

United Nations  
Department of Economic and Social Affairs  
Division for Public Economics  
and Public Administration

# Professionalism and Ethics in the Public Service: Issues and Practices in Selected Regions



## Notes

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The term “country” as used in the text of this publication also refers, as appropriate, to territories or areas.

The term “dollar” normally refers to the United States dollar (\$).

The views expressed are those of the individual authors and do not imply any expression of opinion on the part of the United Nations.

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# Foreword

As part of the activities of the United Nations Programme in Public Administration and Finance, under the 1998-1999 programme, the Division for Public Economics and Public Administration of the Department of Economic and Social Affairs has compiled an overview of three conferences on the theme of professionalism and ethics in the public service. In view of its mandate to assist Member States in strengthening their administrative capacities, the United Nations organized a series of regional and national conferences on these topics in 1997 and 1998.

In 1997, the Division co-organized a regional conference in Thessaloniki on the Public Service in Transition: Enhancing Its Role, Professionalism and Ethical Values and Standards for 21 countries of Central and Eastern Europe. The event was hosted by the Government of Greece, in cooperation with the United Nations Development Programme (UNDP), Regional Bureau for Europe and the Commonwealth of Independent States.

In 1998, the Division co-organized the Second Pan-African Conference of Ministers of Civil Service on the Civil Service in Africa: New Challenges, Professionalism and Ethics. The conference was held in Rabat, hosted by the Kingdom of Morocco and co-organized by the African Training Research Centre in Administration for Development.

At the national level, the Division co-organized a colloquium in 1997 on Promoting Ethics in the Public Service. Held in Brazil, the event was hosted by the Government of Brazil, in cooperation with UNDP-Brazil. A report for each of these conferences has been prepared.

This present overview report has been prepared by Ms. Elia Yi Armstrong, Governance and Public Administration Branch of the Division, under the direction of Ms. Itoko Suzuki, Branch

Chief. The Division would also like to thank the consultants and resource people who prepared papers and commentaries for all of the conferences.

For the Thessaloniki conference, they were Ms. Naomi Caiden, Ms. Kathryn Denhardt, Mr. Yehezkel Dror, Mr. Robert Klitgaard, Mr. Staffan Synnerström, Mr. Gérard Timsit, and the authors of the country papers. In addition, special thanks are due to Mr. Demitrios Argyriades, who edited the final report and coordinated the organization of the conference, and to Mr. Gary Manukyan, staff member.

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Finally, the Division would like to thank all its hosts and partners in the successful organization of the three conferences.

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# Executive Summary

Scandals involving public officials have captured world attention these days. Precipitated by shady privatization deals, the diversion of aid, widespread public sector patronage, crony capitalism, and campaign financing abuses, people are debating outright corruption and unprofessional behaviour in government. Are public officials held to higher standards of performance and conduct than others? If so, why? With the advent of the modern state, government officials have been and are seen as stewards of public resources and guardians of a special trust that citizens have placed in them. In return for this confidence, they are expected to put public interest above self-interest.

The public service, made up of those employees of the state who are covered by national and sub-national civil service laws, plays an indispensable role in the sustainable development and good governance of a nation. It is an integral part of democracy because it serves as the neutral administrative structure which carries out the decisions of elected representatives of the people. It not only serves as the backbone of the state in implementing a strategy for economic growth of a nation but also runs the programmes that function as the safety net for the most vulnerable segments of a society. Given these crucial roles, a country expects its public service to demonstrate high standards of professionalism and ethics.

Professionalism in the public service is an overarching value that determines how its activities will be carried out. It encompasses all other values that guide the public service such as loyalty, neutrality, transparency, diligence, punctuality, effectiveness, impartiality, and other values that may be specific to individual countries. Ethics in the public service are broad norms that delineate how public servants should exercise judgment and discretion in carrying out their official duties. These values and norms are better reinforced if there exists a system of administrative policies, management practices, and oversight agents that provide incentives and penalties to encourage public servants to professionally carry

out their duties and observe high standards of conduct.

However, public servants in developing and transitional countries must meet the global challenges of a rapidly changing world and perform under local hardships. The world may no longer be threatened by the cold war but must cope, instead, with escalating ethnic conflicts, spreading democratization and its growing pains, a shifting balance between the state/market/civil society forces, economic globalization, and increasing demands made by better informed citizens. These global changes warrant a re-examination of the role of the state and the public service in sustainable human development.

At the same time, many countries have large populations living under crushing poverty, where basic needs go unmet and vast numbers of people are unemployed or under-employed. Many countries experience conflict, cannot guarantee basic human rights, and witness a general breakdown of law and order. Under these difficult local conditions, public servants in developing and transitional countries are asked to accomplish the impossible—settle conflicts, rebuild nations, set up infrastructures, and develop prosperous societies—under extreme resource constraints. When basic needs cannot be met, talking about public service professionalism and ethics can seem a luxury.

Observing these problems and having seen their costs to the socio-economic development of its members states, the United Nations has tried to draw the international community's attention to the very important link between public service performance and development. In view of its mandate to assist governments, at their request, to strengthen their governing and administrative capacities, the United Nations has been active in promoting professionalism and ethics in the public service. Specifically, its Department of Economic and Social Affairs, Division for Public Economics and Public Administration organized a series of regional and national conferences on these topics. This present publication is an

overview of the issues discussed, practices reported, and conclusions drawn from three of these events.

At the regional level, in 1997, the Division co-organized a regional conference on Public Service in Transition: Enhancing Its Role, Professionalism and Ethical Values and Standards. Ministers and high-ranking public officials from 21 countries of Central and Eastern Europe gathered in Thessaloniki, Greece to discuss the role of the public service in the enormous political, economic, and social transformations which the countries in the region are experiencing. As they embark on reforms from a one-party to a pluralistic state and a centrally-planned to a market-oriented economy, the state is having to assume new and discard old roles, with resulting implications for the “public service in transition.”

The Division also co-organized, in 1998, the Second Pan-African Conference of Ministers of Civil Service on the Civil Service in Africa: New Challenges, Professionalism, and Ethics. The conference in Rabat, Morocco drew ministers and other experts from 35 African countries. The participants discussed how to reposition their countries’ public services in the wake of a downturn in the global economy and structural adjustment policies. They discussed the crucial role of a “public service in adjustment” in the economic recovery of the region, through creating an enabling environment for generating wealth and ensuring its equitable distribution.

At the national level, the Division co-organized a colloquium in Brazil on Promoting Ethics in the

Public Service, in 1997. In Brasilia, 300 senior federal and state public servants as well as representatives from the business community, the media, the academy, and professional associations discussed how to modernize the civil service in line with “managerialist” reforms, introduced in the Brazilian public administration. Given the central focus of this paradigm of the citizen as taxpayer, participants discussed the “public service and managerialism.” The resulting shift from a rules-based to an outcomes-oriented bureaucracy has implications for public service professionalism and ethics. Thus, the colloquium benefited from presentations and discussions that are relevant not only to Brazil but to other countries as well.

Although these conferences took place in different regions, the participants concurred on the central role of the state in the socio-economic development of their nations, the need to depoliticize their bureaucracies, and the importance of responding to citizens’ needs. They spoke out against corruption, calling for its containment through addressing root causes such as low salaries and salary compressions. They highlighted the needs and challenges distinctive to their region or country but were also quick to see the benefits of international cooperation. Given the similar and yet different circumstances that face its membership, the United Nations will continue to bring together countries to discuss problems, share solutions, and promote cooperation. These actions will, hopefully, contribute to promoting professionalism and ethics in the public service.



# Current Issues in Professionalism and Ethics In the Public Service

## The public service on the public agenda

Scandals involving public officials have captured world attention these days, on the threshold of a new millennium. Precipitated by events such as “sweetheart deal” privatization, the diversion of aid, widespread public sector patronage, “crony capitalism”, campaign financing abuses, people are debating outright corruption and unprofessional behaviour in government. If they are not talking about actual criminal or immoral acts, they are condemning lackluster performance in the public sector. In its discussions, the public does not distinguish among those in government, whether they are elected political leaders or career public servants. In public perception, all are tainted by the same brush of guilt or indolence.

Do societies hold public officials to higher standards of performance and conduct than for others? If so, why? How damaging are corrupt behaviour or laxity in the public service, or even the mere perception that they exist? What are the financial costs on the development process?

With the advent of the modern state, government officials have been and are seen as stewards of public resources and guardians of a special trust that the citizenry has placed in them. In return for this public confidence, they are expected to put the public interest above self-interest. Thus the most commonly accepted definition of corruption is some variation of the notion, “the abuse of public office for private gain.” It has been noted that “government ethics provides the preconditions for the making of good public policy. In this sense, it is more important than any single policy,

because all policies depend on it.”<sup>1</sup>

At the same time, the administration of the state has become a profession in its own right. It is no longer relegated to part time or unremunerated work as it had been in the past, in many parts of the world. For the purposes of this report, the public service is broadly defined as those employees of the state who are covered by national and sub-national civil service laws. However, it should be noted at the outset that many principles covering professionalism and ethics of public servants also apply to other public sector employees. In fact, many of these principles should also be extended to elected public officials.

The public service as a profession, as it developed, espoused the values of probity, neutrality, and fairness, among many others. It has embraced the merit principle in setting up career structures from recruitment to promotions. By running the administrative machinery that supports decision-making and implements the policies and programmes of the government-of-the-day, public servants play an indispensable role in the sustainable development and governance of a nation. Further, as an institution, the public service ensures the continuity of administration between transitions of power, which are the hallmarks of modern day democracy. Given these crucial roles, a country expects its public service to demonstrate professionalism and ethics.

Experience has shown that the costs of poor performance and corruption in the public service are too great to bear. This is true not only for the

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<sup>1</sup> Dennis F. Thompson, “Paradoxes of Government Ethics”, *Public Administration Review*, Vol. 52, No. 3, May/June 1992, p. 255.

public service but also for the entire public sector, political leadership, and other strata of society. Financially, public officials' diversion of funds into their own pockets means less money for the development of nations and peoples. Politically, the erosion of public confidence in and cynicism toward government can break down fragile peace and order in a society. Economically, a lack of predictable public institutions and a sense of fair regulations will deter investment and trade. "Empirical evidence based on cross-country comparisons does indeed suggest that corruption has large, adverse effects on private investment and economic growth."<sup>2</sup> Socially, all these factors will lead to a general deterioration of trust among citizens. These effects take a toll on countries, many of which are already straining to grow under severe resource constraints and weak institutions.

### Challenges for the public service in development

These problems are exacerbated in a world that may no longer be threatened by the cold war but must cope, instead, with escalating ethnic conflicts, spreading democratization and its growing pains, a shifting balance between the state/market/civil society forces, globalization, and increasing demands made on the state by a better-informed citizenry. These factors, among others, have altered the environment in which governments are functioning. These determinants of change are challenging the traditional roles of the state, introducing new actors to the development and governance process of a nation, and introducing new roles and responsibilities for

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<sup>2</sup> "Regression analysis shows that a country that improves its standing on the corruption index from, say 6-8 (0 being the most corrupt, 10 the least) will experience a 4 percentage point increase in its investment rate and a 0.5 percentage point increase in its annual per capital GDP growth rate." (Paul Mauro, "Corruption: Causes, Consequences, and Agenda for Further Research", *Finance & Development*, A Quarterly Publication of the IMF and the World Bank, March, 1998, p. 12)

public servants. They are also causing national and regional problems, such as corruption and its links to organized crime, to transcend boundaries and spill over into the international arena. These global changes warrant a re-examination of the role of the public service in sustainable human development or the process of "expanding the choices for all people in society."

At the same time, there are changes occurring that are more specific to certain regions. To mention only those regions that are represented in this volume, the countries of Central and Eastern Europe, as well as those in Africa, face shared challenges that are distinct to their region, as a result of these changes. The countries must confront these regional challenges in addition to the global and national challenges.

With the disintegration of the Soviet Union, Central and Eastern Europe has been characterized by "transition" since the early 1990s. Countries in this region have been making a conscious shift from, in effect, a one-party to a multi-party political system and a centrally planned to a market-oriented economy. The transition process has far-reaching implications for the role of the public service, as they try to keep countries operating in the face of rapid and wrenching economic, political, and social dislocations. Public servants must adapt themselves to the rethinking of the role of the state, with respect to its broad functions and separation of powers. This change in role, in turn, demands a new personnel profile—requiring new kinds of knowledge, skills, attitudes, and above all, professionalism. Strong public service leadership and performance are now more critical than ever in preventing further sub-national disintegration and to slow down the spreading gap in regional and income inequalities. Chapter 2 of this report, *Cases in Countries in Transition*, examines the implications for public service professionalism and ethics, during the transition process.

Many countries in Africa have been undergoing macro-economic structural adjustment in the face of burgeoning debts since the 1980s. One objective of these structural adjustment programmes

has been to curb public expenditure through streamlining the public sector. This has been in response to the view that the state had over-extended its capacity to function well. “Economic decision-making became centralized and public enterprises proliferated. This resulted in a growing bureaucracy with increasing discretionary power, which was put to use as a conduit for graft.”<sup>3</sup> However, the attempt to rationalize the public service has not been complemented by a rapid development of the private sector or civil society in a region where, typically, these have not been well developed. The net result has been a weakened public service with no other well-developed local institutions to satisfactorily step into the vacuum. Chapter 3, *Cases in Countries in Adjustment*, examines the effects of structural adjustment on public service professionalism and ethics.

In addition to the global and regional challenges, countries also face changes at the national level. For example, Brazil, as the largest country in Latin America, is becoming an emerging economic force in the world. Following the examples of many other countries, it has been trying to introduce administrative reforms to render its state more efficient. At the federal level, Brazil has been trying to streamline its public sector and apply “managerial” or more private sector management principles to its administration. In this ideological shift, the public service is, again, challenged in having to observe traditional values such as probity, neutrality, fairness, and the like and incorporate new values such as efficiency, performance, and accountability for results. These issues are explored in Chapter 4, *The Case of Brazil*.

These regional and national examples serve to underscore the importance of public service performance to the process of development. With increasing international competition, a clean and well-performing public service is a precondition

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<sup>3</sup> Kempe Ronald Hope Sr., “Corruption in Africa: A Crisis in Ethical Leadership” in *Public Integrity*, Vol. I, No. III, Summer 1999, p. 292.

to sustained economic growth. And since public service performance depends ultimately on the competence and integrity of its workforce, it is timely to promote professionalism and ethics in this time-honoured institution.

## Factors in promoting public service professionalism and ethics

Within the context of this report, public service professionalism is defined as the overall value that encompasses all other values that guide the public service. They include loyalty, neutrality, transparency, diligence, punctuality, effectiveness, impartiality, and other values that may be specific to the public services of individual countries. Public service professionalism embraces the notion that those people who join the public service need to be inculcated with shared values and trained in basic skills to professionally carry out their official duties. Complementary to this process is a need to set up management structures to ensure that a public service ethos and competence is achieved. Public service ethics is defined as broad norms that delineate how public servants—as agents of the state and, where applicable, as members of an established profession such as accounting, law, etc.—should exercise judgment and discretion in carrying out their official duties.

A public service committed to professionalism and ethics is more likely to attain its goals if it has in place an “ethics infrastructure”<sup>4</sup> or its country, a “national integrity system”<sup>5</sup>. These concepts represent, in a sense, a system of rules, activities, and agents that provide incentives and penalties for public officials to professionally carry out their duties and engage in proper conduct.

Initiatives to promote professionalism can begin simply with the existence of sound public

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<sup>4</sup> For a detailed description, see *Ethics in the Public Service: Current Issues and Practice*, OECD, 1996.

<sup>5</sup> For a detailed description, see *The Role of a National Integrity System in Fighting Corruption*, The World Bank, 1997.

management systems and practices. To start with, a career system based on the merit principle, which fairly and impartially recruits and promotes public servants, must be in place. This structure should be underpinned by a clear civil service law that outlines the legal rights and responsibilities of public servants. Further, well-articulated and fair human resource policies on appropriate remuneration, training opportunities, disciplinary procedures and the like should be implemented and enforced. More importantly, a culture of professionalism and pride needs to be nurtured through the recognition of good work and correction of poor performance.

Initiatives promoting ethics include the addition of special measures which focus on preventing, detecting and reporting, investigating, prosecuting and enforcing the appropriate laws against misconduct, ranging from unethical to criminal acts. They should also focus on creating an environment conducive to and training public servants to observe high standards of conduct. In these endeavours, good example set by leadership is essential to the credibility of the exercise.

### **Obstacles to public service professionalism and ethics**

In reality however, there are many challenges and resource constraints in setting up a system, as described above. In many parts of the globe, large segments of the population face crushing poverty. There are not enough basic infrastructures and services in housing, health, education and employment to meet basic needs. Vast numbers of people are unemployed or under-employed. Many countries have recently experienced or are experiencing strife and conflict, where its citizens have had to fear for their lives and have lost all. In some cases, they do not have guarantees that their basic human rights will be respected. When a breakdown of law and order and extreme social dislocation occur, the moral fabric of a society can be torn apart. When survival becomes the paramount value, corruption can become a way of life.

In this context, public servants in many parts of

the world are asked to accomplish the impossible—settle conflicts, rebuild nations, set up infrastructures, and develop prosperous societies—from meager or borrowed public funds. Many times, they are pressured to become partisan in carrying out their duties or else are punished upon refusal. On a personal level, they are not paid for months or underpaid, sometimes not allowing them to support their families. There are few opportunities in their societies for them or their family members to advance professionally or financially. These conditions breed low morale and make corruption seem inevitable and a necessary evil. In areas where basic needs of citizens cannot be met, talking about professionalism and ethics can seem a luxury.

Even under the harsh conditions noted above, a countless number of public servants around the world have continued to selflessly serve the public. They are worthy reminders that public service performance and integrity are an integral part of democracy, good governance and development. Public servants need not only to avoid criminal acts but actually strive for professional and ethical conduct. For, as observed above, without the necessary public confidence in government, popular participation and cooperation necessary for a vibrant democracy and sustainable development will not grow.

### **The role of the United Nations**

The United Nations has an interest in the global, regional, and national challenges which public services are facing everywhere and a mandate for taking action. Given the important link between public service performance and development, and the link between public service performance and its professionalism and ethics, it has been active in promoting the latter. In addition, it has also been concerned about the related and broader problem of corruption.

