

WE ARE WOMEN FROM EVERY PART OF SOUTH AFRICA

WE ARE WOMEN OF EVERY RACE

WE COME

from  
THE CITIES AND THE TOWNS

from  
THE RESERVES AND THE VILLAGES

as  
WOMEN UNITED IN OUR PURPOSE

TO SAVE THE AFRICAN WOMEN FROM THE DEGRADATION OF PASSES

IN THE NAME OF THE WOMEN OF SOUTH AFRICA

WE SAY TO YOU NONE OF US  
THAT WE ARE OPPOSED TO THE PASS SYSTEM

WE SHALL NOT REST

until

FORMS OF PERMITS RESTRICTING OUR FREEDOM HAVE

# 2

## governance and administration

until

WE HAVE WON FOR OUR CHILDREN

their

FUNDAMENTAL RIGHTS

of

FREEDOM

JUSTICE

and

SECURITY

## 2.1 WHAT DEMOCRATIC SOUTH AFRICA INHERITED IN 1994

South Africa's first democratic government inherited a fragmented, unaccountable and racially divided governance system consisting of homeland administrations (sometimes also referred to as "Bantustans" or "self-governing territories"), national and provincial administrations, as well as separate administrations for certain racial groups. The homeland administrations were poorly organised and resourced, largely without local government, and the services they provided were determined by the apartheid state. Those municipalities that were well capacitated were mostly in the urban areas and served the needs of the white minority. These balkanised apartheid-era institutions had to be amalgamated into a single democratic, non-racial system.

Before 1994, the frameworks governing the public service were highly centralised and regulated, resulting in a bureaucratic, unresponsive and risk-averse public service. In addition, the public service lacked transparency and accountability, providing space for abuse of power and corruption. Post-apartheid South Africa needed a reformed governance system that would allow all South Africans to claim political and social ownership of the country. This meant changing the systems of governance to be geared towards transformation by addressing the legacy of apartheid. There was a need to modernise the public service, to make it more efficient, effective, accountable and people-centred, so that it would be able to fulfil its transformative role.

## 2.2 DEVELOPMENTS SINCE 1994

The country's governance landscape has been significantly transformed since 1994. The Constitution of the Republic of South Africa (1996) provided the foundations for building a democratic and inclusive state and is hailed as one of the most progressive in the world. Apartheid laws were repealed and a Bill of Rights enshrined in the Constitution, guaranteeing all citizens' socio-economic and human rights. Independent institutions were established under Chapter 9 of the Constitution to strengthen accountability, safeguard democracy and build a responsive state<sup>i</sup>. An independent judiciary and the constitutional freedom of speech and assembly were legally established. This has enabled citizens to pursue their political views and ideals freely and to trust the decisions of the judicial system.

The integration of the former administrations and Bantustans into a unified public service, operating in the national and provincial spheres, was a daunting task. In addition, a comprehensive network of municipalities now

covers the entire country. The nature, scale and pace of change since 1994 have been phenomenal. Few parallels exist elsewhere in the world.

The extension of access to basic services such as water, electricity, education, housing and social security (see Chapter 3 for more detail) has been a major achievement of the post-apartheid era. However, despite this dramatic expansion, access to quality services remains uneven. These disparities result from apartheid spatial and governance systems, compounded by institutional weakness in some provinces and municipalities. In short, the state's capacity is weakest where socio-economic pressures are the greatest.

As described in the National Development Plan (NDP), there is unevenness in capacity that leads to uneven performance in the public service. This is caused by a range of factors, including tensions in the political-administrative interface, instability of administrative leadership, skills deficits, insufficient attention to the role of the state in reproducing the skills it needs, weaknesses in organisational design and low staff morale. Other causal factors include the lack of a culture of continuous improvement, insufficient attention to operational management and a lack of management accountability. The last part of this chapter identifies the steps that are being taken to overcome these challenges and build a capable and developmental state that can drive the country's development and transformation.

