. The challenge with the apartheid system, however, as observed by Labuschagne (2004), was that the "supremacy of the South African parliament during the period 1910 to 1993 was partly the result of the constitutional arrangement that the courts could only interpret parliamentary statutes, and not question their validity". As a result, there were no legally enforced limits to the authority of the sovereign parliament. It was for this reason and the context provided in the foregoing paragraph that the word 'transformation', which preoccupied the democratic government led by the African National Congress, became a buzzword as reform policies and practices were embarked on throughout the state.

Post-1994

Politically, the year 1993 was met with elements of calamity that rendered uncertainty for the future of the state's political life. Despite the havoc, the Interim Constitution was announced, and the post-apartheid state was conceptualised. The election date was set, and democratic elections were held in

1994 where the democratic government led by the ANC was incepted. This, to many, was an opportunity to undo all the racial administrative structures, policies and systems that the apartheid government used as *modus operandi* to run the state (Welsh, 2004). The period 1994 to 2000 thus saw numerous dramatic changes that ranged from legislation to policy and reshaping of some state fundamentals. Crucially, the idea of professionalising the public sector was also codified in the Interim Constitution. It prescribed that the administration of the post-apartheid state should resemble the following:

> It was to be non-partisan, career-oriented and function according to fair and equitable principles; promote efficiency and effectiveness; serve all members of the public in an unbiased and impartial manner; be regulated by laws dealing specifically with such [public] service, and in particular with structure, functioning and terms and conditions of service; to loyally execute the policies of the government of the day in the performance of its administrative functions; and be organised in departments or organisational components, and the head of such departments was to be responsible for the efficient management and administration of his or her department or organisational components (Van der Waldt & Helmbold, 1995:70).

Indeed, one of the major changes in this regard was that the Public Service Act of 1994 was promulgated and replaced the apartheid Public Service Act of 1984. Although the two Acts generally aimed to provide for the organisation and administration of the public service and other matters connected thereto, their material difference can be clearly hinged on the nature and objects of the Constitution at a particular time. For example, the final Constitution (1996) has a dedicated chapter that sets out the principles of public administration in the democratic state (see Chapter 10 of the Constitution, 1996). Accordingly, these principles, as outlined in section 195 of the Constitution (1996) categorically state that:

- A high standard of professional ethics must be promoted and maintained.
- Efficient, economic and effective use of resources must be promoted.
- Public administration must be development-orientated.
- Services must be provided impartially, fairly, equitably and without bias.
- People's needs must be responded to, and the public must be encouraged to participate in policy [decision-]making.
- Public administration must be accountable.
- Transparency must be fostered by providing the public with timely, accessible and accurate information.
- Good human resource management and career development practices, to maximise human potential, must be encouraged.

At the time this article was prepared, a draft document on professionalisation of public service was out for public comments (National School of Government, 2020).

The drafting of this document commenced some time back and was only approved by Cabinet in 2020. It details a framework for a public service that is needed for the materialisation of the aspirations espoused in the country's development blueprint, the national development plan vision 2030. It would not be prudent for this article to pursue the afore-said document in its current format as this would not be helpful, however, it is encouraging to learn that South Africa is able to self-correct and move beyond its complacent zone to pursue administrative reforms. But what has been the experience in as far as the quest to professionalize the public sector is concerned?

Professionalisation of Local Government Two Decades into Local Democracy: Issues and Dilemmas

Meanwhile the constitutional principles in Chapter 10 and many other constitutional provisions such as the ones in Chapter 7 (for municipal governance) and the related statutes serve as a guide for professionalisation of the public sector in South Africa. In practice, however, government (at all levels) has shown weaknesses when it comes to acting ethically and professionally. Most scholars and practitioners in the field of Public Administration are agreed that at the top of the list of problems that hinder professional and ethical behaviour in South Africa has been political patronage and the cadre-deployment policies that political parties enforce when in government. As mentioned elsewhere in this paper, cadre deployment as a practice is concerned with rewarding party loyalists with employment opportunities within the state machinery. Mlambo (2023) concurs that the practice is not only synonymous with South Africa, as the phenomenon is being practised globally. The author further notes that in an Afrocentric version, this phenomenon is associated with mediocrity and causes poor implementation of state policies (Mlambo, 2023). Indeed, as explained by David Welsh:

> a serious pathology is the steady blurring between party and state, involving principally the deliberate efforts of the [governing party] to ensure that its members are placed in positions of power in ostensibly non-political posts in the bureaucracy, the armed services and the parastatals. (Welsh, 2004:15)