To mention only the major activities of the United Nations, the General Assembly adopted a number of resolutions to encourage government ethics and fight corruption. The most recent and major ones include Action against Corruption (A/RES/51/59)

that has annexed to it the United Nations International Code of Conduct for Public Officials, adopted in 1996; The United Nations Declaration against Corruption and Bribery in International Commercial Transactions (A/RES/51/191), also adopted in 1996; and the International Cooperation against Corruption and Bribery in International Commercial Transactions (A/RES/52/87), adopted in 1998 (see annexes 1-3).

The work that promotes public service professionalism and ethics is carried out as part of the United Nations Programme in Public Administration and Finance, from Secretariat Headquarters in New York. (See section below.) The Secretariat also promotes crime prevention and criminal justice, including fighting corruption, through its Vienna Office.

The United Nations Development Programme has been tackling corruption as an integral part of a comprehensive governance strategy at the country level. It has also set up a Programme for Accountability and Transparency in financial and overseas aid management.

The World Bank group has been working on preventing corruption in its projects, assisting client governments to reduce corruption, “mainstreaming” anti-corruption strategies to integrate them into overall country assistance and economic sector work, and disseminating information on international efforts to reduce corruption.

### **United Nations activities to promote public service professionalism and ethics**

For fifty years, the United Nations Programme in Public Administration and Finance has been providing research and analysis to inter-governmental bodies and policy advice and technical cooperation to member states upon request. Currently, the work of the Programme is being carried out by the Department of Economic and Social Affairs, Division for Public Economics and Public Administration. Under the Programme, many fora have been organized where countries

could consult one another about their experiences, both in comparing problems that they face and sharing best practices in finding solutions. The Programme is advised by a Group of Experts, which meets biennially and reports to the Economic and Social Council and, ultimately, the General Assembly.

The activities to promote public service professionalism and ethics have been mandated by General Assembly resolution 50/225 on Public Administration and Development, adopted in 1996 (see annex 4). This resolution broadly confirms the vital importance of governance, public administration, and finance to the development process. In paragraph 13(a), it also acknowledges the role of the United Nations in assisting governments, at their request, in “strengthening government capacity for policy development, administrative restructuring, civil service reform, human resources development and public administration training.”

Further, the most recent Meeting of the Group of Experts on the United Nations Programme in Public Administration and Finance, in 1998, acknowledged that “the State must be in the forefront of implementing change and smoothing the path for progress.”<sup>6</sup> The Experts called for “new approaches to management, exemplifying openness, adaptability, participation, flexibility, diversity and responsiveness.”<sup>7</sup> They recognized that “facilitating change and fostering a new image for the public service call for new career structures which emphasize mobility, the importance of integrity and professionalism and the overriding claims of merit in the recruitment, placement and promotion of public servants.”<sup>8</sup>

In 1997 and 1998, the Division for Public

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<sup>6</sup> United Nations, *Work of the Fourteenth Meeting of Experts on the United Nations Programme in Public Administration and Finance: Report of the Secretary General*, (E/1998/77), 1998, paragraph 39(a)

<sup>7</sup> *Ibid.*, paragraph 39(b)

<sup>8</sup> *Ibid.*, paragraph 39(c)

Economics and Public Administration co-organized a series of conferences on professionalism and ethics in the public service. In 1997, the Division began by co-organizing a regional conference on Public Service in Transition: Enhancing Its Role, Professionalism and Ethical Values and Standards, hosted by the Government of Greece. Ministers and high-ranking civil servants from 21 countries of Central and Eastern Europe as well as representatives from major intergovernmental organizations attended in Thessaloniki. The participants discussed the importance of a professional and ethical public service in the transition process.

Also in 1997, the Division co-organized a colloquium in Brasilia on Promoting Ethics in the Public Service, for senior federal and state public servants. The deliberations of the event, sponsored by the Government of Brazil, were forwarded to the Brazilian Council on State Reform to be included in its recommendations to President Henrique Cardoso in launching a national ethics initiative in the public service.

In 1998, the Division co-organized the Second Pan-African Conference of Ministers of Civil Service on Civil Service in Africa: New Challenges, Professionalism and Ethics in Rabat. The event was hosted by the Government of Morocco. At the conference, ministers and other high-level representatives from 35 African countries adopted a declaration (see Annex 5), broadly recognizing the important link between civil service performance and the socio-economic development of African nations.

In addition to these conferences, the Division also supported other regional and national conferences on the themes of ethics and anti-corruption strategies. In 1997, the Division supported the International Seminar on Ethics and Public Administration in Venezuela, sponsored by The Presidential State Reform Commission of Venezuela (COPRE) and The Latin American Centre for Development Administration (CLAD). In 1998, the Division was an international observer and participant in the national consultative conference on the Promotion of Ethics and Combating of

Corruption in Namibia.

Although these conferences took place in different regions, the participants recognized that new, common responsibilities have been placed on the public administrations of their countries. These new responsibilities result from globalization, new communication technologies, and the disparities of income and opportunities of their citizens. The participants considered a well-performing and transparent public service as an essential pre-requisite for private sector growth and economic development. Consequently, they viewed the promotion of professionalism and ethical standards in the public service as a key issue for development.

### **United Nations publications on professionalism and ethics in the public service**

This present volume is an overview of the findings of the three conferences, co-organized by the United Nations. There are five chapters. In addition to this present introductory chapter, chapters 2 to 4 summarize the main issues and synthesize the recommendations and conclusions that were discussed at the conferences. Chapter 5, the concluding chapter, attempts to compare the findings of these conferences, in terms of any similar or diverging trends.

Rather than follow a strict chronological order, the chapters have been arranged to cover the regions and then give the national example of Brazil. Since the two regions have the wide range of country experiences in common, they were placed side by side. Chapter 2, Cases in Countries in Transition, is a summary of the 1997 Thessaloniki conference. Chapter 3, Cases in Countries in Adjustment, is a summary of the Second Pan-African Conference of Ministers of Civil Service, held in Rabat in 1998. Chapter 4, The Case of Brazil, is a summary of the colloquium held in Brasilia in 1997.

Chapters 2 to 4 have been organized the same way, to facilitate comparison among them. The first section sets the context for the region or the

country. This is followed by sections on the implications for the role of the public service, its professionalism, and ethics. These three sections are based on conference papers that have been commissioned to explore related issues. As well, they are based on country papers and presentations at the conferences that described current practices. The final section summarizes any conclusions by and recommendations from the conference participants on the way forward.

In addition to this present document, three other separate reports have been prepared. First, *Public Service in Transition: Enhancing Its Role, Profes-*

*sionalism, and Ethical Values and Standards* is a full report of the regional conference for Central and Eastern Europe. Second, *Civil Service in Africa: New Challenges, Professionalism and Ethics*, is the complete report of the regional conference for Africa. Third, *Promoting Ethics in the Public Service*, covers the colloquium, held in Brazil. These publications seek to contribute to the global dialogue on the crucial role of the public service in development and the need to boost its performance through enhancing professionalism and ethics.

# Cases in Countries in Transition<sup>1</sup>

## Transition in Central and Eastern Europe

Transition is a term that is applied to countries of Central and Eastern Europe which are currently experiencing a major political, economic, and social transformation as old orders are giving way to new ones. Since 1989, with the fall of the Berlin Wall and the collapse of the Soviet Union, countries in this region have seen markets replace centralized plans and democratic elections succeed single-party states. With the end of the Cold War, the region is searching for a new place in the world order while the countries are seeking to recast themselves.

The common ground on which these countries started is that despite their long and rich histories that are centuries old, they are relatively new states and certainly new democracies. The majority were born out of the dissolution of the large, multi-national empires in Europe, at the end of the First World War. Many of them share the legacy of those empires. The institution-building drive that marked the first decades of these new states was interrupted by the Second World War and the division of Europe into East and West that followed. Among the Eastern European and the former Soviet Union countries, the speedy collapse of communism account for some initial features of the transition process. These are the widespread rejection of former patterns of government and rapid political, economic and social changes.

At the same time, the countries in the region also began with a wide variation of initial conditions before embarking on the transition process. They had differing historical and cultural legacies, geography, economic and social structures, lengths of periods of central planning, experience with market reforms, etc. For example, those

countries—such as the Czech Republic, Hungary and Poland—which already had an industrial economic base or had already experimented with economic reforms were more easily able to liberalize their economies. Other inheritors of a command system which allocated production with a view to political control rather than economic efficiency had to offset that legacy. Thus, “under Comecon, Belarus ‘got’ tractors, Slovakia tanks and Bulgaria toothpaste.”<sup>2</sup>

In addition to their legacy of monolithism, the countries have also faced other challenges, resulting from the transition itself. First, many countries have been characterized by frequent changes in government that have made it difficult for them to stay steadfastly in one policy direction. For example, Russia has experienced numerous cabinet shuffles and changes in prime ministers which have added to the political and economic uncertainty and confusion. This situation has contributed significantly to capital flight and a reluctance for further investment. Second, transition has been much more orderly in some countries than in others. The latter have been characterized by a breakdown of social order, financial instability, a growth in the informal sector in the economy, corruption, and a general weakening of the rule of law. Third, the need to decentralize authority has meant the creation of local governments. These new administrative structures need to generate revenue and deliver services at the local level, clarify their functions vis-a-vis the central government, and train public servants in new duties.

Further, many countries in the region are suffering from natural or man-made disasters, that are compounding the difficulties of transition. To illustrate, Armenia is still recovering from a devastating earthquake in 1988, during which one

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<sup>1</sup>This chapter is a summary of the 1997 Thessaloniki Conference.

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<sup>2</sup> Nicholas Stern, “The Future of the Economic Transition,” EBRD Working Paper No. 30, 1998, p. 3.



third of the country was severely affected and damaged. It is living with this legacy in the midst of ongoing ethnic conflicts in three out of four neighbouring countries. The Czech Republic dealt with catastrophic floods which occurred during the summer of 1997. The damages are estimated to be in billions of Czech crowns. Georgia is trying to build a new state in the face of resolving territorial disputes, returning more than 300,000 refugees to their homeland, and a sharp energy crisis. Both Albania and Montenegro currently face an influx of Kosovar refugees who are stretching their already limited resources.

In the face of these challenging conditions, most of these countries are ill-equipped, with inadequate public administrative structures inherited from former regimes. Major political and economic structural changes have not been accompanied at an even pace with public administrative reforms. This has led to situations of a lack of harmony between a market economy and a democratic state on the one hand and an unchanged functional and organizational system of public administration, working under often outdated legal regulations, on the other.

In fact, the very definition of the public servant is changing radically in these countries. Under former socialist states, agents of public administration and employees of enterprises fell under a single legal system, deriving from a labour code applicable to all. By contrast, in Western European countries, public servants are subject to specific civil service laws that define their roles and responsibilities. At present, countries in transition are now in the various stages of drafting and implementing such laws to create a professional civil service. In effect, this “rebirth” of the profession requires a re-examination of the fundamental values, principles, organizational structures and programmes which have defined the public service as an institution since its inception.

## **United Nations Conference on Public Service in Transition**

To provide a forum to re-examine these issues, the United Nations co-organized a regional conference entitled *Public Service in Transition: Enhancing Its Role, Professionalism and Ethical Values and Standards*, in November 1997. The conference programme was organized by the United Nations Department of Economic and Social Affairs, Division for Public Economics and Public Administration—then named the Division for Governance, Public Administration and Finance. The conference itself, held in Thessaloniki, was hosted by the Greek Ministry of the Interior, Public Administration and Decentralization and organized in cooperation with the United Nations Development Programme, Regional Bureau for Europe and the Commonwealth of Independent States.

Over 120 participants attended, including ministers and senior officials in charge of the public service in 21 countries of Central and Eastern Europe. Countries represented were Albania, Armenia, Azerbaijan, Belarus, Bulgaria, The Czech Republic, Estonia, the Former Yugoslav Republic of Macedonia, Georgia, Greece, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, the Russian Federation, Slovakia, Slovenia, Turkey, and the Ukraine. In addition, major international and regional organizations such as the European Commission (EC), the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), the Organisation for Economic Cooperation and Development (OECD), the International Institute for Administrative Science (IIAS), and Transparency International (TI) among others were represented.

The participants discussed the enormous political, economic and social transformation which Central and Eastern Europe is experiencing, as

countries embark on reforms from a one-party to a pluralistic state and a centrally-planned to a market-oriented economy. The results have been changes to the role of the state and the need for the public service to adapt. However, the participants acknowledged that forces such as globalization, rapid advances in communications technology, and the emergence of a vibrant and vocal civil society are affecting public services of all regions and countries.

The discussions addressed the legacy of control and command structures of the public service in Central and Eastern European countries which is impeding current efforts to reform them. But the public service has a pivotal role to play in shaping a new society by rediscovering and embodying the true meaning of public interest and placing itself at the disposal of the society as a whole rather than of a select group or by promoting its own interests. In order to do this, its professionalism needs to be enhanced. Its main functions: policy analysis, public management and performance monitoring and evaluation must be strengthened within the context of the current transformation. In addition, democracies survive in the long run only if there is a sufficient level of public confidence that government officials will act ethically. Therefore, ethics in the public service should be promoted.

This chapter is an overview of the issues presented, discussions held, and recommendations that emerged during the conference as the participants looked to strengthening the public service in order for it to play a crucial role in the transition process. It is also a description of what is actually taking place in the region, based on the papers which 17 of the 21 countries submitted. These country papers outlined their national experience in the domains of public service professionalism and ethics.

### **The role of the public service**

Under socialist states, the countries of Central and Eastern Europe tried to exercise state control over all economic and social activities. There was little or no differentiation in the legal status between

core agents of public administration and employees of enterprises, nor between central or local administration or parastatal organizations. Moreover, the administration was highly politicized, in “a relationship characterized by the complete subordination of the administrative agents to a political authority, present in both aspects as governmental authority and as a single dominant party. In this way, by means of the notorious ‘nomenklatura’ (i.e. lists of jobs which could be filled only with the party’s agreement), the complete integration of the administration with the State power was realized.”<sup>3</sup>

One aspect of transition, then, is the breakup of this monolithic state. “However, transition has made it necessary for public administration to be both the subject and actor in this reform.”<sup>4</sup> This means, in effect, that a modern and effective public service has to be “carved out” from this amorphous, omni-present state in order to effectively recast their countries. Concurrently, at the global level, citizens are demanding more and better services from their governments, pushing for more state involvement in new spheres such as protecting the environment and improving the quality of life. These two forces, the first which requires a reduction in the role of the state and the second which requires an increase, are making contradictory demands on the state. They are complicating the environment within which the public service must recreate itself. On practical terms, the public service in its efforts to redefine itself has to carry out contradictory roles, leaving gaps in legislation and inadequate controls in former areas of control and centralization and regulatory activities in new areas of activities.

To respond to these challenges, those countries present at the Thessaloniki Conference mentioned

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<sup>3</sup> Gérard Timsit, “The Public Sector: Current Trends and Constraints,” a paper presented at the Regional Conference on Public Service in Transition: Enhancing Its Role, Professionalism and Ethical Values and Standards, 1997, p.2.

<sup>4</sup> *Ibid.*, p. 3.

undertaking some form of public administration reforms. It is helpful to place any attempt at redefining the role of the public service within these contexts. In general, the principle objectives of reform include reinforcing the rule of law and consolidating democratic institutions,

decentralizing and deconcentrating administrative structures and functions, modernizing the public service, and working towards the goal of integrating into the European Union.

First, a number of them indicated that they were undertaking reforms in public administration as a part of trying to reinforce, and in some cases reintroduce, the rule of law and consolidate institutions of democracy. The majority of the countries in the region introduced a new constitution in the 1990s and a set of new legislation to separate powers, create institutions of democracy, set up new government machinery, and revamp administrative systems.

A good example is Estonia, which gained independence in 1991 and adopted a new constitution in 1992. It introduced new government institutions, namely the institution of the Presidency, Parliament, Chancellor of Law, The State Audit Office, and the Estonia Bank. In addition, it introduced ministries at the central level and rural local governments. However, Estonia observed that many laws were created hastily, with resulting overlaps between legislation and problems in implementation.

The second theme in public administration reforms has been decentralization and deconcentration. In terms of decentralization, a number of countries such as the Czech Republic, Hungary, Poland, Slovenia, Slovakia, and Turkey have mentioned a transfer of powers from the central to the local level as well as trying to delineate the mandates and functions of these levels. The Czech Republic mentioned its long-term strategy for public administration reform, covering the central and territorial administrations and local communes. (At present, there are 6,234 local communes, indicating an increase of 50% since 1989, governed by the Act on

Municipalities.) In introducing “self-government” at the territorial levels, the Czech Republic noted running into problems of finding a common political will, even on a coalition basis. In terms of deconcentration, Georgia has given more autonomy to individual ministries. It has created a Bureau of Public Administration, within the State Chancellery, to deal with the organizations of government machinery and human resources management system.

Third, most of the countries indicated that they are striving to modernize their public service. Armenia, Bulgaria, Hungary, Latvia, Lithuania, Slovenia, and Russia mentioned attempting to demarcate political appointees from career civil servants. They are trying to lay out a legal basis for a civil service, defining the status, rights and obligations of civil servants. In the process, they are also laying down the framework for a professional civil service, characterized by required competencies, training opportunities, and held to certain quality standards.

As an illustration, Armenia noted holding a conference on civil service reform in the fall of 1997, facilitated by EU experts. As one result, political appointees and certain staff on contracts are being defined as being outside of the civil service. Further, the operational management of the civil service is to be carried out by the Executive Directorate which reports to the Council of Ministers. Dispute resolutions are to be carried out by independent, permanent commissions. This new concept of civil service is being tested in different ministries. Hungary introduced legal provisions to also separate political and administrative offices. The goals of the Act on the Legal Standing of Civil Servants is to guarantee a group of permanent staff in the civil service, neutral to party politics. To that end, the regulations had to focus on a system of promotions based on merit and a career system based on security. Latvia, upon World Bank advice, launched a census of its public sector in July 1997. The purpose was to gather information on the functions, hierarchical positions of institutions, financing, and number of employees.

The survey was coordinated by the Civil Service Administration and the Bureau of Public Administration.