### 2.2.1 Representative democracy

Unlike many other countries with a longer post-colonial history, South Africa's electoral institutions command enormous respect, and electoral results are accepted as free and fair. Since the first democratic elections in 1994, South Africa has had regular elections every five years. Despite an inevitable decline after the landmark 1994 elections, turnout levels have remained good and, following declines in 1999 and 2004, actually increased with the 2009 elections.

The proportion of women in the legislatures and in the executive shows a steady upward trend from 1994. As reported in the Presidency's Fifteen Year Review, the proportion of female members of Parliament (MPs) after the 2004 elections was one of the highest in the world. Similarly, over 40 percent of Cabinet members were women, as were four out of nine provincial premiers. This pattern was carried through after the 2009 elections with 43 percent of MPs and 42 percent of members of provincial legislatures being female. After the 2009 elections, 42 percent of Cabinet ministers and five out of nine provincial premiers were women.

<sup>i</sup> These Chapter 9 institutions are the Public Protector, the South African Human Rights Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Commission for Gender Equality, the Auditor-General and the Electoral Commission.



## EXAMPLES OF IMPROVEMENTS IN HUMAN RIGHTS SINCE 1994

Compared to the apartheid era, where the majority had no political rights and parties opposed to apartheid were banned, all South Africans now have the right to freedom of association and are free to make political choices and campaign for any political party or cause.

Whereas the majority of South Africans were denied the right to vote during the apartheid era, every adult citizen now has the right to participate in free, fair and regular elections, the right to vote and to stand for public office and, if elected, to hold office. All South Africans have the right to assemble, to demonstrate, to picket and to present petitions, provided this is done peacefully and unarmed.

South Africans now have the right to freedom of expression. The press and other media can express themselves freely and there is academic freedom and freedom of scientific research. The Bill of Rights also makes provision for the right to access any information that is required for the exercise or protection of any rights. The freedom of expression does not extend to propaganda of war, incitement of imminent violence or advocacy of hatred based on race, ethnicity, gender or religion.

Compared to the apartheid era, all South Africans are now equal before the law and have the right to equal protection and benefit of the law. Whereas during apartheid people were detained without trial, mainly for their political beliefs, all citizens now have the right to freedom and security of the person, which includes the right not to be detained without trial and not to be treated or punished in a cruel, inhuman or degrading way. Everyone who is detained has the right to be informed of the reason for being detained and to legal representation. Everyone who is arrested for allegedly committing an offence has the right to remain silent and to a fair trial or hearing before a court.

While the apartheid state sought to deprive the majority of South Africans of their citizenship and controlled their movement through oppressive pass laws and other means, no citizen may be deprived of citizenship and everyone has the right to freely move through the Republic, reside anywhere and hold a passport.

Whereas the apartheid state reserved skilled jobs for white South Africans, all citizens now have the right to choose their trade, occupation or profession. All citizens have the right to fair labour practices, to form and join a trade union and participate in its activities and programmes and the right to engage in collective bargaining. No one may be

subjected to slavery, servitude and forced labour.

While access to education was racially determined during apartheid, all South Africans now have the right to basic education (including adult basic education) and to further education, which the state has sought to progressively make available and accessible, through reasonable measures.

All South Africans now have the right to access health care services, water and social security and appropriate social assistance if they are unable to support themselves and their dependants. No one may be refused emergency medical treatment. Every child, regardless of race, has a right to basic nutrition, shelter, basic health services and social services. Every child also has the right to family care or parental care and to be protected from maltreatment, neglect, abuse or degradation and exploitative labour practices.

Compared to the apartheid era, all citizens have the right to freedom of sexual orientation, conscience, religion, thought, belief and opinion. All marriages concluded under any tradition, or a system of religious, person or family law are now recognised. Compared to the further oppression and discrimination they experienced during the apartheid era, women have equal rights before the law, including the right to make decisions regarding reproduction.