Cadre deployment is a military science concept that predates the modern forms and systems of governments worldwide. This concept was first used by General Sun Tzu in 544-496 BCE and later modernised by the Soviets, where it was used effectively in the Vietnam War. Nonetheless, the ANC has never disputed using cadre deployment to its benefit. Records point to the 1998 discussion document titled "the state, property relations and transformation" where the party openly stated that the envisaged transformation cannot materialise if the ANC does not extend the powers of its structures to all levers of state power, being the army, police, bureaucracy, judiciary, state owned enterprises, the broadcasting sector, central banks, intelligence and so on (ANC Discussion Document, 1998). The second concession (which is fairly recent) can be found in the evidence of the then secretary general of the party, Mr Gwede Mantashe and President Cyril Ramaphosa in the State Capture Commission also known as the Zondo Commission, where they admitted that the only way to ensure

that the state inhibit intentions of the majority South Africans is through party agents who are deployed as the strategic levers of the state (Judicial Commission of Enquiry in State Capture Report, 2022).

Coming from its 52nd elective conference in Limpopo Province, the ANC articulated the desire to build a developmental public service that imbues professionalism and is staffed with a competent and skilled bureaucracy. Many suggestions were put forth to reconfigure public administration, including the idea of creating a two-sphered government similar to the idea of creating a single public service, but to date this has not materialised. Speaking at the launch of the African National Congress on 8 January 2010, President Jacob Zuma expressly cautioned against the emerging patronage culture in the democratic dispensation that was beginning to dislodge municipalities from their developmental mission. "We are of the firm view that municipal employees should not hold official positions in [a] political party" (Zuma, 2010). A year later, in 2011, amendments to the Systems Act were effected and the Bill was passed by Parliament but later struck down by the Constitutional Court due to other legalities that did not pass constitutional muster.

The 2011 Amendment Bill did not cater for two crucial aspects that the 2022 version of the Systems Act covered. Firstly, it left the criteria and procedures for appointing senior municipal officials untouched and secondly, it was silent on the provincial oversight of senior appointments. Nevertheless, President Zuma's call for depoliticisation in 2010 was not negative. Besides his experience on how fellow comrades in the party tend to abuse municipal processes to their benefit, the call came from an understanding that local government as the closest government to the people had been failing to change peoples' lives as expected by the Constitution (1996) and several party manifestos and policies of the ruling ANC.

In 2009, the local government ten-year review painted the dire state of governance that municipalities found themselves in, including mismanagement of financial resources, nepotism, procurement fraud and maladministration in the local government (Department of Cooperative Governance and Traditional Affairs, 2009). From 2010 to 2016, municipalities are said to have collectively accounted for more ten service delivery protests on a weekly basis (Municipal IQ, 2016). These frustrations, which mostly contained elements of violence and the burning of state property, were cited as the contributory factors to the poor electoral performance of the ANC both in 2016 and 2021, where the party attained less than 50% of the municipalities countrywide as compared to the previous years (ANC, 2022). Meanwhile ANC-led municipalities are constantly placed under provincial administration with only 3% of the 257 municipalities receiving clean audits in 2018 (AG, 2017/2018).

At its 54th conference in December 2017, the ANC identified areas where targeted action is critical: (1) the political administrative interface and (2) the clear separation of roles and responsibilities between political executives and (3) the administration. Fast-forward to 2022, when President Ramaphosa signed into law the Local Government: Municipal Systems Amendment Act No. 03 of 2022 which seeks to professionalise the local

(public) administration, including section 71(b), which limits the political rights of municipal officials. Changes made in the Act include prohibition of municipal officials holding political office. In addition, the Act further empowers the MEC responsible for local government with appointment powers and certain discretions within municipalities. The following major provisions are made in section 54A of the Amendment Act:

- It enables the Minister to determine, by regulation or guidelines, the minimum level of *skills, expertise, competencies, and qualifications* for appointment of municipal managers or acting municipal managers.

- An appointment of a municipal manager will be *declared null and void* if the person appointed does not meet the prescribed competency requirements.

- It inserts appointment procedures to ensure that a vacant post of municipal manager is advertised *nationally to attract as wide as possible a pool of candidates*.

- A person may be selected for appointment as municipal manager only from this pool of candidates.

- If the pool of candidates is insufficient, the municipal council *may re-advertise* the post.

- It provides for the Minister to *exempt* a municipal council from these strict appointment requirements if the municipal council *is unable to attract a suitable candidate*, which may happen especially in the rural areas.