Finally, a number of countries indicated the accession to the European Union as a stated objective of their public administration reforms. Bulgaria, Estonia, Latvia, Lithuania, Poland, Slovenia and Turkey are reforming their public administrations to harmonize their laws and regulations with those of the European Community. Slovenia stated that there are numerous reasons for the structural and functional modernization of the Slovenian public administration, ranging from the necessity for a more efficient operation of government institutions to the aspiration to become a full member of the European Union.

Thus, the picture emerging in the region is that of countries introducing and strengthening the separation of state power, devolving authority to lower levels of government and regional offices of departments, and harmonizing their public administration to the standards of the European Union. A modern public service that is highly effective is a crucial element for the countries in the region to build up their state capacity to integrate and compete within the global economy. To achieve a well-functioning public service, there must be in place a system of recruitment, training and rewards which brings out and utilizes the highest potential of public servants. A certain degree of functional specialization also allows for the required level of competence to develop. Thus professionalism is a key aspect of a modern public service.

## Professionalism

A professional or merit-based public service has a long history, including exams to qualify for public offices. The rationale behind professionalism is that public servants should be neutral, impartial, fair, competent and serve the public interest in carrying out their duties. They should be top people who are fairly compensated and adequately trained to perform their work. In order to effectively carry out government business in

today's complex world of globalization, there are a number of core functions which are crucial to public administration. For the purposes of the Thessaloniki Conference, public servants were seen to serve in many capacities which can be roughly grouped into three functions: policy advice, public management, and performance monitoring and evaluation.

Governments engage in crucial strategic planning for the future. They must review policy options, including their costs and benefits, before embarking on a course of action. Public servants are indispensable in providing policy advice, as they often have more experience within a sector and are closer to the day-to-day implementation of policies. To upgrade the core capacities of this group of policy advisors, professionalization of policy planning is recommended. There are some views that this is best achieved by postgraduate public policy schools, but sets of short workshops and intense training programs provide useful shortcuts to preparing urgently needed policy planning professionals.<sup>5</sup> Such training programmes should stress in-depth knowledge of a subject area, policy creativity and craft skills. They also stress rationality and an emotional detachment, even in the midst of a controversy, as well as a commitment to the public interest. Policy advice units could also be simultaneously introduced with such a training programme.

In addition to professional policy advisors, effective public managers are necessary to implement policies and run programmes. Besides recruiting and training good people, there needs to be in place a legal framework and institutional and management structures necessary for the making of good managers. In setting up such a structure, the following elements should be

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<sup>5</sup> Yehezkel Dror, "Enhancing Professionalism in Public Policy Planning: The Making of Highly Qualified, Creative and Conscientious Policy Advisers," a paper presented at the Regional Conference on Public Service in Transition: Enhancing Its Role, Professionalism and Ethical Values and Standards, 1997.

considered.<sup>6</sup> The selection, training and career management as well as the administrative context within which managers operate must be improved. Top management positions should be defined and protected from political partisanship through a professional selection process. There should be a special law, a civil service law, to spell out the status of public servants, including their rights and duties and sufficient benefits to ensure that highly qualified individuals will be attracted to the public service. Countries should establish a central government unit to manage and oversee the public service. A separate system of recruiting, appointing and managing the career of senior managers should also be set up. Because public service reform is a long term process, top management reform should begin early in the implementation phase and be carried out to lower levels. There should also be a recognition that special transitional provisions may be needed in the early stages of top management reform. Finally, broad political consensus is needed for top management reform, both by the public and other public sector employees. Without these measures, governments will find it difficult to compete with the private sector for a tight supply of good managers.

After giving policy advice and managing public programmes, public servants must be prepared to assess their own performance and degree of accomplishment, as a demonstration of their professionalism. “During the 1980's and 1990's, attempts to measure the results of government activities have accelerated, as a key component of more general civil service reforms and in the face of increasing lack of confidence in government. Efforts to implement changes in the role of government and concepts of governance have made the quest for performance measures and

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<sup>6</sup> Staffan Synnerstrom (SIGMA), “Professionalism in Public Service Management: The Making of Highly Qualified, Efficient and Effective Public Managers,” a paper presented at the Regional Conference on Public Service in Transition: Enhancing Its Role, Professionalism and Ethical Values and Standards, 1997.

program evaluation more urgent.”<sup>7</sup> A number of measures such as inputs, activity levels, outputs, outcomes, productivity, customer satisfaction, service quality, and the like can be employed, depending on the purpose of the evaluation. However, problems encountered in using performance measures include constructing valid measures, actually using the information in decision making, and treating evaluation as merely an exercise in public relations. Despite these drawbacks, resulting information can be used by the public in holding governments accountable for their decisions and actions. “Public servants need to apply their professional expertise and judgment to developing sensible, useful and truthful measures of performance to advance public purposes.”<sup>8</sup>

In light of these functions, four dimensions of professionalism which received special attention during the conference can be summarized: public service autonomy, structure, employment conditions, and training.

Most countries agreed that, in many cases, one-party rule “de-professionalized” officialdom through total subordination to shifting party exigencies. Restoring and safeguarding a measure of institutional autonomy has been a prime objective of civil service laws, enacted or being drafted in several countries. Poland started early in 1982 with the Law on State Officials which stabilized, to a certain degree, the situation of public officers and set out the principles of their work. Hungary reported that it became of the utmost importance that political and administrative functions be absolutely delineated in public administration and in the administration of the municipalities. In Latvia, the law identified those organizations where civil servants who

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<sup>7</sup> Naomi Caiden, “Public Service Professionalism for Performance Measurement and Evaluation,” a paper presented at the Regional Conference on Public Service in Transition: Enhancing Its Role, Professionalism and Ethical Values and Standards, 1997, Abstract.

<sup>8</sup> Ibid. Abstract.

serve political officials are not considered civil servants. In Lithuania, by contrast, civil servants are divided into two ranks: those whose term coincides with the appointment of their political masters and those whose period of service is independent from that of the political head.

Ostensibly, a degree of separation between political and administrative posts has been considered critical to the organization of civil service careers. Most countries indicated that they were inclined towards a career principle which is enshrined in civil service laws. The principle is tied to guarantees of tenure, related rights and duties, eligibility conditions, selection criteria, and conditions of service.

A career civil service structure depends on two major sets of factors. First, there needs to be rationality, transparency and coherence in the personnel system. Second, the responsibility for the coordination of civil service management needs to be clearly designated.

Although not all countries provided the necessary details to form a clear picture of their prevailing situations, it seems that the traditional model of dividing personnel into categories is still widely followed. Poland cited the fact that under the previous regime, political orientation had been the most important criterion for a civil servant. As a result, there was a lack of personnel policy in terms of recruitment and selection, training schemes, staff appraisals, and modern management and administrative methods. Now, Poland is implementing a personnel structure based on four classes (broadly: executive, managerial, professional, and support) which are filled according to an employee's educational credentials. Both Bulgaria and Georgia have also stressed the importance of working out standardized job descriptions, performance measures, uniform tests, and retraining schemes.

Perhaps as a reaction to the fragmented state of public personnel under the former regime, most countries reported a predilection for a central coordinating mechanism. The Ministry of the Interior is commonly designated, as is in Hungary,

Slovakia and Slovenia. However, in a number of countries such as Latvia, a Ministry of State Administration has been specially established for this purpose. The problems of designing, enforcing and implementing a common system are compounded by the proliferation of organizations without a common denominator and regulated status.

In addition to autonomy and a coherent structure, the civil service must be able to attract, retain, develop and motivate men and women of the requisite caliber to be a professional institution. At the most basic level, a number of countries identified inadequate pay as a problem. The Czech Republic suggested that low salaries of officials have caused a mass exodus of the most qualified to the private sector. In Albania, weak personnel is considered to be one of the key impediments to administrative reforms. According to its paper, this may be a reason why a Civil Service Law was passed in Albania but never enforced. However, other papers mention that inadequate pay is partly offset by non-monetary incentives such as enhanced job security, travel opportunities, and prospects for retraining. For instance in Latvia, where the average age of civil servants is low, many young women and men opt for civil service positions, which offer the possibility of parallel enrolment and study for a degree.

The problems of low pay are frequently compounded by the compression of salary scales, resulting in inadequate differentials between the highest and lowest grades. Unfavourable internal, as well as external, comparisons work against the retention, motivation and development of experienced and competent staff.

The knowledge and competence of civil servants depend largely upon pre- and in-service training. As such, all country papers identified training as a principal vehicle of administrative reforms in the transition process. The establishment and strengthening of training institutions were some of the earliest steps taken in building a new or modernizing a civil service. The papers indicated that the countries benefited greatly from the support and

guidance received from various bi-lateral programmes and international agencies.

Countries have adopted different arrangements for pre-entry training. Hungary, for instance, has left this to colleges and universities. Latvia and Poland provide it by contract, preferring a highly institutionalized approach to preparing candidates for the civil service profession. Country papers mentioning in-service training have stressed management training, in an attempt to impart the new approaches of pluralist democracies and market-oriented economies. Another reason for providing in-service training has been to implement new legislative measures and rules in the transition process. Finally, in-service training is seen as infusing and reinforcing an esprit de corps among all civil servants.

There seems to be an overall introduction of a career structure for the public service in the countries in the region. This structure is composed of provisions defining a civil servant in the civil service law, a career system, and training opportunities. What is yet unclear is the degree of specialization of the public servants in relations to the three functions outlined above. Further, proper remuneration, capable of attracting top people, seems to be a problem for a number of countries. However, the countries in the region have made very encouraging starts towards strengthening public service professionalism.

## Ethics

Ethics and corruption can be considered the two sides of a coin. The term “ethics” connotes an aspirational approach to conduct, focusing on the prevention of illegal or immoral behaviour by encouraging and rewarding desired behaviour. “Corruption”, on the other hand, conjures up a disciplinary approach to shaping conduct, through enforcing and punishing illegal or criminal behaviour.

It is being acknowledged that corruption and lack of accountability among public officials—in collaboration with the private sector—poses a serious threat to democracy, human rights, and the rule of law. This is true not only for Central and

Eastern Europe but for the rest of the world. Corruption and organized crime are undermining the fragile foundations of emerging democracies. Government leaders are not demonstrating a willingness to deal with the problems to cause much optimism for meaningful reform. But, failure to control corruption could spell economic, social, and political disaster. There are alternative strategies for enhancing ethics in government and among public officials, including legal, organizational, and institutional frameworks which might be utilized to enhance ethics in the public service. These strategies are based on the view that reforms to safeguard public integrity are central to the survival of democratic governments because institutions based on sound ethical principles are necessary preconditions for stable democracies.<sup>9</sup> Further, these reform measures should be cost-effective. Select reforms, implemented effectively and enforced consistently, can provide an appropriate balance between compliance and integrity based approaches.

Unfortunately, corruption is prevalent world-wide. It thrives under conditions of power monopolization, and a lack of transparency and accountability.<sup>10</sup> Combatting corruption begins with better systems, more competition, and transparency and accountability in government. In line with this approach, anti-corruption strategies should focus on repairing institutions prone to corruption, involving people. They should take part in both the diagnosis and remedy of those ills and punishing major offenders.

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<sup>9</sup> Kathryn G. Denhardt, “Enhancing Ethics in the Public Service: Setting Standards and Defining Values,” a paper presented at the Regional Conference on Public Service in Transition: Enhancing Its Role, Professionalism and Ethical Values and Standards, 1997.

<sup>10</sup> Robert Klitgaard, “Combatting Corruption and Promoting Ethics in the Public Service,” a paper presented at the Regional Conference on Public Service in Transition: Enhancing Its Role, Professionalism and Ethical Values and Standards, 1997.

Progress in this direction may be slow and politically costly. Precisely on this account, international cooperation can prove a useful strategy by helping national leaders justify anti-corruption measures that might otherwise be embarrassing, or difficult to make credible. Top leadership initiative, active participation by heads of key departments, and the involvement of civil society are critical components of a successful strategy. A cooperative approach could prove extremely effective in galvanizing systemic action by both the private and public sector to reduce corruption in a region.

All the countries at the conference acknowledged some form of legal and institutional reforms to enhance the prevention, detection, and prosecution of illegal or corrupt behaviour in the public sector. Measures to prevent corruption included conflict-of-interest or financial disclosure provisions, the introduction of codes of ethics or conduct, the promulgation of overall anti-corruption initiatives, and increasing transparency in and accountability of government actions. To enhance the detection of criminal or illegal behaviour, the countries described improved investigation procedures. To better prosecute corruption, they highlighted strengthened legal framework and measures against organized crime.

During the conference, Albania, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Russia and the Ukraine reported introducing either legal or administrative bases for conflict-of-interest or financial disclosure filings. The coverage of these filing provisions range from just the top civil servants, as in the case of Russia, to both the executive and judicial branches of government, as in the case of the Czech Republic. The scope of these provisions range from publicly filing affidavits of income, real estate, and gifts to a prohibition on holding outside employment, abusing privileged information, serving on boards of business entities, holding stocks in business enterprises receiving state contracts with the prohibition extending to family members, and post-employment restrictions. In most circumstances,

scientific, journalistic, literary or artistic activities are exempt from outside employment restrictions.

Just to mention a couple of examples, Albania outlined principles of ethics in its 1996 Civil Service Law. These principles were elaborated on by a decree on ethical rules by the Council of Ministers in 1996. The decree outlines the need for a declaration of interests and disciplinary procedures, while prohibiting the reappointment of officials previously dismissed for corruption. As alluded to above, the Albanian paper noted that since these provisions function within a context of base civil service salaries being at or below poverty rates, the latter situation should be redressed.

In Hungary, the objective of the laws governing the civil service is to ensure its neutrality while respecting the fundamental freedoms declared in its constitution. Some important restrictions include civil servant not being able to represent the local government, operating in the same area as the central government agency of his or her employment. A civil servant can enter into a legal relationship related to his or her work only with the permission of his or her employer. Civil servants in managerial positions may not enter into any legal relationship related to his or her work except for scientific, teaching, artistic, editorial or intellectual activities, subject to copyright protection. Civil servants may not hold an office of a political party or appear in public on behalf of a party.

Regarding codes of ethics or codes of conduct, four countries: the Czech Republic, Hungary, Poland and Russia indicated that they existed in some form or were being contemplated. The Czech Republic observed that certain groups of public sector employees such as doctors, judges, attorneys have ethical codes which are governed by specific professional principles. Hungary was looking to the OECD experience in developing a Code of Ethics and, since then, has adopted one. The paper on Hungary observed that a Code provides reliable standards of behavior in performing duties of a civil servant. Further, the process of drafting such a Code and a knowledge



of its contents may preempt a number of disputes, workplace conflicts, and may enhance the credibility and prestige of the civil service in the eyes of the public. Poland noted that in 1994, the Minister of the Interior issued a Decision to regulate or restrict the acceptance of gifts. Finally, Russia wrote that it was in the process of preparing a Code of Ethics.

Three countries mentioned setting up some kind of structure to carry out an overall anti-corruption initiative. Estonia mentioned creating two Parliamentary committees to deal with corruption and monitor secret services. Georgia noted forming a special parliamentary committee to oversee problems. In Latvia, the anti-corruption movement gained momentum in 1997. A two-day conference for high-ranking civil servants was held, using the Hong Kong experience as a benchmark and focusing on prevention, investigation, and civic education. A Council of Prevention of Corruption was established by a Cabinet decision and presided by the Minister of Justice to coordinate the work of executive institutions. Latvia also set up a programme for 1997-2000, "The Clean Hands" Commission to investigate and address citizen complaints.

Others also mentioned measures to improve transparency and accountability in government operations. To enhance the transparency of its government procedures, Greece gives its citizens more access to information and introduced service standards, as a result of legislation introduced in 1986. Moreover, the office of the Ombudsman ensures a certain measure of accountability towards its citizens. The Ombudsman is an independent authority, chosen by the Council of Ministers. The Ombudsman is appointed by presidential decree for a five-year, non-renewable term. In Poland, parliament exercises direct control over state finances through its Commission for Economic Policy, Budget and Finance and by the Supreme Chamber of Control, which audits departments and agencies and often publicizes its findings. Slovenia has also recently introduced an Ombudsman. However, the paper notes that the short period since its establishment

is insufficient to judge its effectiveness.

In addition to the above-mentioned preventive measures, the Czech Republic, Greece, Latvia and Poland specifically mentioned strengthening investigation to detect illegal or corrupt activities.

The Czech Republic set up a special unit within the Police Service for the Detection of Corruption and Serious Penal Activities. This unit is composed of an analytical centre and territorial units in large urban areas. Under its Constitution, an Investigative Commission of the Chamber of Deputies, endowed with broad powers, can be set up for high profile cases.

Greece mentioned special bodies of inspectors such as Financial Inspectors and the Financial Crime Confrontation Body under the Minister of Finance. There are also Administrative Inspectors under the Minister of Interior and Public Administration, set up to increase public scrutiny of the bureaucracy, combat corruption, and improve effectiveness of specific policies. Poland stated that inside every government agency, there is an internal control unit to detect any irregularities and present them to relevant authorities. Inside police and border guard offices, special cells and units have been formed to combat economic crime. Also, there are a number of specialized state bodies such as the State Trade Inspectorate and the State Inspectorate for the Procurement and Processing of Agricultural Produce.

Most of the papers recognize the role of legislation in providing a basis for prosecuting and sanctioning corruption and crime. Specific legislation were mentioned by the Czech Republic, Georgia, Hungary, Poland and the Ukraine. A good example of having a legal framework in place is the Czech Republic. Its Penal Code provides a definition of bribery acceptance and offer (with punishment being greater if the act has been committed by a public servant), indirect bribery, and abuse of public office. Further, the Act Preventing the Legalization of Criminal Profits facilitates the detection and prevention of money laundering. This act

requires financial institutions to identify parties to certain business transactions, to notify financial and customs institutions of “unusual business transactions”, and to delay the execution of certain order. The Public Procurement Act sets policy on awarding public contracts, overseen by the Office for the Protection of Economic Competition. The act ensures that proper procedures to be followed, such as the opening of tender envelopes in the presence of more than one person, and sanctions infractions. The Commercial Code oversees the competition policy and provides legal protection against unfair competition.