Global rankings of the percentage of women parliamentarians in national parliaments put South Africa in the top 10 out of 188 countries, ahead of many developed countries<sup>1</sup>.

The institutions of representative democracy, such as Parliament, the provincial legislatures and municipal councils, are generally well established, with representation of women in municipal structures and ward councillors at approximately 40 percent after the 2005 and 2009 local government elections. The focus is now on strengthening the ability of the institutions of representative democracy to fulfil their oversight roles and to contribute to the building of an accountable and responsive state. Independent oversight bodies reporting to Parliament (the Chapter 9 institutions) have been robust in holding the executive and bureaucracy to account.

While the establishment of independent institutions supporting democracy, together with a free press, has resulted in independent information about the performance of government being readily available, this has not been matched with a sufficiently uncompromising system of consequences for poor performance. There are recurring debates on how to address this and shift the culture of the public sector towards one of greater accountability, linked to greater sanctions for poor performance and unethical conduct. Some of the suggestions emanating from these debates include increasing the

public accountability of members of the executive, heads of department and municipal managers, increasing the effectiveness of parliamentary oversight, reviewing the pros and cons of the proportional representation system vis-à-vis a constituency-based system, and greater inclusion of citizens in governance processes and decision-making.

### **2.2.2 The three spheres of government**

The Constitution established national, provincial and local spheres of government, which are distinctive, interdependent and interrelated, and are required to work together in the spirit of cooperative governance. Many of government's activities depend on effective cooperation between the different spheres.

Provinces and municipalities are constitutionally responsible for implementing many of the key objectives of government. For provinces, this relates particularly to areas such as education and health, on which a large proportion of provincial budgets is spent. Municipalities are primarily responsible for providing quality, cost-effective municipal services. As set out in the White Paper on Local Government, they should also focus on transforming unequal and inefficient use of space, identifying priority business areas and improving the built environment by developing and maintaining appropriate infrastructure. National government is expected to provide legislative and policy frameworks and to

## CASE STUDY OF THE DEPARTMENT OF HOME AFFAIRS

In the apartheid state multiple structures existed to perform the equivalent functions to the current Department of Home Affairs. For the purposes of comparison, those structures and functions can be described collectively as the “old” or pre-1994 Home Affairs. The revolutionary difference between the “old” and “new” Home Affairs is revealed sharply in a story told by a white staff member who joined the “old” Home Affairs in 1973. Working at the birth registration counter, she describes how a baby was typically brought to the office by the mother and was taken by staff to a tea room. They locked the door while they unclothed the child and examined it to determine the race according to the Population Registration Act of 1950. In difficult cases, specialists from Social Services were called in. The process disturbed her at the time and still gives her troubling thoughts. The entire life of the child depended on the racial identity the child was given in that office or through the Bantu Administration System. In the case of Africans, there was a denial of citizenship and of every one of the other 27 rights set out in the Bill of Rights in the Interim Constitution of 1994, such as freedom of movement and political rights.

Since 1994, in total contrast, the registration of the birth of a South African child by the Department of Home Affairs guarantees that the child has an inalienable right to the status of being a citizen and to all the equal rights and responsibilities set out in the Constitution. The same white staff member reported that, as a woman, she suffered severe discrimination and had to resign and later reapply as a temporary worker every time she became pregnant, as there was no maternity leave. She was paid less than men for doing the same job, and she was never promoted until the new government came into power in 1994. This story reminds one of the isolated, patriarchal and unjust society in which the “old” Home Affairs was embedded. Since 1994, the state has been committed to playing a leading role in transforming this society for the benefit of all South Africans.

At the heart of the apartheid state and economic system was the denial of citizenship and self-determination through racial and ethnic classification based on law and administered by state machinery created for that purpose. The Population Registration Act required each person to be classified and registered in accordance with his or her racially defined characteristics. Pass laws and influx control were administered through a vast bureaucracy that controlled every aspect of the life of black South Africans. The main department responsible for the pass system took on different names at different times, such as Bantu Administration and, lastly, Development and Cooperation. It functioned at provincial and local levels. This rule-based bureaucracy was notorious for the complexity of its regulations, for corruption and for its arbitrary and callous decisions. The “old” Home Affairs was at the centre of this inhumane system, although it mainly served those classified as “white”.

provide support to provincial and local government to enable them to fulfil their core responsibilities.