Despite the efforts made through this Amendment Act, there is already litigation filed with the courts where the alliance partners of the ANC South African Municipal Workers Union (SAMWU) oppose the barring of officials from holding political office. To venture into this court application might invite more criticism, especially from the involved political players, therefore, what this article will do is engage the subject from a good governance perspective and not focus on the merits of the complaint as it is legal in nature. The section that follows details an analysis of this Amendment Act. However, for the skeptics, the ANC is mentioned *ad nauseam* in this article because, firstly, it controls the ideological direction of the state due to it being the ruling party in the country, but secondly, before the last local government elections (held in November 2021), the party was for the longest time in control of the two-thirds of municipal councils in the country.

A Brief Global Account of Professionalisation of Public Service: Literature Review

Professionalisation in the public service, as conceptualised by the Organisation for Economic Cooperation and Development (OECD) (1997:5), implies a professional and efficient public administration that consists of "competent, motivated and impartial civil servants working in a system dedicated to serve public interest". As seen in the World Bank study that investigated professionalism in central and eastern Europe, Africa and Brazil, the logic underpinning the professionalisation as conceptualised above was adopted (World Bank, 2000). The global belief in this regard is that a professional public service is one that recognises merits as opposed to

inheritance or political patronage. In other words, a professionalised public service is concerned with "employing professionally suitably qualified personnel [qualified] as managers or administrators, and employing legislation that prescribes ethics and professionalism in the public sector" (Sithole, 2023:2). This subject is crucial for good governance, as warned by Kofi Annan in 2008 (cited in Adejumobi, 2011:11):

> Without good governance, without the rule of law, predictable administration, legitimate power, and responsive regulation, no amount of clarity will set us on the path for prosperity.

Regrettably, international trends show that public sectors worldwide are characterised by less skilled personnel, unethical and unprofessional practices, corruption, and maladministration (Afrobarometer, 2021; Transparency International, 2021). Business-inspired practices like consultancy, privatisation or outsourcing of public service are said to be through a channel that procurement laws can by-pass and corruption and nepotism also find refuge in such practices (Sithole, 2023; Congress of South African Trade Unions, 2023). All these tendencies contradict the global trends where a need for the professionalisation of the public service is strongly echoed for the betterment of the living standards of citizens and realisation of sustainable development in the globe.

Research Design and Theoretical Framework of the Study

A detailed discussion regarding the research design and theoretical framework of this article is presented below.

Research Design

As indicated in the introduction, this article is a product of one of the seminal works organised by the authors for academic engagements under the South African Association of Public Administration and Management (SAAPAM) North West Chapter, which intended to draw mixed views from policy-makers and academics about political patronage in South African local government. The seminar was mainly interactive and followed a qualitative design. According to Bertram and Christiansen (2014), qualitative research designs involve interactions that culminate in rich descriptions from the participants' own written or verbally communicated information. In this case, two policy-makers (one from national parliament and the other from the North West provincial legislature) and a policy expert from a South African university were invited to share their opinions on the topic. Due to fact that the event was public and livestreamed on online platforms, ethical issues such as confidentiality and anonymity of the discussants were of no concern to the authors. Aspects such as validity, on the other hand, were covered by the authoritative status of these parliamentarians in society and the fact that they participated in their official capacity as MPs.

Theoretical Framework

Theoretically this article is guided by two theories, institutional trust theory and general systems theory. Abstracted around the 1940s by biologist Ludwig von Bertalanffy, the general systems theory is considered a new style of thinking that allows for the investigation of system interconnections and accounts for the nature of 'open systems' that

interact with their surroundings (Montouri, 2011). The inclusion of the theory in this article is based on its transdisciplinary nature, but most importantly, it views change in a positive light rather than as a threat. This provides a good context from which the quest to professionalise the local government sector can be understood. Organisational theorists argue that whenever change happens it precipitates fear among the involved parties (Swanepoel, Swanepoel, Erasmus, Schenk & Tshilongamulenzhe, 2014), and as such, it should be surprising that the changes brought by the Local Government: Municipal Systems Amendment Act are somehow contested. But in the end, the logic behind using the general systems approach is that the more the notion of professionalisation gains momentum is the more the likelihood that changes that will unsettle existing practices such as patronage will be introduced and municipalities should be receptive or open to such changes, especially as most will be influenced by the external environment as suggested by the theory.