The paper on the Czech Republic notes that although the legal framework is in place, some of the measures are being implemented slowly by judicial and executive agencies. It elaborated that these organizations must learn to implement laws in a correct and consistent manner. It is necessary to change the whole cultural environment so that the activities of the respective public authorities elicit a positive response from the wider public.

Related to strengthening legal provisions to facilitate the prosecution of corruption, the Czech Republic and Poland also mentioned legal measures to detect and apprehend organized crime. For instance, the Czech Republic amended its criminal law to assist in the detection and apprehension of organized crime members. These include defining criminal association, strict prosecution of perpetrators, conditions for information acquisition in the face of bank secrecy, fund freezing in banks, broadening witness protection, and recognizing foreign court verdicts, and new police methods such as the use of special agents. Poland has special units for combatting crime and gangs in the Ministry of Justice and 11 provincial prosecutor’s offices.

Clearly, Central and Eastern European countries are introducing measures both to encourage high standards of conduct and laying down a framework to enforce and punish corruption. These measures are especially crucial, given that this region is plagued by high levels of corruption and links to organized crime. As indicated by the low

ranking in terms of public integrity of some of the countries in this region in the Transparency International Corruption Perception Index of the past few years, efforts in the ethics and anti-corruption areas need to be stepped up. Without them, the region risks suffering from a further withdrawal of investment, an accelerated erosion of the rule of law, and severely weakened financial management.

### **The way forward**

During the conference, participants delineated the values and goals of “good governance” which should guide public service reforms: rule of law, democratic control and accountability, transparency, professionalism, high ethical values, subsidiarity, and equal treatment of citizens. They listed the many difficulties in upholding professionalism in the face of short-lived, indecisive governments and inadequate resources. They also came up with suggestions to tackle difficulties such as making training more practical and effective, focusing on managerial competence, and restoring prestige to the public service through means such as increasing compensation.

They acknowledged that corruption and crime are problems common to all countries and discussed the various aspects of an “ethics infrastructure” which would set in place the requisite legal and oversight framework, public service conditions, and training to minimize corrupt and unethical behaviour. Two special panels examined some actual cases of public service reform in the region and of civil society organizations’ involvement and contribution to promoting professionalism and ethics in the public service. Several participants observed that the role of civil society organizations is crucial and growing in constraining unethical behaviour in the public service. They are crucial in the overall governance process.

There was a widespread view that the conference had considered crucial and timely issues, not only for Central and Eastern Europe but for a world in throes of rapid change. The participants suggested that the United Nations consider developing a

Charter of Good Governance and Public Service (on the model of the Charter of Local Self-Government or the Citizen's Charter), possibly based on the United Nations International Code of Conduct for Public Officials (see Annex 1). Some participants expressed an interest in a follow-up conference on the same themes while others mentioned the usefulness of holding a regional conference on local governance.

All in all, the participants highlighted the value in gathering to discuss common problems and different ways to approach them. They concluded that, in effect, public services everywhere are “in transition”—that is, seeking to reform and improve themselves to meet the challenges of a rapidly changing world.

# Cases in Countries in Adjustment<sup>1</sup>

## Adjustment in Africa

Accumulated debts, a rapidly increasing<sup>1</sup> population, the spread of HIV/AIDS, inter-ethnic conflicts, and ecological disasters contribute to a general perception that Africa is a continent in crisis. However, it is also a continent with rich histories, an abundance of natural wealth and promise of human resources. Since the 1980s, many countries in the region have been undertaking macro-economic structural adjustment programmes, supported by the International Monetary Fund (IMF) and the World Bank. The objectives of these programmes have been to improve and strengthen a country's balance of payment position and enhance its economic growth.

The basic components of structural adjustment programmes include increasing revenues, improving the tax administration system, developing the financial sector and strengthening bank supervision, encouraging private sector development, controlling public expenditures, and streamlining public administration. It is within this final component that public service reform has been taking place.

Under these programmes, many African governments have attempted major policy reforms, with mixed results. On the one hand, as a result of these reforms, decision-making processes are gradually devolving to lower levels of government and out to civil society institutions. There have been attempts to encourage entrepreneurship and the growth of the private sector. There has been spreading political liberalization with an increasingly active civil society, calling for accountable and transparent political systems. One result has been an increasing number of multi-party presidential elections in the 1990s. In the past five years, a

number of countries—noteworthy are Botswana, Mauritius and Uganda—have made great strides economically, with annual gross domestic product (GDP) growth rates of higher than 4%.<sup>2</sup>

On the other hand, the external debt of African countries rose from US \$340 billion in 1996 to US \$349 billion in 1997, an increase of nearly 3 per cent. Debt servicing alone amounted to \$33 billion, taking up 21.3% of earnings from the export of goods and services.<sup>3</sup> In fact, over the past 15 years, the per capita income in sub-Saharan Africa has been declining at an average rate of about 1 per cent per annum. At present, more than two thirds (32 out of 48) of the least developed countries are in Africa, with about 50% of the region's population living in absolute poverty.<sup>4</sup> Although perhaps not directly attributable to structural adjustment programmes, health and nutrition standards have fallen, in the face of shrinking national budgets. Armed conflicts in a number of countries have created 20 million internally displaced persons, in addition to the 6 million refugees already on the continent.

This seemingly insurmountable situation must be overcome by establishing peace and good governance, managing the development process, and trying to integrate and compete in the global marketplace. These are the tasks for the present and future leadership of the continent, even as the public services, that should assist them in the endeavour, are now being scaled down and restructured. This change is a difficult one for public servants to face. The public service, as an institution, has a venerable history in post-colonial countries. The best and brightest were called in to set up administrations within the con-

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<sup>1</sup> This chapter is a summary of the 1998 Rabat Conference.

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<sup>2</sup> UNDP, *First Regional Cooperation Framework for Africa, 1997-2000*, p. 5.

<sup>3</sup> ECA, *African Economic Report 1998*, p. 7.

<sup>4</sup> Op. cit, UNDP, p. 4.

text of nation building exercises. They were an integral part of the promise for the future. Now, many public servants have expressed a sense of demoralization and a loss of prestige as the institution in which they were called to serve is one of the targets of downsizing. Within this context, it is a crucial time to revitalize the public service and reconstitute its professionalism and ethics.

### United Nations Conference on Civil Service in Africa

In recent years, many countries in Africa have been linking the issue of integrity of leadership and institutions to economic and social development. Sponsored by the United Nations, a number of conferences have been organized around this theme. The Pan-African Conference of Ministers of Civil Service, in 1994, expressed concern over the decline in the professionalism and prestige of the African public service and emphasized the need for measures to strengthen the performance and morale of public servants. In 1998, the theme of the Second Pan-African Conference of Ministers of Civil Service, was Civil Service in Africa: New Challenges, Professionalism and Ethics (more below). In 1997, the African Regional Ministerial Workshop on Organized Transnational Crime and Corruption in Senegal called for support for more action in fighting crime and corruption.

Further, the theme of the 1998 Second Africa Governance Forum in Ghana, sponsored by United Nations Development Programme (UNDP) with the support of UNDESA, was Transparency and Accountability. During the Forum, corruption emerged as one of the major issues of accountability and transparency, given the negative impact of all its manifestations on development. Also in 1997, the Southern African Universities Social Science Conference (SAUSSC) in Zambia passed a resolution, calling for democratic governance, ethical behaviour, public accountability and the control of corruption in Africa.

The most recent of the above-mentioned conferences was the Second Pan-African

Conference of the Ministers of Civil Service.<sup>5</sup> From 13-15 December 1998, in Rabat, Morocco, civil service ministers from 35 African countries and other experts focused on measures to enhance the role, Professionalism and ethics of the civil service as an institution. The event, which was jointly organized by the African Training and Research Centre in Administration for Development (CAFRAD) and United Nations Department of Economic and Social Affairs, Division for Public Economics and Public Administration, was hosted by the Kingdom of Morocco.

The countries represented were Algeria, Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, The Comoros, the Democratic Republic of the Congo, Côte d'Ivoire, Djibouti, Ethiopia, Gabon, the Gambia, Ghana, Equatorial Guinea, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritius, Mauritania, Morocco, Namibia, Niger, Nigeria, Sao Tome & Principe, South Africa, the Sudan, Togo, Tunisia, Uganda and Zimbabwe.

In addition, a number of regional and international organizations, such as the African Development Bank (AFDB), the Association of African Trade Promotion Organizations (AATPO), the Eastern & Southern African Management Institute, the Economic Commission for Africa (ECA), the Food and Agriculture Organization (FAO), the International Labour Organization (ILO), the Islamic Development Bank, the Islamic Educational Scientific and Cultural Organization (ISESCO), l'Observatoire

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<sup>5</sup> It is important to place the Rabat Conference in the context of it being a follow-up event to the first Pan-African Conference of Ministers of Civil Service which was held in Tangier four years previously. The Tangier conference was seminal in that the participating ministers requested the United Nations to review the importance of public administration to economic and social development. This happened two years later in New York. The General Assembly adopted Resolution A/RES/50/225 (see Annex 4) which emphasized the need to strengthen all government capacity, including civil service reform and human resources management. In so doing, the role of the public service in the development process was placed squarely on the global agenda.

des Fonctions Publiques Africaines (OFPA), and the Organization of the Islamic Conference were also present.

The participants discussed how to reposition their countries' civil services in the wake of a downturn in the global economy and structural adjustment policies and in the face of globalization and rapid technological advances. They conceded that everywhere, the need for a professional and ethical civil service has never been greater than now. With globalization, spreading democratization, a shift in balance between the state and market forces, and changing social mores, civil servants have to operate in a rapidly changing environment. In developing countries, their jobs are further complicated by a lack of basic infrastructures, a weak and unenforced legal system, often resulting in a breakdown of law and order, the politicization of the bureaucracy, low levels of pay, inadequate training, and so on.

At the conclusion of the conference, the participants adopted the Rabat Declaration (see annex 5). It calls for a Public Service Charter in Africa to affirm the values of the public service profession, a consultation process for a United Nations Day for Public Service and Development, and for the United Nations to continue in technical cooperation to improve professionalism, strengthen integrity, and combat corruption in the public service. The delegates also called on international financial institutions and other donor partners to allocate additional resources to facilitate public administration reforms.

This chapter is a synthesis of the issues presented, discussions held, and conclusions and recommendations that resulted from the conference. The participants considered how to make the public service more responsive, despite the cutbacks associated with structural adjustment programmes. The chapter also attempts to sketch out what is actually taking place in the region, although on a limited basis, based on written reports and discussions held. The reports and discussions gave a flavour of national experiences in promoting public service professionalism and

ethics in the region.

## The role of the public service

The role of the public service to the development of countries in Africa is now more important than ever before. On the threshold of a new millennium, the economic, social, technological, and institutional challenges that face Africa need to be addressed and overcome by the countries in the region.

The public service needs to adapt to the impacts of globalization and economic liberalization in order to serve its country to achieve better economic performance, through fostering investment and trade. Public servants need to redesign their organizational infrastructure for the management of enterprises, use a strategic approach and cultivate new service provision modalities, invest in business networks, and assist in fostering trust between small and medium enterprises and the banking and financial institutions. They can anticipate and plan for consequences of actions by multinational corporations or regional cartels which may adversely affect their national economy.

This new focus may require a shift in the role of the public servants from simply passively obeying orders to actively seeking out ways to assist the business community. "African public services will be required to a much greater extent than in the past to create a market environment that is favourable to investment and to make 'economic intelligence' in the service of entrepreneurship the bulwark of their policies."<sup>6</sup>

In many countries, the social challenges stem from an increasingly widening income gap between different social strata. Despite significant successes in increasing life expectancy at birth in sub-Saharan Africa and raising adult literacy

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<sup>6</sup> Abdelouahad Ourzik, "The Public Service in Africa: New Challenges," a paper presented at the Second Pan-African Conference of Ministers of Civil Service on Civil Service in Africa: New Challenges, Professionalism and Ethics, 1998, p. 7.

within the past 30 years, the highest rates of morbidity and mortality around the globe are in Africa. These trends show that there are many basic needs which are going unmet in the region. “The development of civil society and associative organizations cannot in a period of crisis be in and of itself a solution or pretext for the disengagement of the public service, particularly when the challenge is to combat the effects of unemployment and the exclusion of the vulnerable social classes or to fight against illiteracy and poverty.”<sup>7</sup>

On the one hand, public servants in Africa are being asked to operate within an environment in which more services are being deregulated, delegated to the private sector, and devolved to the local level. On the other, they are asked to balance this state withdrawal from the economy with maintaining social cohesion and solidarity, particularly in areas such as health, education, and public utilities—including drinking water and electricity. The challenge is somehow to shield the most socially vulnerable from the harsh effects of economic liberalization. This challenge comes at a time when resources are already stretched to the point where even basic needs cannot be met.

One hope which is being held out everywhere as a quick escape from economic stagnation and social dislocations is technology. As the global, knowledge-based economy increasingly rewards intellectual innovations and service industries, technology is being seen as a way to leapfrog into a more advanced stage of economic development. However, to harness the benefits of technology, a basic infrastructural platform and a highly skilled workforce is needed. In addition, there is the risk that the gains from technological advances would merely further polarize a society in terms of access to opportunities and services. Public servants have enormous influence on the decisions that are made about the priority of the role of technology in their national development strategies. They need to become well-informed

<sup>7</sup> Ibid., p. 7.

about the different options and appropriate levels of technology which would best fit their countries’ situations.

The external economic, social and technological challenges facing the public service in turn create internal cultural and “existential” challenges. In most of the countries in Africa, public servants are working within administrations bequeathed by former colonial powers. “The former colonial administration in no way resembled the ‘jacobin’ bureaucratic model, and the new African States in fact inherited a bureaucratic model largely patched together by the colonizers in response to the imperatives of conquest, day-to-day management and maintaining order....”<sup>8</sup>

This heritage has emphasized a conformity to rules at the detriment of meeting goals or achieving results. This bureaucratic thinking requires a cultural change for public servants to meet the external challenges described above. In practical terms, this type of change requires a spirit of cooperation and coordination among government departments and more consultation with the citizenry, as users of public services.<sup>9</sup>

In fact, considering the role of the citizenry and the underlying relationship between the state and civil society is the basis of the “existential” challenge that public services in Africa face. With the very foundation of its institution being shaken by deteriorating conditions of service and the lowering of its prestige, what is the “raison d’être” of the public service in Africa today? The effectiveness of the public service in the development process ultimately will depend on how public servants can lift their countries out from extreme poverty, the scourge of conflicts, debilitating diseases, and the growing inequality among the

<sup>8</sup> Dominique Darbon cited in Benoît Ndi Zambo’s “Towards a culture of cooperation and quality in the African Public Administration,” a paper presented at the Second Pan-African Conference of Ministers of Civil Service on Civil Service in Africa: New Challenges, Professionalism and Ethics, 1998, p. 17.

<sup>9</sup> See Ndi Zambo’s paper.

different social strata. Further, public servants must improve the quality of their services and involve their clients in the process. Their role is a shift from one of authority to one of leadership and facilitating inclusiveness. “In order to promote the role, professionalism and ethical values of African public administrations, leader-managers will be needed, endowed with a strong view of public service....”<sup>10</sup>

In practice, what the countries reported in terms of their public administration reforms addressed many of the concerns raised above. To illustrate with only a few examples, Morocco is deconcentrating its ministry structures to better reach the public. It reported rationalizing and modernizing the human resources management of the civil service, through updating civil service legislation and adapting regulations accordingly. In addition, it is instituting a good governance charter that stresses ethics, cutting bureaucratic redtape, and better communication. The focus of its activities has been to better involve and serve ordinary citizens.

Malawi also reported a focus on improving human resources management by establishing a performance and skills related salary structure. With the assistance of the World Bank, the country has been increasing the remuneration of skilled staff at middle and senior levels. The goal of these reforms has been to improve the efficiency of service delivery.

Mauritius has been modernizing its public administration through three major thrusts of institutional reforms. First, it is trying to set up “One Stop Shops” to make public services easier to use for the citizens. Second, it is utilizing information technology in policy development and collecting basic data. Third, it is trying to adopt Total Quality Management, based on the Singaporean model, to increase productivity and raise service quality.

A common thread through these reports is a shift in focus from public servants in positions of

authority to one in service. Moreover, they either aim to increase or rely on the professionalism of public servants.

## Professionalism

With the advent of the modern state, by and large, the role of the public service and a need for its neutrality, impartiality, integrity and competence is widely acknowledged. To promote professionalism in the public service, the merit principle needs to provide the foundation for all human resources management actions—from recruitment and selections for promotions to fair remuneration and disciplinary procedures. Moreover, many countries are trying to promote cultural changes among their public servants by turning from the notion of being a faceless bureaucrat, following orders, to adopting a more entrepreneurial, proactive, service-oriented attitude and involving the users of public services. As illustrated by the examples cited above, this is also true in many African countries.

“If we are to avoid the failures experienced by previous attempts at reform, it is necessary, however, to incorporate historic, economic and socio-cultural data that are characteristic of the African continent.”<sup>11</sup> First, because the private sector is struggling and a civil society is still in embryonic stages, the role of the state and its administrative apparatus is larger in guiding the development process of a nation than in western countries.

Second, the post-independence legacy of a single-party state and its control over the administration has resulted in a highly politicized public service. “Politics played a major role in decision-making and was deeply involved in the management of personnel....The increase in the powers of the political class to the detriment of the power of administrative managers resulted in, among other

<sup>10</sup> Ibid., p. 19.

<sup>11</sup> Turkia Ould-Daddah, “Restoring Professionalism to the Public Service in Africa,” a paper presented at the Second Pan-African Conference of Ministers of Civil Service on Civil Service in Africa: New Challenges, Professionalism and Ethics, 1998, p. 13.



things, a spirit of clannishness becoming entrenched, with its network of nepotism and favouritism, which is particularly manifest in appointments within the administrative structure.”<sup>12</sup>

Third, if public service professionalism is to include more responsive services to citizens, then it is necessary to take into account the socio-cultural values of Africans, especially rural Africans. A “review may provide an opportunity for (African countries to) dialogue with their partners in the industrialized countries to examine together the ways of reconciling contradictions or defining complementarities between the values of a professional public service in a modern State and the values held by users and partners of the administration, and even by public servants themselves.”<sup>13</sup>

Bearing this African context in mind, some tools and measures may be more likely to succeed in promoting professionalism in the public service. For any public service reform to succeed, it needs to be integrated into the overall reform of the state. Thus, public servants need to be attune to the needs of the private sector and civil society, in order to better carry out their functions. Public service professionalism and performance become essential parts of a good governance equation. Further, the legal framework remains a key instrument, by clearly setting out the rights and duties of civil servants. The professional advancement of public servants must be dependent on accepted criteria of efficient performance. This may reduce political bias of some public servants and encourage them to treat all citizens impartially and equitably in accordance with the law.

