

MANAGEMENT OF CONFLICT OF INTEREST WITHIN GOVERNMENT FROM A GOOD GOVERNANCE VIEW

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Let me first congratulate the KwaZulu-Natal Association of Public Sector Lawyers (KAPSL) for taking a major step into forming themselves into an association which should be seen as yet another effort to strengthen good governance in our province, As you know KwaZulu-Natal Legislature especially its Standing Committee on Public Accounts (SCOPA) is hosting a National Conference of Public Accounts from 11-15/10/2010, to continue with our explorations of finding the most effective system and practices of oversight. This colloquium is so relevant to our expected outcomes of the conference which is to strengthen the network of all stakeholders in good governance. There is a Steering Committee today which is finalizing all the preparations for the conference, as a host I'm supposed to be attending that meeting, but I have chosen to attend this gathering as it contributes substantively in what we are trying to achieve. The members of staff of the legislature are competent enough to ensure that all logistics and other preparations are on board.

KAPSL had asked me to speak about the management of conflict of interests within government from a good governance point of view. In my attempt to contribute in this topic, I had the following questions to ask myself:

- What are these conflict of interests?
- Why do they have to be managed? How do you manage them? Do you have to manage them or you should try to eradicate them from the system? Are they simple? How complicated are they?
- What is good governance? Why is it a relevant topic?

The case of Singapore and its navigation from the third to the first world provides some answers to these questions as well as lessons for South Africa. Though these countries are not comparable in size, demographics, politics, governance etc, there are arguably some lessons to be learnt from the Singapore experience and the subsequent suggestions by Lee Kuan Yew goals which he saw as also relevant for Africa. Whilst, he acknowledges his inadequate experience and understanding of politics and governance in Africa, he nevertheless mentions Clean Government and effective civil service as his first goal. In his own words he says

“Our first goal in Singapore was to shape the government into an effective instrument of policy. This required strong, fair and just leaders who would have the moral strength to command the respect of the people ... Leaders must have that sense of trusteeship; that they are only temporarily in charge of the destinies of their people and that their duty is not only to discharge this trust but also to pass it on to equally trustworthy and competent hands ... We ensured complete accountability and open separateness between personal assets and public funds. Corruption which we regard as a cancer must be eradicated as soon as it is detected.”

When political leaders and civil servants are conflicted that is do business with government which they are suppose to lead, the values of transparency, competitive pricing, honesty and trust are compromised as the outcomes of who won the tender will never be without controversies and question. The political leaders and civil servants have an advantage of knowing the budget allocation, tender specifications etc which inevitably give them an advantage over other service providers and suppliers of goods and services to government. How do we ensure that our systems of governance are credible and reliable? Are disclosures enough to deter negative perceptions of the system? Should the participants in the civil service participate in business dealings with the government? If we admit that people join the

political parties not with the service motive but to be closer to the state resources or alternatively information that put them ahead of other bidders, what will be the effective strategies and techniques that will dispel this trend? If we say once a leader is elected to government or a person is appointed to government position, they shall not be allowed to do business with government? Logics says to me” those with the appetite for making profits should stay out and let those with service motives in? It may not be as simplistic as I say it but I think it will have an impact.

The other important area that has given rise to what COSATU and SACP call tenderpreneurship is the blind embracement of neo-liberalism policies which unintentionally led to greed and manipulation of genuine government policies such as black Economic Empowerment to accumulate more wealth at the expense of the national agenda of building a prosperous South Africa. There is no prosperity when the majority of our people are trapped in the poverty cycle. The intention of government to create patriotic capital through BEE is proving difficult as every day we realise the patriotic capital has no meaning and space if you look at what some of these BEE's do with this newly found fortune. We know of tenderpreneurs that have spent R100 million just buying their flashy cars. This profit does not go back to creating more wealth and therefore development but goes to feeding into some historical insecure statesmanship that has everything to gain for proving he is no longer the poor Sipho and Themba of Thembisa but a force in Sandton and Umhlanga. The poor African entrepreneur remains locked in his limited space behind his small dusty yard in KwaMashu figuring out how can issues of refrigeration be sorted out as the new class of the wealthy shareholders are playing golf in Mt. Edgecombe estate.

This is our reality. If we associate tenderpreneurship with the deterioration of the moral fibre in our society. Why are we not exploring ways that can limit our exposure to tenders that are causing havoc?

Have we considered that roads will always have to be reconstructed and repaired/maintained? Why are we not employing full time people to do those kinds of jobs? Why are we not employing engineers etc? There will still be tenders to procure raw materials but at least profits won't go to one individual but the distribution of wealth will address numerous challenges we face today. If we provide people with decent jobs it is good for the economy of the country especially if we are to ensure high productivity levels (as a TQM student, there is a tendency of people thinking that if they are employed by the government, they are on a lifetime holiday. They don't work as hard) this therefore will have to with public education of educating citizens about their responsibility in reconstructing the country. This I think will begin to assist in managing the conflict of interests in a way that has a direct positive impact on financial sustainability as fewer citizens will be dependent on state welfare grants for survival. This model indirectly introduces sweat equity and the balancing of rights and responsibilities. The same thing.

Therefore the question of managing the conflict of interest within government from the view of good governance can be approached from a range of angles.

- Change the way we do business
- Move away from ideological dogma to what works e.g. we know that in Tanzania, Julius Nyerere embraced honesty socialism but ended up with a very poor people, yet we also know that in our case in South Africa we embraced neo-liberalism and made such issues as retrenchment, downsizing, right sizing etc as we believed that the private sector is efficient and would deliver the services cheaper than the public service, the evidence we are sitting with is that the private sector can be equally ineffective and very costly, take a case of shoddy housing that we have spent billions on that we are now redoing. Efficiently must therefore mean efficient

government policies which are measured by the improved quality of life of citizens and their independence as oppose to the dependence on the state grant welfare system.

- Eradication of those aspects of practices that give rise to the conflict of interest and that is leaders having to make hard choices of either be in government or private sector or both.
- Effective oversight. "Corruption arises because of what economists call 'principal agent' problems, where one person or group of people – in this case, the electorate or general public – appoint another – here, civil servants or politicians – to carry out functions for them. If the principal cannot perfectly observe the actions of the agent, the agent has an incentive to act in his or her own interest instead." The oversight that I'm referring to is cut crossing. The Ministers must perform their oversight over public entities or government agencies, the legislature and its committees must effectively perform oversight over the executive, and the public must perform their oversight over the institutions of government.