Another theory that underpins this study is institutional trust theory (ITT). This theory is relatively popular in democratic countries, one of the drivers behind such popularity being that democratic institutions usually use trust as a measurement for existential validity. This theory assumes that the better the institutional track record is the better the chances that it stands to be trusted by people (Zucker, 1986). In the case of this study, the ITT is significant in that it enables the authors to link trust issues in the public sector space, such as the root causes to a trust deficit and possible outcomes. In this regard, an immediate example is the disengagement of the adult population from voting in South Africa. According to the Council for Scientific and Industrial Research (CSIR) report (2021), more than 50% of the registered voters did not participate in the 2021 municipal elections and this raises concern. It is possible that issues such as cadre deployment and partisan politics are in the mix, as underlying causes for less trust in municipal institutions and the apparent disengagement.

Presentation of Findings

The legislative decision by lawmakers to commit to the professionalisation of public service is exemplary, especially coming from politicians themselves. It goes to indicate that they are aware that the spoilt system is halting the country's efforts to realise its developmental potential. In fairness, parliamentarians in the sixth administration should be hailed, as the decision to amend the Municipal Systems Act is a milestone achievement against the culture of patronage that has already caused damage to structures of governance at municipal level. What follows are findings made in as far as partisan practices in municipalities are concerned.

Weakening of Local Democracy

Fostering local democracy is one of the constitutional imperatives of the local sphere of government in South Africa. Based on the findings, there is a sense that patronage as a manifestation in the democratic local government provokes this crucial constitutional tenet. The article "Tumultuous times for South Africa as it enters the era of coalition politics" by Maserumule, Mokate and Vil-Nkomo (2016) edifies. Its analysis shows that community participation, which is a constitutional requirement for municipalities

when developing their IDPs, is now done based on partisan politics. Hence citizens resort to 'extra judicial measures' such as barricading roads, burning public schools and other state property to voice their resentment (Maserumule, Mokate & Vil-Nkomo, 2016). Studies by Shopola (2019) and Mahlala, Juta, Chigova & Zweni (2023) are also enlightening. These found that community members often conflate a municipality meeting with ANC meetings, and that they will be coached on what to say during the meetings. Despite the ingrained culture of patronage, this is not how democracy operates; instead, it is a constitutional infringement of the rights of community members to participate freely in the government decision-making process.

Effects on Human Resource Management Practices

Human resource management (HRM) is a fundamental component of governance; with HRM, institutions and organisations may attract, retain, train, and develop skills and capabilities that benefit both the organisation and the individual. Public sector recruiting, in particular, is a critical facet of governance and service delivery in general. Findings from this study show that patronage negatively impacts human resource management fundamentals in a municipality. As indicated previously, the tangibility or outcomes of a patronage system often manifest in the employment of certain individuals. As mentioned by Mello (2013), the process of employing suitable qualified public servants is not really a concern in a spoilt system, rather the loyalty and political membership of the involved recruits become central. This practice has implications for HRM practices in every organisation. Mr Motswana, one of the speakers at the seminar and chairperson of the Portfolio Committee Premier, Finance, Corporative Governance and Human Settlement in the North West Provincial legislature, confirmed this and further used one of the local municipalities (Kgetleng Municipality) in the North West province as an example. He said:

> The bloated organogram of the municipality is compromising the service delivery as it has failed to prioritise (the) water and sanitation directorate because the unit was led by an incumbent who had no technical expertise, skill, and competencies to develop operational plans and to set the standards for pollution in Kgetleng LM. (SAAPAM, 2023)

In the literature, the above has been confirmed by Tshamano, Shopola and Mukonza (2021) in a study that investigated the impact of municipal mergers in South Africa, where findings show that most municipalities are currently sitting with a huge number of employees in what they normally refer to in human resource language a 'pool', meaning that these employees (usually at a junior level) remain unplaced within the system and are used whenever a need arises in any unit/department. To politicians, rewarding fellow party members with employment is normal and whether such actions compromise government fundamentals is the last thing in mind.

When Herman Mashaba, the leader of Action South Africa and former mayor of the City of Johannesburg, initiated the drive for employee skills in the Municipality, there was huge resistance from employees and labour unions (Mfeka, 2018). Despite the

reasonableness behind this idea of skills, the resistance was obvious in the political atmosphere in the City at the time. The ANC had just been removed from power but had to ensure that South African Municipal Workers Union, its strategic alliance partners from the labour desk, maintained the fight. Politically, the view was that the mayor is obviously in a purging mode and that he wanted to replace ANC people with those who support the DA. Nevertheless, this view is validated by history. When the DA ousted the ANC in the Cape Town Municipality in 2000, it dismissed senior officials who were perceived to be in alignment with the ANC and replaced them with its preferred people. The idea of professionalising the municipality by ensuring that the deserving and qualified public servants are correctly placed is a noble one, but this is one case that proves the struggle of non-partisan bureaucracy facing municipalities due to the susceptibility of the local government system to politics.