At the same time, public servants themselves should be guaranteed neutrality and shielded from political actions. This legal framework should be accompanied by more transparency and openness

on the part of government for citizens to monitor its performance. Evaluation and budget control would also make public servants more responsible for their decisions. Finally, administrative professionalism cannot be developed overnight. It needs time and efforts from all stakeholders. Training is essential for this type of attitudinal change. African socio-cultural values have to be examined, in order to integrate the values of the modern state such as the rule of law, upholding public interest, and the merit principle in administration.

In terms of actual country experience, a range of initiatives to promote professionalism was reported. Two interesting examples included an introduction of a Charter of Public Services and strengthened civil service reforms that resulted from multi-party elections.

Tunisia has recently instituted a Charter of Public Services which attempts to clarify the public administration-client relationship. It spells out the rights and obligations of each party as well as the regulations which govern the service provider and user relationships. It covers the fundamental principles underlying public services, rules governing administrative decisions and procedures, the rights and obligations of public officials and the need for protecting public services, the participation and representation of clients, and the access to information and protecting the rights of citizens.

Since Malawi gained independence in 1964, it has been under a one-party political system for 30 years. During this period, three commissions reviewed the public service and made recommendations for its reform, with various levels of ensuing implementation.<sup>14</sup> In 1994, multi-party elections were held, and the resulting government

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<sup>12</sup> Ibid., p. 14.

<sup>13</sup> Ibid., p. 16.

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<sup>14</sup> Department of Human Resources Management and Development of Malawi, (C. P. Msosa), “Public Service in Malawi: New Challenges, Professionalism and Ethical Standards,” a paper prepared for the Second Pan-African Conference of Ministers of Civil Service on Civil Service in Africa: New Challenges, Professionalism and Ethics, 1998, pp. 3-7.

launched a public sector reform programme, the Institutional Development Project, with the World Bank.

One aftermath of the elections was an increasing pressure for the public service to demonstrate neutrality, integrity, courtesy, expertise and dedication. A Public Service Act was promulgated in 1994 to provide equal access to public employment, merit based recruitment and promotion, and increased predictability/accountability/ transparency in civil service policies and practices. In addition, an Anti-Corruption Bureau and the Ombudsman's Office were established. Further, an effort to trim the civil service (which was 11,000 at independence, had grown to 50,000 by 1987, and rose to 113,000 in 1995<sup>15</sup>) was instigated in order to reduce public sector wage bill. Both the size and the costs have been growing at an alarming rate.

The essence of the civil service reform was to improve personnel management and control, reduce its size, establish a performance-and-skills-based salary structure and increase remuneration of senior public servants to reflect those in the private sector, within budgetary constraints.

Based on the issues discussed and country reports, in Africa, there is clearly a concern about and activities undertaken to make the public service less authoritarian and more responsive to a more demanding citizenry. However, this situation is further complicated by resource constraints, leading to a pressure to downsize the public service. With politicization and, at times, a confusion between organizational and socio-cultural values, attempts to promote professionalism becomes more complicated. This situation is also true for trying to enhance ethics.

## Ethics

“In modern pluralistic societies, the definition of what is fair, just, right, wrong, moral and equitable is diverse....Individual ethics, in a word, is a necessary but not significant condition for trustworthy action in public sector administration.”<sup>16</sup> Because of the public trust conferred upon them, public officials need to put public interest above their own. This means that they should take cognisance of social and community values and not substitute their own value choices for those of the society. Professional ethics guides public servants to observe and resolve conflicts of values in carrying out their official duties.

Some common ethical dilemmas that public servants confront in the course of their duties revolve around administrative discretion, corruption, nepotism, pressure for conformity, administrative secrecy, information leaks, public accountability, policy conundrum, pressure group influence, and public scrutiny.<sup>17</sup> The responsibility for maintaining standards and creating an environment for good ethical conduct in the public service falls largely on the public service itself. As elsewhere, a number of measures or strategies have been adopted in African countries to contain unethical behaviour and corruption. Generally, they include public sector codes of ethics, improved remuneration, income/asset/gifts disclosure, administrative reform, policy and programme rationalisation, open procurement procedures, watchdog agencies, anti-corruption agencies, ombudsmen, supreme audit institutions, and scrutiny by civil society institutions and the media.

However, implementing these measures or strategies is a challenge in a region where many countries have just come out of conflict, are in

<sup>15</sup> Ibid., p. 18.

<sup>16</sup> Joseph Ayee, “Ethics in the Public Service,” a paper presented at the Second Pan-African Conference of Ministers of Civil Service on Civil Service in Africa: New Challenges, Professionalism and Ethics, 1998, p. 18.

<sup>17</sup> Ibid., p. 5.

political crises, and have high disparities of income, among other factors. Where there is crushing poverty, petty corruption can become a matter of survival. Where there is public tolerance, grand corruption by the elite and the leadership can lead to the impoverishment and, in some cases, the collapse of a country. In the bureaucracy, corrupt tendencies in routine course of government business can become entrenched.

These range from bribes being solicited, kick-backs, documents removed from files, fraudulent use of government facilities and properties, payment for letters of recommendation for business transactions, fraudulent travel documents, ghost workers on payroll and embezzlement of public funds. In rural areas where there are low levels of literacy, citizens must be shown through daily actions what is the proper conduct of public officials. Despite the measures listed above, some public servants continue to behave unethically because they do not respect citizen's entitlements to public services. In order to change this situation, the private sector and civil society need to be mobilized. Civic education must be given priority.

"War against corruption cannot succeed if the community has come to accept it as a way of life. Therefore, public awareness needs to be aroused about the evils of corruption and its implications on the economic and social structures of society. This could be done through radio programmes, where traditional values of honesty, propriety and accountability are used constantly in the media for education and entertainment purposes. Each individual in society must be willing to play the role of 'a whistle blower', supplemented by other methods such as educational pamphlets, drama, posters, seminars, workshops and symposia."<sup>18</sup>

Country experiences reported at the Rabat

<sup>18</sup> Miria Matembe, "A Response to Joseph Ayee's paper on Ethics in the Public Service," a paper presented at the Second Pan-African Conference of Ministers of Civil Service on Civil Service in Africa: New Challenges, Professionalism and Ethics, 1998, p. 6.

Conference illustrate the range of conditions faced as well as practical solutions implemented in managing conduct in the public service. A few are described below.

The Central African Republic report poignantly captured the dilemma that many public servants face.<sup>19</sup> Starting during the mid-1970s, public servants were paid irregularly. Although it is illegal to hold an outside job, in fact, many public servants are obliged to "moonlight" in order to survive. There are public servants who work in their plantations before carrying out the official duties of the state. Still there are others who are conducting commercial activities on the side, directly violating written standards.

With these deteriorating conditions, the high morale and level of professionalism manifest during the 1960s began to decline. Under these conditions, it is very difficult to find and promote professionalism. However, the Civil Service Ministry began implementing the general civil service statute in 1996, to try to diffuse a spirit of reform through the press and the radio. The aims of the broadcasts were to explain to civil servants and political parties about the role of the civil service, its basic philosophy, and the benefits of a well-functioning administration. The ministry also tried to justify its interventions in human resources management. As a result, the country paper reported that more public servants are adhering to the requirements of the civil service statute.

Other countries have recently set up institutions to investigate complaints against public servants and resolve disputes. In Sudan, the most directly involved agency in the prevention of corruption in public office is the Department for Combatting Unlawful and Doubtful Enrichment. This depart-

<sup>19</sup> Ministre de la Fonction Publique, du Travail et de la Formation Professionnelle de la République Centrafricaine, "Expériences de la République Centrafricaine," a paper prepared for the Second Pan-African Conference of Ministers of Civil Service on Civil Service in Africa: New Challenges, Professionalism and Ethics, 1998.

ment investigates public officials accused of abuse of power or having unlawful gains. Sudan also reported having established an Ombudsman's Bureau, attached to the President's Office, in 1996. This bureau carries out normal control and inspection functions. In addition, a Grievances Chamber was established in 1994 at the President's Office to handle citizens' complaints about government procedures. The Civil Service Appeals Board handle and redresses grievances of the civil servants. In 1998, Uganda created a Ministry of Ethics and Integrity which works with the Inspectorate of Government and the Public Service Ministry. At present, this ministry is reviewing the Code of Conduct for the Public Service.

With crushing poverty in many countries in Africa, the phenomenon of "survival corruption", where corruption has become a way of life, needs to be dealt with through meeting the basic needs of the populace and public servants. At the same time, other measures need to be applied to the profession, to not only raise public confidence levels in the public service but also to improve the morale of the public servants themselves.

As described above, the countries reported that many institutions were being set up to oversee conduct in the public service. The bigger challenge, as is elsewhere, is to ensure that they function properly with political independence and adequate resources. "Exceptional political and managerial determination and courage is necessary to enable African states to promote and maintain reform and reduce public sector corruption....Where African governments do show a determination to improve public integrity, far more attention needs to be given to questions of timing and sequencing, consistency in approach, the details of reform and its sustainability, and the encouragement of the exceptional political and managerial persistence necessary to promote and sustain reform in this area."<sup>20</sup>

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<sup>20</sup> Stephen P. Riley, "The Political Economy of Anti-Corruption Strategies in Africa", in *Corruption and Development*, edited by Mark Robinson, 1998, p. 154

## The way forward

As mentioned previously, the Rabat Conference concluded with the adoption of the Rabat Declaration (see annex 5). The ministers and other delegates at the conference recognized that the recent political and economic changes have placed new responsibilities on public administrations in Africa. These include adapting to the growing globalization of the economy through creating an environment favouring private sector growth, strengthening basic infrastructures for social development, and modernizing administrative structures through utilizing new technologies, and creating a service-oriented public service.

They also underlined that structural adjustment programmes have sometimes weakened the capacity of the public sector. One remedy is to promote conditions which would enable the public service to attract and retain highly qualified employees, ultimately creating a service-oriented institution. Further, a well-performing, transparent, and accountable public service is an essential pre-requisite for a successful economic recovery in Africa.

Finally, there was a call for various levels of action. At the global level, it was proposed to draw the attention of the international community to the many challenges and current difficulties faced by countries in the region. At the regional level, there was a commitment to continue holding regular meetings of public service ministers to continue the dialogue on these issues. Further, the conference organizers and sponsors were requested to follow-up on the conference by drafting a Public Service Charter for Africa and a Code of Conduct for African Civil Servants. At the national level, countries were asked to take necessary measures to regenerate professionalism and promote ethics in their public administrations. Moreover, they were asked to reform civil service codes to introduce the principles of neutrality, transparency, flexibility and to stress ethics and integrity. It was recommended that the countries ensure that human resources management was carried out, based on the merit principle and that

training programmes for public servants be improved and modernized.

Above all, the participants were encouraged to see some measure of progress since the First Pan-African Conference of Ministers of Civil Service. In the same vein as the regional conference for Central and Eastern Europe in Thessaloniki, there

Chapter 4:

## The Case of Brazil<sup>1</sup>

### Managerialism in Brazil

Brazil is the largest country in Latin America,<sup>1</sup> covering more than 8.5 million square kilometers, with an estimated population of 157 million.<sup>2</sup> It is a middle-income range country when compared to other countries in terms of its GDP. In 1996, its per capita GDP was \$US 4,743,<sup>3</sup> GDP growth was 2.9%, average consumer price inflation was 16.5%, and foreign debt was US\$ 172.4 billion.<sup>4</sup>

Brazil, like many other countries, is currently examining and reforming the role of the state. The launch of its state reform, in 1995, sought changes in the administrative chapter of its 1988 Constitution, in the public institutions defined by their functions and place in the state sector, in the administrative style from legal-rational to managerial, and in the social security system for public servants and other state sector employees. In 1995, there were about 580,000 federal civil servants, covered by the civil service law (down from 780,000 in 1989). This was out of about 1.2 million public sector employees, including public and joint capital companies. The average annual federal public payroll expenditure as a per cent age of GDP was 3.17% between 1988 and 1994

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<sup>1</sup> This chapter is a summary of the 1997 Brasilia Conference.

<sup>2</sup> Instituto Brasileiro de Geographia e Estatistica, 1996.

<sup>3</sup> The Economist Intelligence Unit, 1998.

<sup>4</sup> Presidency of the Republic, Brazil, *From Reform to Growth*, 1996.

was a recognition among participants that sharing problems and ideas can greatly assist with reforms at the national level. Although the challenges facing the region are numerous and daunting, participants not only exhibited a spirit of cooperation but a new level of hope for the future of Africa.

while the combined state and municipal public payroll expenditure was 6.53% for the same period.<sup>5</sup>

Like many other countries, there was a fiscal imperative driving the reforms. Primarily, the government sought changes to facilitate fiscal adjustment, introduce market-oriented economic reforms, and rationalize the social security system. The Ministry of Federal Administration and State Reform, in charge of the civil service, announced a managerial reform, to correspond with these changes. The intent was to modernize the civil service and emphasize quality service, performance, and professionalism.

Given these major changes, it was also considered to be timely to add the issue of ethics in government. In addition to Brazil's state reforms, there were the events of its recent past—the last minute resignation of its first directly elected president as a result of corruption charges in 1992 and a series of scandals during the past few years. To keep up with overall state sector reforms, the public service needed to redefine values, ensure new or modified standards of behaviour, and inspire its members to higher levels of conduct, in the face of change.

### Brazil-United Nations Colloquium on Promoting Ethics in the Public Service

In December 1997, about 300 participants

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<sup>5</sup> Brazilian Ministry of Federal Administration and State Reform, 1995.

gathered in Brasilia to discuss Promoting Ethics in the Public Service. They were mostly high-level, federal and state Brazilian public servants. Moreover, there were also representatives attending from the legislative and judiciary branches of government, the business community, the media, the academy, and professional associations. The total was double the expected number for this first-of-its-kind event in the country, indicating a high level of interest.

The colloquium's purpose was to discuss pertinent issues and make suggestions to the Brazilian Council of State Reform. The Council, an advisory body to President Henrique Cardoso, sponsored the event to gain support and to make recommendations for launching a national ethics initiative in the public service.

The idea of the colloquium was conceived in New York, during the Thirteenth Meeting of the Group of Experts on the United Nations Programme on Public Administration and Finance. A Brazilian Council of State Reform member who attended became intrigued by the discussion on professionalism and ethics. Upon his return, he proposed hosting an event on these themes, which was then supported by the Brazilian Ministry of Federal Administration and State Reform, the Bank of Brazil, UNDP Brazil, and Hyundai company. The role of the United Nations Department of Economic and Social Affairs, Division for Public Economic and Public Administration was to formulate the overall programme and provide substantive support.

The colloquium organizers decided to focus on the executive branch of government, and more specifically the public service. In order to ensure that any ethics initiative is spread around the country, they felt that both federal and state levels had to be involved. Further, they concluded that to make any ethics initiative a success, all partners in governance—the government, the private sector and civil society—needed to play an active role.

Although the issues discussed during the Colloquium were placed in the Brazilian context, they

are universal in scope. The programme started with the questions, what are professional ethics and, more specifically, what are civil service ethics? This was followed by a discussion of the values which embody the essence of public service professionalism. Then a very concrete example of the ethics programme in the United States was presented, to illustrate how these values could be translated into a system of workable, manageable, and enforceable standards. Finally, the importance of involving actors outside of the public service—the private sector and civil society—and their roles were debated. This was done through a presentation of the experience of Great Britain and other countries in Central and Eastern Europe. What resulted were presentations and discussions that are relevant not only to Brazil but to other countries, in either introducing or making changes to their public service ethics management.

### **The role of the public service**

In Brazil, the classic bureaucratic model of administration was introduced in 1936.<sup>6</sup> This model advocated a professional public service, with promotions based on merit. However, despite the institution of competitive examinations and systematic training, a consistent human resources policy was never fully adopted. From the late 1970s to the mid-1980s, the military regime exacerbated this situation by circumventing the professional bureaucracy and recruiting managers through state-owned corporations. This practice led to a weakening of the public service as an institution. Further, the promulgation of the Constitution in 1988 led to extreme bureaucratic rigidity. The legacy of combined patronage and bureaucratic inflexibility caused a deterioration of the quality of public administration in Brazil.

As mentioned previously, with increasing democratization and a fiscal crisis—characterized by

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<sup>6</sup> Luiz Carlos Bresser Pereira, "Managerial Reform in Brazil's Public Administration," paper presented to the Congress of the International Political Science Association, 1997, p. 6.

the growing loss of credit in the public sector and negative savings levels—Brazil has been undertaking broad reforms during the mid-1990s. In addition to fiscal adjustment, market-oriented economic reforms, social security reforms, there was also a reform of public administration, consciously embracing “new public administration” or “managerialism”. For Brazil, managerial public administration “focuses on (1) a precise definition of the objectives that the public administrator should attain within his unit, (2) ensuring the autonomy of the administrator in the management of human, material and financial resources so that he can attain the contracted ends, and (3) afterwards control and accountability of results. At the same time, managed competition is carried forward within the State itself, wherever it is possible to foster competition among internal units.”<sup>7</sup>

Within this paradigm, the role of the public service is to serve the citizen as a taxpayer and client of its services. Its activities are, foremost, to meet the needs of the citizen-client, even if, at times, administrative processes become a secondary consideration. In order to achieve this ultimate goal, the public service became characterized by more discretion and decentralized decision-making, flexible forms of management, more horizontal structures, and incentives for creativity. What implications would this shift from a rules-based toward a results-based bureaucracy have for the professionalism and ethics of the public service in Brazil?