The overlapping and concurrent responsibilities between spheres mean that effective coordination is essential. The Intergovernmental Relations Framework Act of 2005 provides for the creation of structures and institutions to facilitate inter-governmental cooperation and coordination. The coordination and collaboration problems facing the various spheres of government are complex and context specific and legislation can provide a guiding framework, but it cannot resolve all coordination issues. This makes it important to distinguish those issues that need to be resolved through legislation from those that are best addressed by proactive engagement and intervention on a case-by-case basis.

The challenges of managing concurrent functions have led to calls for a review of the constitutional responsibilities of the different spheres of government. However, national government has increasingly focused on improving the management of concurrent functions within the existing constitutional framework, and there is growing evidence of the effectiveness of this approach.

The Constitution makes provision for minimum norms and standards to be set, and for intervention where these norms and standards are not being met. National government is increasingly making use of these provisions and setting norms and standards for concurrent functions, either through legislation or through negotiation. For example, the national Department of Health recently established the Office of Health Standards Compliance through an Act of Parliament to ensure minimum levels of quality of service in the health sector. The national Department of Basic Education recently negotiated minimum standards for the procurement and delivery of school textbooks with its provincial counterparts. Together with close monitoring by the national department, this has resulted in a marked improvement in the timely delivery of textbooks to schools.

Other ways in which national departments are increasingly supporting provincial and local government are described in detail in the other chapters of this review. These include sector skills plans, a range of initiatives to

support infrastructure and housing delivery, and transversal contracts to obtain better prices for medicines.

Until 2005, the administration of social grants was done separately by each province and was beset by a number of problems, including delays in the approval and payments of grants, fraud and corruption in the system, inhumane pay-point facilities and high administration costs. To address these problems a single national South African Social Security Agency was created through an act of Parliament, resulting in marked improvements in the distribution of social grants. While this centralised agency approach has worked relatively well for the payment of social grants, it would be less well suited to more complex areas of service delivery. The optimal approach to managing concurrency varies depending on the nature of the function being fulfilled. The constitutional and legislative framework provides space for this flexibility but, regardless of the specific approach, effective management of concurrent functions requires proactive engagement guided by the principles of cooperative governance.

One of the challenges in managing the intergovernmental system has been unevenness in the capacity of provincial and municipal administrations. Provinces that incorporated former homeland administrations were weighed down by high levels of poverty and by the incorporation of dysfunctional homeland administrations. Similarly, municipalities operate with very different levels of capacity and some have major infrastructure backlogs to overcome. The Constitution and policy frameworks are designed to take account of this variation by allowing for differentiation in how responsibilities are allocated to municipalities. The creation of the district system outside metropolitan areas was also intended to address this variation by allowing for skills to be shared across several local municipalities.

There is scope to improve the management of the intergovernmental system by applying this principle of differentiation more effectively. More responsibilities could be devolved to municipalities where capacity exists. In particular, assigning the housing function to large cities would help facilitate a more integrated approach

to urban planning. Municipalities with fewer resources need to be able to access focused support to enable them to fulfil their core responsibilities and build capacity to take on more responsibilities in future. The application of differentiation needs to extend beyond a broad categorisation of municipalities towards a greater responsiveness to the needs and constraints of individual municipalities.

At both provincial and municipal levels, major benefits can be achieved where national government is proactive in how it manages the intergovernmental system, so that it detects potential problems early and works with the other spheres to address specific issues on a case-by-case basis.