Declining Public Trust in Municipal Recruitment Processes

Closely linked to the foregoing paragraph, patronage can also be linked with the perpetual trust deficit in municipal recruitment processes. The country's National Development Plan (NDP), also known as vision 2030, calls for the making of public service and local government a career of choice. The NDP correctly recalls that "a professional public service is one where people are recruited and promoted on the basis of merit and potential, rather than connections or political allegiances" (NDP, 2012:371). With the patronage culture that this study has already referred to, it will prove challenging to move in the direction of the above call by the NDP. The study by Mchunu (2019) of the Human Science Research Council (HSRC) revealed that young graduates from universities have lost trust in government institutions because of corruption, which includes partisan-based recruitment in the public sector (Afrobarometer, 2007). As contended by the institutional trust theory, for government to regain public trust, it needs to prioritise meritocracy in its recruitment process but also be emphatic on the rule of law.

Disengagement Due to Eroding of Public Accountability

Patronage weakens accountability and ultimately impacts good local governance. Findings from the literature point to the fact that good governance cannot thrive where professional and ethical practices are disregarded (Kofi Annan, cited in Adejumobi, 2011:11). An EFF member of parliament, Sam Matiase, who was also a speaker at the seminar, referred to the creation of hegemony through patronage politics, and further asked this important question: how can municipalities become centres of community development when they are treated as feeding troughs? Evidence contained in the Auditor-General reports (2019/2020) show that most municipalities that have mismanaged their finances, either through fruitless expenditure or otherwise, were also found to have engaged in corrupt activities. In 2017, National Treasury revealed that over R676 million was lost through corruption in the local sphere. But this is not surprising especially if one considers the latest corruption index, where South Africa rated number 70th of the countries with high public sector corruption in the world (Transparency International Report, 2021).

The On-Going Litigation Against Section 71(B) of the Amendment Act and Other Hanging Issues

In addition to the findings above, are the latest developments regarding the amendment Act that are worth reporting in this article. They relate to the reaction by the labour union South African Municipal Workers Union (SAMWU) who want some sections of the newly amended law to be removed. The union filed a court interdict against operation of the Amendment Act early this year on grounds of constitutional application as it relates to the employees' political rights (COSATU, 2023). From the outset, we have indicated that the merits of this case are not for this article to ponder but what needs to be highlighted is the possible and perhaps, the subtle, political ramifications that the Act poses for the ANC as the party in charge of government. Most branches of the ANC deem their members, especially those working in the trenches of government, as resourceful, especially on the capacity building and functionality fronts. This point appeared in the ANC Political Report that was delivered at one of the party sub-regional conferences in the region of Peter Mokaba in Limpopo Province, where the sub-regional leader lamented that political limitations are likely to impede participation of the alliance partners in intra-party matters.

Furthermore, it must be underscored that some of these party members are also union representatives, and this makes it easier for political interventions when there are labour tensions at workplaces. In 2022, Department of Cooperative Government and Traditional Affairs (CoGTA) directed that by November 2023 all the affected employees must have resigned from political offices if they wish to remain in the employ of municipalities. What this means is that the affected employees will no longer be actively involved either in party decision-making or other activities in general. Meanwhile political rights of employees should be respected. A landmark victory that is contained in the Constitution is that a middle ground position should be found in as far as building professional local government is concerned, at least for the sake of service delivery, social development, and partisan-free employment practices in the municipal sector.

Moreover, in addition to the issues that are still hanging, the presentation by Mr Motswana, who is currently serving as chairperson for the Standing Committee on Public Accounts (SCOPA) in the North West provincial legislature, revealed that all local municipalities within the Ngaka-Modiri District do not have fully appointed municipal managers and are operating on a bloated organogram and yet they continue to advertise vacant positions with the obvious intention of recruiting new employees, of which signals the level of ignorance from council, especially on the impact of politically-motivated appointments. Complimenting this with practical examples, he indicated:

> ... [Kgetleng the Local Municipality] ... appointed both the municipal manager and the managers or directors without relevant skills, expertise and competencies. The appointment was driven by political patronage, [which has mounted pressure human resources management systems in the Municipality] (Motswana, 2023:5)

Considering the text above, the same could be the case with other municipalities throughout the country. It must be emphasised that the continuation of this patronage practice perpetuates threats to the successful implementation of the amended Municipal Systems Act, which therefore means two things with extreme ends: firstly, victory for the existing patterns of patronage culture and corruption, and secondly, the defeat of the quest for professionalisation of the local government sector.