## Professionalism

Public service professionalism is underpinned by the unique set of values upheld by its members. However, due to the multiplicity and complexity of changes which are currently taking place around the globe, “possibly never before has civilization required such high quality public

leadership and effective government.”<sup>8</sup> In reflecting upon public service professionalism, there are a number of values and principles to be considered: providing public benefits, enforcing the rule of law, ensuring public responsibility and accountability, setting an example, improving professional performance, and promoting democracy. “...Being professional means more than just employing professionals or paying lip service to professional values. It requires a thorough understanding of professionalism and strict adherence to public norms of model behaviour.”<sup>9</sup>

During discussions, Brazilian public servants noted a loss of prestige of their public service as an institution. They attributed this decline to administrative discontinuity, lack of adequate human resources policies, a deterioration of salary levels, a lack of proper training, and poor qualification of public servants—particularly at the managerial level. In fact, the admission of a loss of prestige was difficult to make, given the proud tradition of the respect that the public service used to command. The colloquium participants also indicated that the media emphasize only negative aspects of the public service, thus crystallizing a distorted image of it in the public’s eye. This biased position gives the public service a bad image.

They concluded that professionalism depends on a merit system and working conditions that are conducive to serving the public. These factors also form the bedrock of ethical conduct in the public service.

## Ethics

Professional ethics involves using judgment, in carrying out one’s duties, according to a hierarchy of values and norms. For public servants, particularly for senior levels, this hierarchy is further complicated by the multiple roles they play.

<sup>7</sup> Presidency of the Republic, Brazil, State Reform Committee, *White Paper: Reform of the State Apparatus*, 1995, p. 21/22.

<sup>8</sup> Gerald Caiden, “The Essence of Public Service Professionalism,” a paper presented at the Colloquium on Promoting Ethics in the Public Service, 1997, p. 2.

<sup>9</sup> *Ibid.*, p. 15.

These include manager, political agent, member of a profession, and individual person.<sup>10</sup> These roles give rise to differing, and often conflicting, sets of values. The values engendered by the roles are also supplemented by values corresponding to reigning administrative philosophies at a given time. For example, probity, neutrality, and due process would be the more prominent values in a classic Weberian-type administration as opposed to efficiency, client-satisfaction, and results under a managerial administration. Since public service values reflect broader societal values, there is often uncertainty and even confusion in the public service during times of rapid social change. Given the current move towards broader democratization and fiscal reform in its country, the Brazilian public service is looking to adopt complementary values such as transparency, consultation, efficiency, and so on.

In the case of Brazil, Colloquium participants agreed that the legal framework applicable to ethical problems in the public service—from the Constitution to the Code of Ethics—is already well-developed. (The Code of Ethics had been adopted in 1994.) However, the implementations are inadequate. A proposal for remedying this situation was to adopt an overall method for implementing statutory provisions already in force.

In promoting ethical behaviour in the public service, there is a need to address public perception of corruption and the view that though laws (including a Code of Ethics) are in place, they are not enforced. Many participants expressed a necessity to shift from a negative and punitive approach, found in the existing public service act, to a value-based system of clear but flexible rules and establishing institutions to deal with them. They agreed that Brazil's situation is not a problem of inadequate legal structure but rather one of an accusatory environment, supported by the media which often do not ade-

quately carry out investigations. In addition, there is a lack of institutional follow-up in cases of wrongdoing.

## The way forward

Although some tangible outcomes have been achieved as a direct result of the colloquium, the Brazilian organizers felt that there is much left to be done. The Brazilian Council of State Reform, which is composed of 12 presidential appointees from business, the academy and the legal profession, recommended that a code of conduct be approved, covering ministers, vice-ministers and leaders at the highest level. In addition, a number of agencies, including anti-trust and petroleum regulatory agencies introduced their own Code of Conduct, which was being supported by the Council.

In addition to these measures which have already been undertaken, participants recommended a number of activities that dealt with public involvement, improving the legal framework, and instituting ethics as an integral part of human resources management in the public service.

Regarding greater public involvement, participants suggested that more government openness and transparency be demonstrated through means such as information dissemination on the Internet, televised congressional debates, and open executive agency meetings. They felt that a focal point in government should be created to debate ethical issues. Also, civic education at all levels and public campaigns for government ethics should be conducted. More community involvement should be encouraged through setting up citizens' councils and other similar types of mechanisms. To make government more accountable to its citizens, they recommended that institutional mechanisms of complaint and control, such as ombudsmen, should be decentralized.

The simplification and modernization of the legal and administrative framework for managing the public service were also advocated. Many participants suggested that principles of managerial administration, focusing more on ends than

<sup>10</sup> See Luiz Carlos Bresser Pereira's "Higher Civil Service's Ethics," paper presented at the Colloquium on Promoting Ethics in the Public Service, 1997.



means, be better communicated. Mission statements and codes of ethics, created through employee participation, be instituted for all public administration institutions, on a decentralized basis. A central regulatory agency for procurement should be set up, and excessive bureaucratic controls in the procurement process should be reduced. In addition, procurement personnel should receive special ethics training.

As for the public service itself, the participants recommended that employment conditions be improved, through human resources policies that are based on productivity, merit, professional qualification, and adequate remuneration. In order to screen for integrity, ethics should be included

as a criterion in recruitment exams. There should be a universal policy on the acceptance of gifts. Finally, systematic ethics training for public servants should be introduced as a part of human resources management policies.

The case of Brazil shows how the issues discussed at the regional level in Thessaloniki and Rabat translate at the national level. Although Brazil is a country in Latin America, it shares many of the concerns such as salary levels, adequate training, the involvement of private sector and civil society, among others, with countries in Central and Eastern Europe as well as those in Africa.

## Common Issues

### Development and governance

“We live in an era of realignment....As is true of all transitional periods, very different expressions of the human predicament coexist in uneasy tension today: globalization envelops the world even as fragmentation and the assertion of differences are on the rise; zones of peace expand while outbursts of horrific violence intensify; unprecedented wealth is being created but large pockets of poverty remain endemic; the will of the people and their integral rights are both celebrated and violated; science and technology enhance human life at the same time as their by-products threaten planetary life-support systems. It is not beyond the powers of political volition to tip the scale in this transition, towards a more secure and predictable peace, greater economic well-being, social justice and environmental sustainability. No country can achieve these global public goods on its own, however, just as none is exempt from the risks and costs of doing without them.”<sup>1</sup>

The development agenda of the 1990s can be seen as being characterized by pragmatism. Now that the cold war has ended, countries can devote more of their attention to the day-to-day problems of improving the quality of life of their populace. Although progress has been made on many fronts, countries still face considerable economic, political, social and technological obstacles to this goal in many parts of the world. Despite the efforts of and resources spent during the post-World War II era on the “development” of countries and peoples, many are far from being able to provide the public goods, alluded to above. In fact, access to these public goods is becoming increasingly unequal, both among countries and among the different social strata

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<sup>1</sup> United Nations, *Renewal Amid Transition: Annual Report on the Work of the Organization*, (A/52/1), 3 September 1997.

within countries.

With this sobering realization, there is a reassessment of “the exercise of political, economic, and administrative authority in the management of a country’s affairs at all levels”<sup>2</sup>—or governance. “Without good governance—without the rule of law, predictable administration, legitimate power and responsive regulation—no amount of funding, no short-term economic miracle will set the developing world on the path to prosperity. Without good governance, the foundations of society—both national and international—are built on sand.”<sup>3</sup>

As the preceding chapters have shown, many countries of Central and Eastern Europe, those of Africa, and Brazil itself face common conditions. These conditions include globalization, rapid developments in technology and communication, growing democratization, and a better-informed and more vocal civil society, among other pertinent factors. However, each region or country also faces conditions that are particular to its region. Thus good governance may require different emphases of actors, institutions, and actions—depending on the distinct but shared conditions in a given region or the singular conditions of a country.

### The role of the public service in good governance

The public service is fundamental to good governance. It is an integral part of democracy because it serves as the neutral administrative structure which carries out the decisions of elected representatives of the people. The public service is the backbone of the state in

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<sup>2</sup> UNDP, *Governance for Sustainable Human Development*, 1997, p. iv.

<sup>3</sup> United Nations, Secretary-General’s Address to the United Nations Association of Canada, Toronto, (SG/SM/6412), 3 December 1997, (original in French).

implementing any strategy for economic growth of a nation. It provides the programmes and services that function as the safety net for the most vulnerable segments of a society. “An efficient administration means also a responsive one. It does not lose sight of the fact that government is for people and that the objective of public action and public services is to protect their rights and promote their well-being as human beings.”<sup>4</sup>

In Central and Eastern Europe, “those countries which formerly practised centralized economic planning by the state might be expected to confront...managing a shift from a strong central state to a weaker state that shares or competes for power with transnational actors. In post-Communist countries, however, the collapse of the centrally planned economy created a crisis in which the role of the state was unclear.”<sup>5</sup>

Good governance in this region depends, first of all, on clear redefinitions of the role of the state. As countries experiment with the scope, functions, and activities of the state, other partners in governance also experience uncertainty. This fluid situation or “transition phase” of experimentation, trials and errors, and successes characterize how the institutions and resources of the state are managed. The public service, as a part of this experimentation, can contribute to the vision of good governance in the countries by facilitating the redefinition of the role of the state.

“Africa is the only region of the world where—if present trends continue—poverty is expected to

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<sup>4</sup> Derry Ormond, (International Institute of Administrative Sciences), *General Report: New Challenges for Public Administration in the Twenty-first Century: Efficient Civil Service and Decentralized Public Administration*, 1996, p. 29.

<sup>5</sup> Steven Solnick, “Russia between States and Markets: Transnational and Subnational Pressures in Transition,” a paper presented at the Conference on Globalization, Politics and Economics in Comparative Perspective, Brasilia, 1998, p. 1.

increase in the next century. We have dissected and debated Africa, and studied and summarized its challenges, for decades. Now is the time for action. We—and I speak not only of (the Security) Council, but of the United Nations and the international community generally—must respond promptly and effectively to Africa’s call.”<sup>6</sup>

Good governance in Africa, as is the case in other regions, depends on many factors such as sound leadership, encouraging grassroots participation in the governing process, accountability and transparency of government, among others. However, development in the region depends on overcoming economic stagnation and heavy debt burdens that currently constrain many of its countries. Structural adjustment programmes that were supposed to impose economic discipline do not seem to be having intended effects in many cases. A way needs to be found, out of the current impasse of the “structural adjustment phase” to generate wealth and ensure its equitable distribution. The public service has a crucial role to play in the economic recovery of the region by providing solid foundations for economic growth, creating an enabling environment for the private sector, and by responsibly managing scarce public resources.

In Brazil, the current government won another mandate during the elections of 1998. However, the country is faced with having to restore investor confidence and curb a flight of foreign capital that threatened the economic stability of the country just a few months prior to the election. In order to do this, the government is facing the need for more fiscal austerity measures, based on sweeping reforms of the public service and its social security system. The challenge for the good governance in this country is to achieve political consensus, needed to carry out these deeply unpopular reforms. For the public service, the re-election of the current government means a

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<sup>6</sup> United Nations, Secretary-General’s Statement delivered at the Security Council’s ministerial meeting on the situation in Africa, 25 September 1997.

continuation of the “managerial phase” of its reforms. How it carries out these reforms, in line with the priorities of the nation, will contribute significantly to good governance.

Everywhere, the manner in which the public service carries out its tasks will affect the nature of civil society, and ultimately, the social cohesion and political stability of a country. Its capacity to respond to citizens’ demands, promote consultation and participation, devolve and delegate responsibility, and hold to clear standards will determine the quality of the democracy of a nation. This is especially true where countries are characterized by frequent changes of government, as the public service can be the basis for administrative continuity between power transitions. Most importantly, its ability for self-renewal will assure it of the flexibility needed to keep up with changing times and circumstances. “As we all recognise, the civil service is only as good as the people in it. How they are managed will affect fundamentally the way they interact with society. If they feel they are exploited, they may well exploit others. Their respect for the legal and ethical framework within which they work will be critical in this respect.”<sup>7</sup>

### Promoting professionalism

As defined in Chapter 1, public service professionalism is an overarching value that determines how its activities will be carried out. In examining the proceedings of the three conferences, reported in this volume, there are striking similarities in many of the issues raised and practices described. There are also interesting differences in how the concept of public service professionalism was perceived by the participants of the three conferences.

In terms of similarities, first, the participants at all three conferences acknowledged the dominant role of the state in the socio-economic development of their countries. In Central and Eastern Europe, the private sector is in its infancy, since it

is being created as a direct result of public enterprises being privatized. Further, under the Communist regime, there was little tolerance for dissenting views to those of the dominant party. As a consequence, independent civil society institutions such as organized religion, professional groups, academic institutions and think tanks, non-governmental organizations, and the like did not have a chance to become established. Participants at the Rabat conference also noted the dominance of the state in the development of the post-independence phase of their countries. They noted that the long reign of single-party states, that had inherited colonial administrations, had also resulted in a weak private sector and civil society. In many Sub-Saharan countries, the development of these governance partners have sometimes been hampered by large rural populations with low literacy rates, a lack of familiarity with cash-based economies, and competing loyalties between traditional ties and modern institutions. In Brazil, the long period of military-rule had also left a dominant state. However, the participants in Brasilia were proud to report on the recent growth of private enterprises and the resurgence of civil society institutions such as the church, trade unions, and the media.

The participants at all three conferences pointed out that, however, with more political and economic liberalization in their countries, the dominance of the state should correspondingly diminish. This shifting balance in the partnership in governance among the major actors has a direct bearing on public service professionalism. Public servants must now become more outward looking, consultative, and responsive to the needs of businesses and community groups. The conference participants urgently noted the need for civic education among the rural populations, to promote the rights and obligations of citizenship in a modern state. Public servants, as professionals, have a duty to treat all citizens equally, fairly, and courteously. They can be a part of this civic education by exhibiting exemplary conduct.

Second, the politicization of the bureaucracy was

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<sup>7</sup> Op. cit., Ormond, p. 31.

identified as a major stumbling block to public service professionalism, at all three conferences. This politicization was directly linked to the looming role of the state in the socio-economic development of the represented countries. The “nomenklatura” in Central and Eastern European countries—as mentioned in Chapter 2, personality cults in African countries, and patrimonialism in Brazil resulted in nepotism, cronyism and favouritism. As a result, political affiliations became the dominant criterion in a public service career. The blatant disregard for the merit principle led to a breakdown of required competencies, important skills, and professional attitudes. In sum, the morale of the public service was badly affected. Countries reported introducing initiatives aimed at reversing the effects of politicization such as trying to shield the neutrality of the public service through laws and regulations, instituting fair recruitment and promotion procedures, and training to upgrade the skills of public servants.

Third, representatives at all three conferences recognized the significance of being responsive to users of public services. They saw this responsiveness as a crucial ingredient of professionalism, growing in importance in the future. As noted above, with the growth of the private sector and civil society in Central and Eastern Europe and Africa, the citizens in these regions are making more demands for more and better services. As the state retreats on many economic and social fronts, it becomes even more essential for public servants to meet the demands of other governance actors. A special panel on the role of civil society at the Thessaloniki conference noted the growing numbers of actors in governance and the role they could play in assisting public servants to attain higher levels of professionalism. In Rabat, many participants called for popular civic education. They stressed the need for attitudinal change among public servants to orient them towards a more professional service culture. In Brasilia, the participants recommended that government be more accessible to the public through disseminating information on the Internet, televising parliamentary debates, and opening appropriate govern-

ment meetings to the public.

In terms of differences, each of the three conferences stressed and examined different aspects of professionalism. The Thessaloniki conference presentations focused on the basic functions of public servants: policy advice, public management, and performance measurement. The participants discussed the way these functions were approached in their countries and shared new developments in the way the functions were being approached at large. The Rabat conference presentation and discussions identified the crucial role of cultural change. The participants noted that in addition to legislative changes, revised human resource management policies, and more training, the public service also needs to adopt new values and attitudes of service. In Brasilia, the discussion around professionalism centered around the many different roles of a public servant: manager, political agent, member of a profession, and an individual person. Each of these roles come with its own set of values. Professionalism is brokering these competing values, guided by some enduring principles of the public service. They are providing public benefits, enforcing the rule of law, ensuring public responsibility and accountability, setting an example, improving professional performance, and promoting democracy.

## Enhancing ethics

Chapter 1 also defined public service ethics. It was seen as broad norms that delineate how public servants should exercise judgment and discretion in carrying out their official duties. This section synthesizes the discussions of the three conferences about enhancing public service ethics, in terms of the similarities and differences of issues and practices reported.

The three conferences showed a number of similarities. First, there was no hesitation in speaking about corruption or unethical conduct; they were not taboo subjects. In Thessaloniki, the participants observed that petty circumvention of excessive rules had become entrenched as part of daily life under the communist system. It is now

difficult to suddenly abandon those ways and shift to a more rules-based administration. In Rabat, the notion of “survival corruption” was discussed. When a population is used to living in extreme conditions of poverty and corruption becomes a means of economic survival, it is difficult to change behaviours until the external conditions also change. In Brasilia, participants focused on the damage to public confidence in government based on public perceptions of corruption and immoral conduct. At all three conferences, any reluctance to address ethics or corruption was overshadowed by concerns about their threat to the rule of law, democracy, and human rights.

Second, there were common national integrity strategies being advocated and, in many cases, reported in all three conferences. They included clear and coherent legislative framework, including the relevant sections of the constitution and criminal code, ethics or anti-corruption laws (that provide for financial disclosures, set gift policies, and outline other ethical rules), and any other laws dealing with the conduct of and impeachment procedures for high ranking officials. Often, the provisions of this legislative framework is communicated in a simplified way through a code of conduct. These provisions are further elaborated upon through personnel policies, which include ethics orientation, advice, and in-service training. Sometimes, special training and incentives as well as extra scrutiny and oversight need to be in place for those public servants who work in particularly vulnerable areas to corruption such as revenue collection, contracting and procurement, and licensing and registration procedures.

In addition to these measures internal to the government, external measures include civic education to inform citizens of their rights and proper administrative procedures. As well, professional organizations and unions oversee standards of their members in government. External measures also include a free but a responsible press and other non-governmental organizations to keep the public informed of government activities, both good and bad. They

include private enterprises and chambers of commerce which also observe standards of behaviour that do not resort to bribing or unduly influencing public officials.