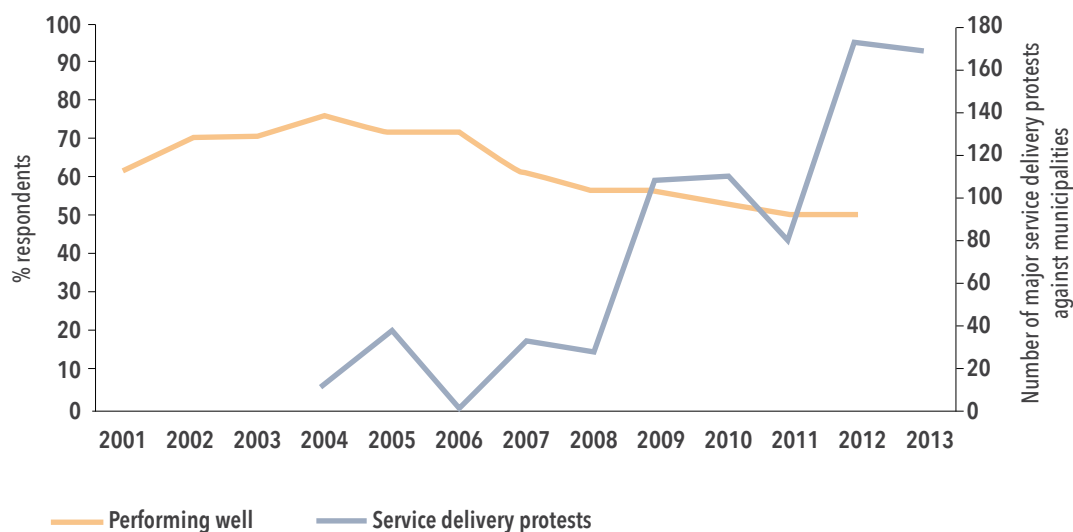
### 2.2.3 Local government

Significant advances have been made in establishing a single local government system from the fragmented, undemocratic, unaccountable and racially divided apartheid system. Building on the Constitution, the 1998 *White Paper on Local Government*<sup>2</sup> paved the way for a modern local government system with clear developmental objectives. The number of municipalities was rationalised from 843 before 2000 to 283 just before the 2011 municipal elections, and a new fiscal framework was instituted that guaranteed local government a share of national revenue. Policies and support structures were put in place with the intention of building the capacity of local government to deliver municipal services.

In the past two decades, municipalities have delivered basic services to millions of households that did not receive them before. Given that a number of municipalities had little or no pre-existing institutional foundations on which to build, and where these existed, they were geared towards serving the needs of a minority, this is a remarkable feat. However, local government is still in the process of transformation and many challenges remain for local government service delivery.

Remaining backlogs and unevenness in quality of service delivery contribute to deep-seated dissatisfaction in some communities, as evidenced by the steep rise in service delivery protests. Figure 2.1 shows a significant decline in public opinion of government's performance in delivering basic services, together with an increase in the number

**Figure 2.1: Public opinion of delivery of basic services compared to number of service delivery protests, 2001–2013<sup>ii</sup>**



<sup>ii</sup> The data for public opinion on the delivery of basic services is based on Markinor surveys. The data for service delivery protests is based on data from Municipal IQ. It only covers major protests staged by community members against a municipality, as recorded by the media, raising issues that are the responsibility or perceived responsibility of local government. Issues falling outside local government's service delivery mandate are excluded from the data. The 2013 value is estimated based on data up to October 2013.

Sources: GCIS based on Markinor survey and Municipal IQ

of major service delivery protests. These trends highlight the importance of effective engagement with citizens in order to ensure that concerns are heard and addressed, as well as the need to maintain and strengthen government's focus on improving the quality of service delivery.

In recent years significant effort has been directed towards refurbishment and routine maintenance, particularly of water and sanitation infrastructure. The Department of Water Affairs has identified over 600 projects, of which 288 and 166 have been selected for implementation in 2013/14 and 2014/15 respectively. Of the 288 projects for 2013/14, 122 are focused on refurbishment of dilapidated infrastructure.