The Local Government: Municipal Systems Act 03 of 2022: Will the Attempt to Insulate Officials From Politics as Instructed by the Amended Act Result in Stable Municipal Administrations, Ethical Conduct, Professionalism, Service Delivery and Less Political Interference?

Based on the findings of the empirical work of the discussants and the engaged literature, a few conclusions can be made. This is in as far as to the attempt to insulate officials from politics, as instructed by the amendment Act, can lead to stable municipal administrations, ethical conduct, professionalism, service delivery and less political interference. One is that there is an agreement that the inserted changes are perfectly positioned to upset the patronage practices, and that their strength is that they are not a mere extrapolation. In other words, they are a direct response to a reality or something that is well known within the South African political parlance. For example, in 2009, a case of political interference by the Regional ANC leaders in the Amathole District Municipality was registered with the Eastern Cape high court division and the presiding judge ruled that the ANC-led council followed a directive from its regional executive committee to choose a specific applicant to the position of municipal manager (South African Legal Information Institute, 2008). When this kind of hegemony is created, corruption permeates easily into the administrative structures of municipality.

In this regard, therefore, one of the mitigating factors the Amendment Act brings is that managers directly accountable to the municipal manager or the so-called 'section 56 managers' may be appointed on a permanent basis. While this was never prohibited, it has now been made clear, and the objective is to provide security of tenure for section 56 managers, on the score that, too often, they find themselves wittingly or unwittingly beholden to the politics of the day. From this format, it can be said that a stable municipal administration is possible but for it to be sustained the entire administration must be professional and that means municipal officials must behave ethically, which will in turn make it difficult for politicians to interfere in the work of administration.

What is interesting about this Amendment Act is that it empowers the Minister and MECs responsible for local government to regulate municipal HRM systems. In addition, the vacant post of municipal manager is advertised nationally to attract as wide as possible a pool of candidates and, where possible, councils that struggle to attract suitable candidates, which is often the case with rural municipalities, may be exempted from this strict appointment procedure by the Minister. Secondly, there is a sense that in the effort to professionalise the public sector and the local government in particular, this Amendment Act might be another case of legislative

enactment without effective enforcement, something which is very common in local government. Regrettably, as argued by one discussant in the seminar (Mr Matiase, EFF member of National Parliament), the solution to the problem of patronage lies outside the administrative and legislative realms, but in the political, cultural and institutional realm.

The foregoing argument is supported by the Institutional Trust Theory, where it is argued that "trust in an institution is not dependent on the individuals who occupy it, but rather it is dependent on its own track record as an independent institution" (Mchunu, 2019:65-66). The frustrating records of corruption and lawlessness in the municipal sector and their continuation despite countless legal instruments, commissions, policies and arrests of culprits in some cases, is what triggers the doubts that these authorities will change. As seen in the literature, the rule in the public sector is mediocracy and patronage (Afrobarometer, 2007; World Bank, 2000). Thus, this article submits that public office involves public trust, which can only be maintained if public officials acknowledge the primacy of the public interest and observe professional ethical principles and values.

Conclusion and Recommendations

Considering the discussion above, the authors hold the view that the Amendment Act is a step in the right direction in as far as professionalisation of public service and local government sector is concerned. However, considering the point made earlier about the institutions of government being influenced by human beings and their interactions with policy and laws, this article suggests that there needs to be a conditioning system that gives space to professionalism, ethical public servants and consequentialism. Based on the discussions in this article it can be argued that the South African local government system is highly politicised, and the foundation of this politicisation lies in the concentrated power in the hands of municipal councils (Constitution, 1996, section 151). This kind of system is by no means unsusceptible to political interference, and it would prove very challenging for municipalities to portend a non-partisan administration that can successfully achieve the objects of local government as stipulated in section 163 of the Constitution (1996).

In conclusion, the provisions made in the amended version of the Systems Act in as far as insulating municipal officials from politics is concerned and empowering the Minister and MECs with some duties that were inherent in municipal councils is welcome but not sufficient to address the patronage culture. As indicated in this article partisan practices are also widespread in community engagement practices that are fundamentally significant to municipal development planning. Maserumule, Mokate and Vil-Nkomo (2016) ask, "if development plans are community-driven, why do they change each time political power changes hands?" This is one of the areas that the amended Act has not addressed and could serve as area for further research. However, we have already indicated our support for the Amendment Act, and in that spirit the following recommendations are made:

1. Depoliticisation of local the government system by, first, amending section 151(2) of the Constitution, which places both the executive and legislative powers of a

municipality in the hands of politicians. In its current design, this constitutional provision makes administration vulnerable to patronage politics.