Third, all three conferences emphasized the role of low salaries and compressed salary scales as a major cause for corruption and unethical conduct in the public service. The participants of the regional conferences in Thessaloniki and Rabat, in particular, discussed the prevalence of moon-lighting by public servants and other public officials to supplement their inadequate salaries. Although the issue of salary level was raised in Brasilia, it did not taken on the same prominence as in the regional conferences. However, during periods of currency destabilizations and rapid inflation, public service salary levels will undoubtedly gain greater prominence in discussing public service ethics.

Fourth, international cooperation was seen as crucial to addressing those trans-national elements of public sector corruption as well as setting standards for countries to follow. The Thessaloniki conference recommended that the United Nations explore drafting a Charter of Good Governance and the Public Service. This Charter would have to take into account the already existing United National International Code of Conduct for Public Officials. The Rabat conference adopted a recommendation for the conference organizers to draft an African Public Service Charter and a Code of Conduct for African Civil Servants for the next Pan-African Conference of Ministers of Civil Service. The Brasilia conference had a national focus as opposed to the regional focus of the other two conferences. However, from the start of its organization, the sponsors were very conscious of involving state level public servants to ensure sub-national cooperation in any national ethics initiatives that might be undertaken. At the conclusion of all three conferences, the participants expressed an appreciation for the opportunity to exchange views and share experiences.

There was not a lot of difference in the prevention

of and remedies for corruption in the discussions held at the two regional conferences in Thessaloniki and Rabat. Both conferences witnessed presentations that suggested measures ranging from institutional reform, specialized training, punishing major offenders, and involving institutions outside of government. However, the discussion in Brasilia was that the current approach to managing the conduct of public servants is already too negative. The participants felt that a more aspirational approach, in addition to placing institutional safeguards such as better procurement procedures, would have better results in promoting ethics in the public service. Thus, participants in Thessaloniki stressed the role of civil society organizations in serving as watchdogs of government and general promoters of ethics in society. Participants in Rabat stressed the need to improve basic employment conditions such as salary levels, equipment, physical offices, and the like for public servants. Participants in Brasilia stressed more education about ethics for both public servants and the society at large.

“No country is immune from corruption, and many are especially vulnerable because of their weak laws and institutions. Corruption also has an international dimension. The same open borders, technological advances, transnational communications and commercial transactions that are the hallmark of today’s global society can also allow corruption to take root and flourish. International cooperation—among governments, the private sector and civil society—is thus essential if we are to defeat this menace.”<sup>8</sup>

### **The continuing role of the United Nations**

Why is the United Nations involved in promoting professionalism and enhancing ethics in the public service? The Charter of the United Nations not only lays down the foundation for the organization but also embodies its underlying values.

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<sup>8</sup> United Nations, Secretary-General’s Message to the Eighth International Anti-Corruption Conference, Lima, 7-11 September 1997 (SG/SM/6318).

This document and the Universal Declaration of Human Rights identify values that promote human rights, peace and security, and socio-economic development of nations and peoples. They identify, in effect, international ethical standards for all member states to follow.

The preamble of the Charter shows that the United Nations was created, among other reasons, “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small” and “to promote social progress and better standards of life in larger freedom.” Chapter IX lays out the principles for international economic and social cooperation, where the United Nations shall promote higher standards of living; solutions for economic, social, health and related problems; and universal respect for the observance of human rights and fundamental freedom for all. To attain these goals, member states need to encourage one another to work towards promoting a competent and ethical public service in carrying out related activities.

Further, the Universal Declaration of Human Rights, acknowledges in Article 21 that “Everyone has the right to take part in the government of his country ...”; “Everyone has the right of equal access to public service in his country”; and “The will of the people shall be the basis of the authority of government.” These acknowledgements place moral responsibility upon governments to ensure and facilitate the participation of their citizens in the governance process as well as to provide fair, impartial, and accessible public services. To do so, they must rely on men and women who are committed to serve the public but also be recognized for their work.

Because of these ethical values and standards that were fundamental to its creation, and which it has upheld since its inception, the United Nations continues to be involved in helping member states to strengthen governments and promote public integrity. It will continue to be involved through bringing together different countries to discuss problems, share solutions, and promote coopera-

tion. These actions will hopefully contribute to promoting professionalism and ethics in the public service.

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# Action against Corruption with the United Nations International Code of Conduct

Resolution adopted by the General Assembly (A/RES/51/59)

The General Assembly,

Concerned at the seriousness of problems posed by corruption, which may endanger the stability and security of societies, undermine the values of democracy and morality and jeopardize social, economic and political development,

Also concerned about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,

Convinced that, since corruption is a phenomenon that currently crosses national borders and affects all societies and economies, international cooperation to prevent and control it is essential,

Convinced also of the need to provide, upon request, technical assistance designed to improve public management systems and to enhance accountability and transparency,

Recalling the Inter-American Convention against Corruption,<sup>1</sup> adopted by the Organization of American States at the Specialized Conference for Consideration of the Draft Inter-American Convention against Corruption, held at Caracas from 27 to 29 March 1996,

Recalling also its resolutions 45/121 of 14 December 1990 and 46/152 of 18 December 1991, and Economic and Social Council resolutions 1992/22 of 30 July 1992, 1993/32 of 27 July 1993 and 1994/19 of 25 July 1994,

Recalling in particular its resolution 50/225 of 19 April 1996, adopted at its resumed session, on public administration and development,

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<sup>1</sup> See E/1996/99.

Recalling Economic and Social Council resolution 1995/14 of 24 July 1995 on action against corruption,

Recalling also the work carried out by other international and regional organizations in this field, including the activities of the Council of Europe, the European Union, the Organisation for Economic Cooperation and Development and the Organization of American States,

1. Takes note of the report of the Secretary-General on action against corruption<sup>2</sup> submitted to the Commission on Crime Prevention and Criminal Justice at its fifth session;
2. Adopts the International Code of Conduct for Public Officials annexed to the present resolution, and recommends it to Member States as a tool to guide their efforts against corruption;
3. Requests the Secretary-General to distribute the International Code of Conduct to all States and to include it in the manual on practical measures against corruption,<sup>3</sup> to be revised and expanded pursuant to Economic and Social Council resolution 1995/14, with a view to offering both those tools to States in the context of advisory services, training and other technical assistance activities;
4. Also requests the Secretary-General to continue to collect information and legislative and regulatory texts from States and relevant

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<sup>2</sup> E/CN.15/1996.5.

<sup>3</sup> International Review of Criminal Policy, Nos. 41 and 42 (United Nations publication, Sales No. E.93.IV.4).

intergovernmental organizations, in the context of his continuing study of the problem of corruption;

5. Further requests the Secretary-General, in consultation with States, relevant intergovernmental and non-governmental organizations, as well as in cooperation with the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, to elaborate an implementation plan and submit it to the Commission on Crime Prevention and Criminal Justice at its sixth session, in conjunction with his report to be submitted pursuant to Economic and Social Council resolution 1995/14;
6. Urges States, relevant intergovernmental and non-governmental organizations, as well as the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, to extend to the Secretary-General their full support in elaborating the implementation plan and in implementing paragraph 4 above;
7. Urges Member States carefully to consider the problems posed by the international aspects of corrupt practices, especially as regards international economic activities carried out by corporate entities, and to study appropriate legislative and regulatory measures to ensure the transparency and integrity of financial systems and transactions carried out by such corporate entities;
8. Requests the Secretary-General to intensify his efforts to closely cooperate with other entities of the United Nations system and other relevant international organizations and to more effectively coordinate activities undertaken in this area;
9. Also requests the Secretary-General, subject to the availability of extrabudgetary resources, to provide increased advisory services and technical assistance to Member States, at their request, in particular in the elaboration of national strategies, the elaboration or improvement of legislative and

regulatory measures, the establishment or strengthening of national capacities to prevent and control corruption, as well as in training and upgrading skills of relevant personnel;

10. Calls upon States, relevant international organizations and financing institutions to extend to the Secretary-General their full support and assistance in the implementation of the present resolution;
11. Requests the Commission on Crime Prevention and Criminal Justice to keep the issue of action against corruption under regular review.

82nd plenary meeting

12 December 1996

## **International Code of Conduct for Public Officials**

### **I. General principles**

1. A public office, as defined by national law, is a position of trust, implying a duty to act in the public interest. Therefore, the ultimate loyalty of public officials shall be to the public interests of their country as expressed through the democratic institutions of government.
2. Public officials shall ensure that they perform their duties and functions efficiently, effectively and with integrity, in accordance with laws or administrative policies. They shall at all times seek to ensure that public resources for which they are responsible are administered in the most effective and efficient manner.
3. Public officials shall be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public. They shall at no time afford any undue preferential treatment to any group or individual or improperly discriminate against any group or individual, or otherwise abuse the power and authority vested in them.

## **II. Conflict of interest and disqualification**

4. Public officials shall not use their official authority for the improper advancement of their own or their family's personal or financial interest. They shall not engage in any transaction, acquire any position or function or have any financial, commercial or other comparable interest that is incompatible with their office, functions and duties or the discharge thereof.
5. Public officials, to the extent required by their position, shall, in accordance with laws or administrative policies, declare business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest. In situations of possible or perceived conflict of interest between the duties and private interests of public officials, they shall comply with the measures established to reduce or eliminate such conflict of interest.
6. Public officials shall at no time improperly use public moneys, property, services or information that is acquired in the performance of, or as a result of, their official duties for activities not related to their official work.
7. Public officials shall comply with measures established by law or by administrative policies in order that after leaving their official positions they will not take improper advantage of their previous office.

## **III. Disclosure of assets**

8. Public officials shall, in accord with their position and as permitted or required by law and administrative policies, comply with requirements to declare or to disclose personal assets and liabilities, as well as, if possible, those of their spouses and/or dependants.

## **IV. Acceptance of gifts or other favours**

9. Public officials shall not solicit or receive directly or indirectly any gift or other favour that may influence the exercise of their func-

tions, the performance of their duties or their judgement.

## **V. Confidential information**

10. Matters of a confidential nature in the possession of public officials shall be kept confidential unless national legislation, the performance of duty or the needs of justice strictly require otherwise. Such restrictions shall also apply after separation from service.

## **VI. Political activity**

11. The political or other activity of public officials outside the scope of their office shall, in accordance with laws and administrative policies, not be such as to impair public confidence in the impartial performance of their functions and duties.





# United Nations Declaration against Corruption and Bribery in International Commercial Transactions

Resolution adopted by the General Assembly (A/RES/51/191)

The General Assembly,

Recalling its resolution 3514 (XXX) of 15 December 1975, in which it, inter alia, condemned all corrupt practices, including bribery, in international commercial transactions, reaffirmed the right of any State to adopt legislation and to investigate and take appropriate legal action, in accordance with its national laws and regulations, against such corrupt practices, and called upon all Governments to cooperate to prevent corrupt practices, including bribery,

Recalling also the further work carried out by the General Assembly and the Economic and Social Council on the issue of illicit payments and on elaborating a code of conduct on transnational corporations,<sup>1</sup> consideration of which helped call attention to and raise international awareness of the adverse consequences of bribery in international commercial transactions,

Recalling further its resolution 50/106 of 20 December 1995, in which it recommended that the Economic and Social Council consider the draft international agreement on illicit payments at its substantive session of 1996 and report to the Assembly at its fifty-first session,

Welcoming the steps taken at the national, regional and international levels to fight corruption and bribery, as well as recent developments in international forums that have further advanced international understanding and cooperation regarding corruption and bribery in international commercial transactions,

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<sup>1</sup> E/1991/31/Add.1.

Noting the adoption in March 1996, by States members of the Organization of American States, of the Inter-American Convention against Corruption,<sup>2</sup> which includes an article on transnational bribery,

Noting also significant continuing work relevant to and consistent with the objectives of the present resolution in other regional and international forums, such as the continuing work of the Council of Europe and the European Union to combat international bribery, as well as the commitment by the States members of the Organisation for Economic Cooperation and Development<sup>3</sup> to criminalize bribery of foreign public officials in international commercial transactions in an effective and coordinated manner and further examine the modalities and appropriate international instruments to facilitate criminalization, and to re-examine the tax deductibility of such bribes with the intention of denying such tax deductibility in the member States that do not already do so,

1. Adopts the United Nations Declaration against Corruption and Bribery in International Commercial Transactions, the text of which is annexed to the present resolution;
2. Notes the work being undertaken by the United Nations and in other international and regional forums to address the problem of corruption and bribery in international commercial transactions, and invites all States

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<sup>2</sup> See E/1996/99.

<sup>3</sup> See E/1996/106.

- concerned to pursue the completion of such work;
3. Invites Member States, in accordance with the Declaration, to take appropriate measures and cooperate at all levels to combat corruption and bribery in international commercial transactions;
  4. Requests the Economic and Social Council and its subsidiary bodies, in particular the Commission on Crime Prevention and Criminal Justice:
    - (a) To examine ways, including through legally binding international instruments, without in any way precluding, impeding or delaying international, regional or national actions, to further the implementation of the present resolution and the annexed Declaration, so as to promote the criminalization of corruption and bribery in international commercial transactions;
    - (b) To keep the issue of corruption and bribery in international commercial transactions under regular review;
    - (c) To promote the effective implementation of the present resolution;
  5. Invites other bodies of the United Nations system, including the United Nations Conference on Trade and Development, whose competence extends to this matter, to take action as appropriate within their mandates to promote the objectives of the present resolution and the Declaration;
  6. Encourages private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions to cooperate in the effective implementation of the Declaration;
  7. Requests the Secretary-General to inform Member States, the relevant bodies and the specialized agencies of the United Nations system, and international, regional and non-governmental organizations, of the adoption of the present resolution, to encourage action towards making its provisions widely known and to promote its effective implementation;
  8. Also requests the Secretary-General to prepare a report, for consideration by the General Assembly at its fifty-third session, on the progress made towards implementation of the present resolution and the steps taken by Member States, international and regional organizations and other relevant institutions to combat corruption and bribery in international commercial transactions; on the results of the work in this regard undertaken by the Commission on Crime Prevention and Criminal Justice and other bodies of the United Nations system; and on measures taken in accordance with the present resolution to promote social responsibility and the elimination of corruption and bribery in international commercial transactions;
  9. Invites Member States and competent international, regional and non-governmental organizations to provide relevant information to assist the Secretary-General in preparing the above-mentioned report;
  10. Decides to include in the provisional agenda of its fifty-third session, under an item entitled "Business and development", a review of the report of the Secretary-General concerning the implementation of the present resolution.
- 86th plenary meeting  
16 December 1996
- United Nations Declaration  
against Corruption and Bribery  
in International Commercial  
Transactions**
- The General Assembly,  
Convinced that a stable and transparent environment for international commercial transactions in all countries is essential for the mobilization of investment, finance, technology, skills and other

important resources across national borders, in order, *inter alia*, to promote economic and social development and environmental protection,

Recognizing the need to promote social responsibility and appropriate standards of ethics on the part of private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions, *inter alia*, through observance of the laws and regulations of the countries in which they conduct business, and taking into account the impact of their activities on economic and social development and environmental protection,

Recognizing also that effective efforts at all levels to combat and avoid corruption and bribery in all countries are essential elements of an improved international business environment, that they enhance fairness and competitiveness in international commercial transactions and form a critical part of promoting transparent and accountable governance, economic and social development and environmental protection in all countries, and that such efforts are especially pressing in the increasingly competitive globalized international economy,

Solemnly proclaims the United Nations Declaration against Corruption and Bribery in International Commercial Transactions as set out below.

Member States, individually and through international and regional organizations, taking actions subject to each State's own constitution and fundamental legal principles and adopted pursuant to national laws and procedures, commit themselves:

1. To take effective and concrete action to combat all forms of corruption, bribery and related illicit practices in international commercial transactions, in particular to pursue effective enforcement of existing laws prohibiting bribery in international commercial transactions, to encourage the adoption of laws for those purposes where they do not exist, and to call upon private and public corporations, including transnational corporations, and individuals within their jurisdiction engaged in international commercial transactions to promote the objectives of the present Declaration;
2. To criminalize such bribery of foreign public officials in an effective and coordinated manner, but without in any way precluding, impeding or delaying international, regional or national actions to further the implementation of the present Declaration;
3. Bribery may include, *inter alia*, the following elements:
  - (a) The offer, promise or giving of any payment, gift or other advantage, directly or indirectly, by any private or public corporation, including a transnational corporation, or individual from a State to any public official or elected representative of another country as undue consideration for performing or refraining from the performance of that official's or representative's duties in connection with an international commercial transaction;
  - (b) The soliciting, demanding, accepting or receiving, directly or indirectly, by any public official or elected representative of a State from any private or public corporation, including a transnational corporation, or individual from another country of any payment, gift or other advantage, as undue consideration for performing or refraining from the performance of that official's or representative's duties in connection with an international commercial transaction;
4. To deny, in countries that do not already do so, the tax deductibility of bribes paid by any private or public corporation or individual of a State to any public official or elected representative of another country and, to that end, to examine their respective modalities for doing so;
5. To develop or maintain accounting standards and practices that improve the transparency of

international commercial transactions, and that encourage private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions to avoid and combat corruption, bribery and related illicit practices;

6. To develop or to encourage the development, as appropriate, of business codes, standards or best practices that prohibit corruption, bribery and related illicit practices in international commercial transactions;
7. To examine establishing illicit enrichment by public officials or elected representatives as an offence;
8. To cooperate and afford one another the greatest possible assistance in connection with criminal investigations and other legal proceedings brought in respect of corruption and bribery in international commercial transactions. Mutual assistance shall include, as far as permitted under national laws or as provided for in bilateral treaties or other applicable arrangements of the affected countries, and taking into account the need for confidentiality as appropriate:
  - (a) Production of documents and other information, taking of evidence and service of documents relevant to criminal investigations and other legal proceedings;
  - (b) Notice of the initiation and outcome of criminal proceedings concerning bribery in international commercial transactions

to other States that may have jurisdiction over the same offence;

- (c) Extradition proceedings where and as appropriate;
9. To take appropriate action to enhance cooperation to facilitate access to documents and records about transactions and about identities of persons engaged in bribery in international commercial transactions;
10. To ensure that bank secrecy provisions do not impede or hinder criminal investigations or other legal proceedings relating to corruption, bribery or related illicit practices in international commercial transactions, and that full cooperation is extended to Governments that seek information on such transactions;
11. Actions taken in furtherance of the present Declaration shall respect fully the national sovereignty and territorial jurisdiction of Member States, as well as the rights and obligations of Member States under existing treaties and international law, and shall be consistent with human rights and fundamental freedoms;
12. Member States agree that actions taken by them to establish jurisdiction over acts of bribery of foreign public officials in international commercial transactions shall be consistent with the principles of international law regarding the extraterritorial application of a State's laws.