2. There is a need for political buy-in on the newly amended Local Government: Municipal Systems Act. Considering the finding on the resistance from labour unions aligned to the ANC, including some structures within the party have experiences of this Act, it can be said that its implementation will be cumbersome. Therefore, political support is important.
3. Lastly, there is a need to cultivate a different ethos, or philosophy, a praxis underpinned by the principles of *Ubuntu*. This study agrees with Mlambo (2023) that partisan politics, corruption, and abuse of power under the guise of cadre deployment are anti-African. Therefore, in other words, South Africa needs a socialist culture that can be cultivated through the practice of a set of principles such as sacrifice, humility, love for the people and simplicity, which constitute a total definition of *Ubuntu*, humanity in English or *Botho* in Tswana.

References

Adejumobi S. 2011. Introduction: State, economy, and society in a neo-liberal regime. In S Adejumobi (ed) State, Economy, and Society in Post-Military Nigeria. New York: Palgrave Macmillan.

African National Congress (ANC). 1998. Strategy and Tactics Discussion Document. Available at: https://www.anc1912.org.za/policy-documents/. Accessed 1 April 2023.

African National Congress (ANC). 2023. Subregional Political Report (Internal: Unpublished) (Read in 2023).

Afrobarometer. 2021. Institutions, leadership and governance. Available at: https://www.afrobarometer.org/countries/south-africa/. Accessed 28 April 2023.

Bertram, C. & Christiansen, I. 2014. Understanding Research: An Introduction to Reading Research. Van Schaik, Pretoria.

Chipkin, I. & Meny-Gilbert, S. 2012. Why the past matters: Studying public administration in South Africa. *Journal of Public Administration*, 47(1):102-112.

COSATU. 2023. Statement: COSATU supports SAMWU's decision to challenge the Municipal Systems Amendment Act in the Constitutional Court. Available at: http://mediadon.co.za/statements/. Accessed 22 April 2023.

Council for Scientific and Industrial Research (CSIR). 2021. Annual Report, 2020/2021. Pretoria: Government Printers.

Department of Cooperative Governance and Traditional Affairs (COGTA). 2009. State of the local government affairs. Pretoria: Government Printers.

Hyslop, J. 2005. Political corruption: Before and After apartheid. *Journal of Southern African Studies*, 31(4): 773-789.

Jacob Zuma (Previous President of the ANC). 2010. Statement of the National Executive Committee on the occasion of the 98th Anniversary of the ANC. Available at: https://www.anc1912.org.za/statement-of-the-national-executive-committee-on-the-occasion-of-the-98th-anniversary-of-the-anc-2010/. Accessed 3 April 2023.

Judicial Commission of Enquiry in State Capture Report. 2022. Part IV: Vol. 1: Vrede Integrated Dairy Project/Closure of Gupta Business Account. Available at: https://www.saflii.org/images/state-capture-commission-report-part-6-vol1.pdf. Accessed 1 June 2023.

Labuschagne, P. 2004. The doctrine of separation of powers and its application in South Africa. *Politeia*, 23(3):84-102.

Mahlala, S., Juta, L., Chigova, L. & Zweni, A. 2023. Conduits of Political Corruption and Patronage in South African Government. *International Journal of Social Science Research and Review*, 6(11):16-25. Available at: https://doi.org/10.47814/ijssrr.v6i11.1586.

Manyaka, R.K. 2018. Making sense of community protests in South Africa: Issues for consideration. *Journal of Public Administration,* 53(1):52-63.

Mapungubwe Institute for Strategic Reflection (MISTRA). 2019. Patronage divides us: A study of poverty, patronage and inequality in South Africa. Available at: https://mistra.org.za/mistra-publications/patronage-politics-divides-us/. Accessed 21 April 2023.

Maserumule, M.H. 2017. Administering national government. In Landsberg, C. & Graham, S. (5th Ed.). Government and Politics in South Africa: Coming of Age. Pretoria: Van Schaik Publishers.

Maserumule, M.H., Mokate, R. & Vil-Nkomo, S. 2016. Tumultuous times for South Africa as it enters the era of coalition politics. Available at: https://theconversation.com/tumultuous-times-for-south-africa-as-it-enters-the-era-of-coalition-politics-64312. Accessed 23 April 2023.