# International Cooperation against Corruption and Bribery in International Commercial Transactions

Resolution adopted by the General Assembly (A/RES/52/87)

The General Assembly,

Disturbed by the bribery of public officials by individuals and enterprises of other States in relation to international commercial transactions,

Convinced that such practices undermine the integrity of state bureaucracies and weaken social and economic policies by promoting corruption in the public sector, thus diminishing its credibility,

Convinced also that the fight against corruption must be supported by sincere international cooperation efforts,

Recalling its resolution 3514 (XXX) of 15 December 1975, in which it, inter alia, condemned all corrupt practices, including bribery, by transnational corporations and other corporations, their intermediaries and others involved, in violation of the laws and regulations in host countries, reaffirmed the right of any State to adopt legislation and to investigate and take appropriate legal action, in accordance with its national laws and regulations, against such corrupt practices and called upon all Governments to cooperate to prevent corrupt practices, including bribery,

Recalling also Economic and Social Council resolution 1995/14 of 24 July 1995 on action against corruption,

Recalling further its resolution 50/225 of 19 April 1996 on public administration and development,

Recalling in particular its resolution 51/59 of 12 December 1996, in which it adopted the International Code of Conduct for Public Officials, annexed thereto, and recommended it to Member States as a tool to guide their efforts against

corruption,

Recalling that by its resolution 51/191 of 16 December 1996 it adopted the United Nations Declaration against Corruption and Bribery in International Commercial Transactions,

Recalling also that in its resolution 51/191 it requested the Economic and Social Council and its subsidiary bodies, in particular the Commission on Crime Prevention and Criminal Justice, to examine ways to further the implementation of that resolution and the United Nations Declaration against Corruption and Bribery in International Commercial Transactions, to keep the issue of corruption and bribery in international commercial transactions under regular review and to promote the effective implementation of that resolution,

Taking note of the report of the Secretary-General on action against corruption and bribery<sup>1</sup> and of the report of the Expert Group Meeting on Corruption, held at Buenos Aires from 17 to 21 March 1997,<sup>2</sup>

Welcoming developments that have advanced international understanding and cooperation regarding bribery in transnational business, such as the Inter-American Convention against Corruption adopted by the Organization of American States on 29 March 1996,<sup>3</sup> which includes an article on the prohibition of foreign commercial bribery; the ongoing work of the Council of Europe against corruption, including the elaboration of several

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<sup>1</sup> E/CN.15/1997/3.

<sup>2</sup> E/CN/15/1997/3/Add.1, annex.

<sup>3</sup> See E/1996/99.

international conventions containing provisions on bribery in international commercial transactions; the ongoing work of the World Trade Organization to improve transparency, openness and due process in government procurement procedures; and the ongoing work of the States members of the Organisation for Economic Cooperation and Development, including, as elements, the agreement to prohibit the tax deductibility of bribes paid to foreign public officials in international commercial transactions, and the commitment to criminalize the bribing of foreign public officials in international business transactions,

1. Agrees that all States should take all possible measures to further the implementation of the United Nations Declaration against Corruption and Bribery in International Commercial Transactions<sup>4</sup> and of the International Code of Conduct for Public Officials;<sup>5</sup>
2. Urges Member States that have not yet done so to implement relevant international declarations and to ratify, where appropriate, international instruments against corruption;
3. Also urges Member States to criminalize, in an effective and coordinated manner, the bribery of public office holders of other States in international commercial transactions, and encourages them to engage, as appropriate, in programmatic activities to deter, prevent and combat bribery and corruption, for example, by diminishing institutional barriers through the development of integrated management systems and the promotion of legal reform, in accordance with their fundamental legal principles in both the public and private sectors, by encouraging a greater role for citizens in the development of transparent and accountable government, by supporting the active participation of non-governmental organizations in the identification, planning and implementation of initiatives that raise ethical standards and

practices in both government and business transactions and by providing training and technical assistance to other States, as appropriate, and to develop and implement standards of good governance, in particular, accountability and transparency, legitimate commercial and financial conduct and other anti-corruption measures;

4. Requests the Secretary-General to invite each Member State to provide a report on steps taken to implement the provisions of the Declaration, including those dealing with criminalization, effective sanctions, tax deductibility, accounting standards and practices, development of business codes, illicit enrichment, mutual legal assistance and bank secrecy provisions, as well as on national anti-corruption strategies and policies, for compilation by the Secretary-General and consideration by the Commission on Crime Prevention and Criminal Justice, with a view to examining further steps to be taken for the full implementation of the Declaration;
5. Invites competent international, regional and non-governmental organizations to provide relevant information to the Commission on Crime Prevention and Criminal Justice on international efforts to combat corruption and bribery;
6. Requests the Secretary-General, subject to the availability of extrabudgetary funds, to intensify technical assistance to combat corruption, providing advisory services to Member States that request such services, and urges Member States to provide the Secretariat with the necessary extrabudgetary funds for such technical assistance;
7. Requests the Commission on Crime Prevention and Criminal Justice to give attention to the question of the bribery of public office holders of other States in international commercial transactions and to include in its agenda for a future session a review of action taken by States to implement the Declaration.

70th plenary meeting

12 December 1997

<sup>4</sup> Resolution 51/191, annex.

<sup>5</sup> Resolution 51/59, annex.

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## Annex 4

# Public Administration and Development

Resolution adopted by the General Assembly (A/RES/50/225)

The General Assembly,

Recalling the Tangier Declaration,<sup>1</sup> adopted by the Pan-African Conference of Ministers of the Civil Service held in Morocco on 20 and 21 June 1994,

Recalling also its resolution 49/136 of 19 December 1994 on public administration and development,

Recalling further Economic and Social Council decision 1996/215 of 2 April 1996,

Bearing in mind the rapid pace and interdependence of global, political, social and economic developments, and their implications for all countries, particularly the developing countries, and that there is a critical need for improved efficiency and effective public institutions, administrative procedures and sound financial management to harness these challenges in support of sustainable development in all countries,

Affirming that States have the sovereign right and responsibility to decide, in accordance with their own development policy, strategies, needs and priorities, on their public administration management based on the rule of law,

Acknowledging the diversity of experiences in public administrative systems as well as the political, social and economic circumstances of each country,

Recognizing that effectiveness of government requires an efficient and effective public administration in all countries that is responsive to the needs of the people, promotes social justice, ensures universal access to quality services and productive assets and creates an enabling environment for sustainable people-centred development,

Reaffirming the importance of enhancing the quality of public administration based, *inter alia*, on the participatory approach to development,

Recognizing the role of the United Nations in assisting Governments, at their request, in ensuring the maintenance of essential basic government services and functions during times of crisis and in developing strategies for rebuilding a viable public administration in countries undergoing post-conflict rehabilitation and reconstruction,

Taking note of the fact that the United Nations system, responding to requests from interested Member States, has contributed in support of their public administration to include wider aspects of governance, including democratic, legal and judiciary reform, and strengthening of the civil society,

Recognizing that Governments in all countries should make their procedures transparent in order to avoid and combat all acts of corruption,

Emphasizing the benefits to all countries of exchanging experiences and views in order to promote better understanding and applications of various roles and functions of government and public administration, and enhancing international cooperation in this field, including such exchanges within the context of South-South and interregional cooperation,

Recognizing the important role of the public sector in the development process and stressing the need to improve development and management of its human resources through, *inter alia*, appropriate national incentive measures,

1. Takes note of the report of the Secretary-General on public administration and

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<sup>1</sup> See A/49/495, annex.



- development<sup>2</sup> and of the proposals contained therein;
2. Takes note also of the report of the Group of Experts in Public Administration and Finance;<sup>3</sup>
  3. Takes further note of the reports of the regional meetings on public administration and development;<sup>4</sup>
  4. Recognizes that there exist challenges and trends variously facing national Governments in the field of public administration;
  5. Reaffirms that democracy and transparent and accountable governance and administration in all sectors of society are indispensable foundations for the realization of social and people-centred sustainable development;
  6. Underlines the importance of transparent and accountable governance and administration in all public and private national and international institutions;
  7. Recognizes that there is a need for public administration systems to be sound, efficient and well equipped with the appropriate capacities and capabilities through, *inter alia*, capacity-building, promotion of transfer, access and utilization of technology, establishment or improvement of training programmes for public service, strengthening of partnership of the public sector with the private sector and civil society, as well as providing an enabling environment for private sector activities, as appropriate, promotion of the role and involvement of women in public administration, development of cross-sectoral gender-sensitive and multidisciplinary capabilities, which supports all phases of the development process as well as the promotion of opportunities for all to participate in all spheres of the public sector;
  8. Reaffirms that Governments in all countries should promote and protect all human rights and fundamental freedoms, including the right to development, bearing in mind the interdependent and mutually reinforcing relationship between democracy, development and respect for human rights, and should make public institutions more responsive to people's needs;
  9. Invites Governments to strengthen their public administrative and financial management capacities through public-sector administrative and management reform, with emphasis on enhanced efficiency and productivity, accountability and responsiveness of the public institutions, and encourages, where appropriate, decentralization of public institutions and services;
  10. Recognizes the importance of the major United Nations conferences and urges the development of the necessary capabilities to enable public administration to implement the commitments agreed upon in an effective and coordinated manner;
  11. Confirms the importance of and calls for enhancement of the effectiveness of United Nations activities in the area of public administration and development;
  12. Stresses the importance of an increased synergy, cooperation and coordination between United Nations funds and programmes, the specialized agencies, the United Nations Secretariat and the Bretton Woods institutions to ensure that the substantive and technical capacity of the United Nations system is optimized;
  13. Acknowledges that the role of United Nations activities and programmes in public administration and development is to assist Governments, at their request, to improve their responsiveness to meet the basic needs of all, as well as to achieve sustainable development in all countries; the United Nations should focus its activities in the following areas as recommended by the Group of Experts in Public Administration and Finance in its report:
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- <sup>2</sup> A/50/847-E/1996/7.
- <sup>3</sup> A/50/525-E/1995/122.
- <sup>4</sup> A/50/904, A/50/917, A/50/919, A/50/920, A/50/921 and A/50/929.

- (a) Strengthening government capacity for policy development, administrative restructuring, civil service reform, human resources development and public administration training;
- (b) Improving performance in the public sector;
- (c) Financial management;
- (d) Public-private interaction;
- (e) Social development;
- (f) Developing infrastructure and protecting the environment;
- (g) Government legal capacity;
- (h) Post-conflict rehabilitation and reconstruction of government machinery;
- (i) Management of development programmes.

In this context, the United Nations should carry out these activities through pooling and facilitating access to information in public administration, promoting training and research in public administration and finance at all levels, advocacy and exchange of experiences, advisory services, technical assistance, capacity-building and human resources development.

- 14. Requests the United Nations to develop strategies, at the request of interested countries, for rebuilding a viable public administration in countries undergoing post-conflict rehabilitation and reconstruction;
- 15. Invites the Bretton Woods institutions and all relevant United Nations agencies and bodies to assist, at their request, Member States involved in economic restructuring programmes to pursue national policies aimed at improving the

development and management of their human resources through, *inter alia*, appropriate measures;

- 16. Recognizes the increased national efforts of Member States in providing adequate financial and other resources for the strengthening of their public administration;
- 17. Invites the international community to create an enabling international environment and to consider providing adequate financial and other resources for programmes of assistance to support national efforts in enhancing the effectiveness of public administration in developing countries and countries with economies in transition;
- 18. Recommends that the Secretary-General take appropriate measures in order to ensure maximum coordination of activities of the United Nations system in the field of public administration and development;
- 19. Calls upon the Secretary-General to ensure ways of strengthening the coordination, coherence and harmonization of the management and implementation of the operational activities of the United Nations system in the field of public administration and development;
- 20. Requests the Secretary-General to submit to the General Assembly at its fifty-third session, through the Economic and Social Council, a report on public administration and development containing information on the implementation of the present resolution.

112th plenary meeting

19 April 1996

## The Rabat Declaration

**We the African Ministers of Civil Service,** meeting at the invitation of the Kingdom of Morocco for the Second Pan-African Conference of Ministers of Civil Service, held in Rabat, Morocco from 13 - 15 December 1998, jointly organised by the African Training and Research Centre in Administration for Development (CAFRAD) and the United Nations Department of Economic and Social Affairs (UN DESA), agree on the following:

Having discussed *The Public Service in Africa: New Challenges, Professionalism and Ethics* through a range of issues on the effective, efficient and ethical workings of a professional civil service and human resources development within the African context;

Aware of the promising perspectives brought about by the previous conference held in Tangier, and which have created a better awareness on the part of the international community to the specific administrative constraints in the development of African countries;

Having taken note with satisfaction of the commitments and the efforts made as well as the initiatives taken by the different countries to implement the Tangier Declaration and Resolution 50/225 of the United Nations General Assembly and having also taken note of the recommendations of the 36th Governing Board of CAFRAD held on July 1997;

Recognizing that given the political and economic changes of recent years, new responsibilities have been placed on the public administration of African countries, including:

- Adapting to the growing globalisation of the economy and establishing an environment favouring the growth of the private sector;
- Ensuring not only the economic growth and the strengthening of basic infrastructures but also social development and the narrowing of increasing disparities of income and opportunities in favour of social solidarity;

- Modernising the administrative structures through grasping new information and communication technologies while making the civil service close to the citizen and providing quality services.

Considering that to meet the multiple challenges in creating conditions for sustainable economic and social development on the eve of the 21st century, governments must be backed by a responsible, effective, efficient and responsive public administration;

Attaching special importance to the need of investing in human resources, in developing them and efficiently using them as a basis for the consolidation of democracy, for the achievement of social progress and the reform of public administration;

Believing that:

- Effects of structural adjustment programmes have sometimes weakened the capacity of the public sector to perform its missions effectively;
- Promoting conditions which enable the civil service to attract, to motivate and to retain highly qualified individuals of great integrity and merit will create an administration that is service-oriented, complementing and drawing synergy from both the private sector and civil society,
- A well-performing and transparent public service is an essential prerequisite for private sector growth and Africa's economic recovery;

Considering that:

- The promotion of professionalism, the enhancement of ethical standards and integrity systems including the fight against corruption in the public administration of African countries is a key issue for the development of the region;
- The experience gained in this field in some

countries deserves to be widely known and shared;

- A comprehensive African approach to cope with the new challenges and to enhance the role, professionalism, ethics and image of the public service should be defined as part of a concerted effort to revitalise public administration for economic and social development;

Reiterate our commitment for holding meetings of the Biennial Pan-african Conference of Ministers of Civil Service on a regular basis, since it provides a forum for dialogue and a step in the direction of attaining our common objectives;

We now draw the attention of the international community to the current difficulties faced by and the needs of African States, with a view to increasing assistance for the development and modernisation of their public administration;

Based on the above, we recommend the following actions:

- Each country makes the commitment and takes the necessary measures to regenerate professionalism and promote ethics in its public administration by:
  - Creating managerial structures and mechanisms;
  - Reforming civil service codes to introduce principles of neutrality, transparency, flexibility and stressing ethics and integrity;
  - Implementing a system of recruitment, career development and remuneration based on merit;
  - Improving and modernising methodologies and programmes for training civil servants.
- The Chairperson of the Conference sets up jointly with the Conference Participants, a working group with the backing of CAFRAD and in close collaboration with the United Nations Department of Economic and Social Affairs to perform the following tasks:
  - To elaborate a *Charter for the Public Service in Africa* to affirm

the values of the public service profession, restate its goals and missions in the light of the changing conditions and needs of the countries in the region, and outline the basic conditions for enhancing its role, professionalism, ethics and image, including the elaboration of Code of conduct for African public servants;

- To develop strategies and methodologies which can assist the Governments of the African region to achieve such objectives and to meet these basic conditions;
- CAFRAD undertakes the following actions:
  - To carry out periodic studies on public policies and programmes and to strengthen the capacity of public organisations;
  - To organise a Conference of African Directors of public service in order to exchange ideas and views on Professionalism and Ethics in African Public Service;
  - To prepare a comprehensive report for the next Conference to be presented at the 5th anniversary of Resolution 50/225 of the United Nations General Assembly in 2001;
  - To organise regular sub-regional meetings to examine the issues of human resources management, including recruitment, in the public service;
  - To support in the update and strengthening of the training programmes of Schools and Institutes of Public administration in the context of African Public Administration needs regarding in particular ethics and professionalism, and to make proposals for appropriate reforms;
  - To promote and sustain, in collaboration with other regional and international organisations, and with the help of websites, press releases, and other means a virtual community and network of public

administration practitioners and scholars for the debate and exploration of relevant issues; and

- Within the framework on ongoing United Nations initiatives for financing development, special attention should be given to mobilising the necessary financial resources to strengthen African public administration. In this respect, the Conference follows with interest the steps being taken for the holding of the International Conference planned on this theme.
- UN DESA undertakes consultation and build support for the proclamation of a *United Nations Day for Public Service and Development*, to be observed annually;

We call on international financial institutions and other donor partners to allocate in their development assistance policy, additional resources in order to facilitate the reforms of the public administration to meet these new challenges.

We request:

- The Secretary-General of the United Nations to provide the necessary expertise and resources to

Governments, upon their request, in order to improve professionalism, to strengthen integrity and to combat corruption;

- The Secretary-General of the United Nations to facilitate the exchange of experiences between regions on issues linked to the themes of this Conference, in particular within the framework of the Meeting of the Group of Experts on the Programme of the United Nations in Public Administration and Finance;
- The Secretary-General of the United Nations to ensure that professionalism and ethics be considered as priority themes in the activities related to public administration within the United Nations System;
- The Chairperson of this Conference to undertake the task of raising the awareness of the international community to the importance of the themes discussed in this Conference, and to report at the next Pan-African Conference of Ministers of Civil Service on steps taken for the implementation of this Declaration.

*Rabat, 15 December 1998*