Mchunu, N. 2019. Corruption perceptions and their effects on young graduates' attitudes towards public sector recruitment processes and trust in public institutions: A quantitative exploration of students from the University of KwaZulu-Natal and the KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs. *Africa Journal of Public Affairs*, 11(3):59-78.

Mello, D.M. 2013. Managing Human Capital in the Public Sector. Pretoria: Van Schaik Publishers.

Mfeka, L. 2018. The state of Joburg city – Herman Mashaba. Available at: https://www.politicsweb.co.za/documents/moving-the-city-forward-in-the-right-direction-he. Accessed 9 March 2023.

Mlambo, D.N. 2023. The tragedy of the African National Congress (ANC) and its cadre deployment policy: Ramifications for municipal stability, corruption and service delivery. *Pan African Journal of Governance and Development*, 4(1):3-17.

Montuori, A. 2011. Systems approach. California Institute of Integral Studies, San Francisco, CA, USA. Available at: https://doi.org/10.1016/B978-0-12-375038-9.00212-0.

Motswana, A. 2023. Political Patronage in South African local government. (Unpublished document). Presentation made at South African Association of Public Administration (North-West provincial chapter) held in 2023, at North-West University: Mafikeng, North West province.

Municipal IQ. 2016. Municipal IQ's 'Hotspots Monitor' accurately and objectively reflects the situation on the ground. Available at: https://www.municipaliq.co.za/index.php?site_page=article.php&id=107. 30 April 2023.

National Development Plan (RSA). 2012. The National Development Plan vision 2030. Pretoria: Government Printers.

National School of Government (RSA). 2020. A National Implementation Framework towards professionalisation of the public service. Draft document. Available at: https://www.gov.za/sites/default/files/gcis_document/202012/44031gon1392.pdf. Accessed May 2023.

PoliticsWeb. 2018. Skills audit in full steam – Joburg. Accessible at: https://www.politicsweb.co.za/politics/skills-audit-in-full-stream-joburg. Accessed 22 April 2023.

Republic of South Africa. 1996. Constitution of the Republic of South Africa, 1996. Pretoria: Government Printers.

Republic of South Africa 1998. Department of Local and Provincial Government, 1998. White Paper on Local Government. Government Printers, Pretoria.

Republic of South Africa. 2022. Local Government: Municipal Systems Act, 03 of 2022 (As amended). Pretoria: Government Printers.

Shopola, M.A. 2019. Intra-governmental relations in Mopani District Municipality. Master's Dissertation. Tshwane University of Technology: Pretoria.

Sithole, V.E. 2023. Professionalising the South African public service: A review. Available at: http://www.academia.edu net.com/articles/.

South African Association of Public Administration and Management. 2023. North West Chapter. Available at: https://web.facebook.com/Saapam/videos/saapam-north-west-chapter/137225049068684/.

South African Legal Information Institute (SAFLI). 2008. Mlokoti v Amathole District Municipality and Another (1428/2008). Available at: http://www.saflii.org/za/cases/ZAECHC/2008/184.html. Accessible 21 April 2023.

Swanepoel, B.J., Erasmus, B.J., Schenk, H.W. & Tshilongamulenzhe, M.C. 2014. South African Human Resource Management: Theory and Practice (5th ed.). Cape Town: Juta and Company Ltd.

Tshamano, W., Shopola, A. & Mukonza, R. 2021. Unmasking merger problems from employees' perspectives: A case of the disestablished Aganang Local Municipality, South Africa. *Africa's Public Service Delivery & Performance Review*, 9(1). Doi: https://doi.org/10.4102/apsdpr.v9i1.501.

Transparency International. 2021. Corruption Perceptions Index 2021. Available at: https://www.transparency.org/en/cpi/2021. Accessed 13 April 2023.

United Nations. 2000. *Professionalism and ethics: Issues and practices in selected regions*. New York: NY10017.

Van Der Waldt, G. & Helmbold, R. 1995. The Constitution and new public administration. Cape Town: Juta & Co. Ltd.

Welsh, D. 2004. Democratic challenges and opportunities for South Africa. *Politeia*, 23(3):5-21.

World Bank. 2000. Reforming Public Institutions and Strengthening Governance. Washington, DC: World Bank.

Zucker, L.G. 1986. The Production of Trust: Institutional Sources of Economic Structure, 1840-1920. *Research in Organizational Behavior*, 8:53-111.