Many municipalities have been affected by a shortage of technical skills, resulting in difficulties in delivering on their mandates. To this end the Municipal Infrastructure Support Agency was established in 2011 to support municipalities with planning, management and other technical expertise to roll out infrastructure more efficiently and effectively – especially in weaker municipalities. MISA is currently providing technical capacity support to 107 municipalities, with a total of 77 technical experts (engineering and planning professionals) assigned to support

these municipalities. Signs of improvements in project implementation, spending of allocated conditional grants (e.g. Municipal Infrastructure Grant) and infrastructure maintenance and refurbishment are evident in the municipalities that are being supported.

National government has allocated substantial funds to building municipal capacity since 1994. The Siyenza Manje Programme spent some R933 million in the period 2006/07 to 2009/10<sup>3</sup>. Almost R5.8 billion has been allocated for municipal capacity support between 2013/14 and 2016/17<sup>4</sup>. Going forward, this support will need to be continued and improved as some municipalities are still struggling to build, refurbish, operate and maintain the infrastructure needed for reliable and sustainable service delivery. Management and operational capabilities in key areas (including development planning, service delivery, human resource management, financial management, community engagement and governance) will need to be strengthened. This is especially true in some rural municipalities, which have a weak rates base and are often unable to recruit and retain critical skills. Vacancies are highest in the B4 and C2<sup>iii</sup> (mainly rural and former homeland) municipalities, with the percentage of

<sup>iii</sup> Category B4 municipalities are mainly rural with communal tenure and with, at most, one or two small towns within their jurisdiction. Category C2 municipalities are district municipalities, which are water service authorities.



total posts filled averaging 64 percent and 69 percent respectively.

Poor recruitment practices and political interference in appointments have further complicated matters at municipal level. In response, national government has recently developed minimum competency requirements for senior managers in local government. Rigorous implementation of these regulations will help ensure that municipalities recruit the right skills for the job. As is identified in the next section, municipalities also need to focus on improving the way they engage and work with local communities.

#### **2.2.4 Deepening participatory democracy**

South Africa has made great strides in creating mechanisms for citizens to participate on an ongoing basis and not just during elections. This is evident in the policy and legislative framework and the establishment of numerous statutory bodies, structures and programmes. The 1997 *White Paper on Transforming Public Service Delivery* (Batho Pele White Paper) focused on ensuring that government is responsive to the needs of its

citizens. Legislation such as the Promotion of Access to Information Act of 2000 and the Promotion of Administrative Justice Act of 2000 are designed to enable citizens to access state information and administrative justice. Participatory governance and advisory structures, consultative forums and grievance mechanisms have been established to enable citizens to participate in and inform governance processes.

Turning these formal structures into dynamic mechanisms that elicit meaningful community engagement remains a challenge. Participatory processes are often run as isolated events without effective feedback mechanisms or are outsourced to consultants, raising questions about their credibility. There is a perception that the state does not always take these structures seriously. In poor communities, limited resources, social inequality and prevailing power relations can present obstacles to meaningful citizen engagement. The increase in service delivery protests provides visible evidence that the state is struggling to ensure that poor communities feel that they are being heard. Protests are typically



prompted by a range of concerns including access to services, the quality of services and the perceived non-responsiveness of local government. The priority is therefore to ensure that mechanisms for promoting participation, accountability and responsiveness are used effectively. The discussion of public service ethos and culture later in this chapter identifies some of the steps that are being taken to improve public sector responsiveness.

Attention needs to be given to improving accountability mechanisms for routine day-to-day interactions between citizens and the state, particularly at the point of delivery. This includes enabling citizens to provide direct feedback on the quality of services through citizen-based monitoring, and ensuring that frontline public servants and their managers are given adequate authority to address issues as and when they arise. More emphasis needs to be put on engaging citizens in their own spaces rather than only expecting them to use forums and structures established by the state.

At local government level, there is a particular need to ensure that participation in the integrated development planning (IDP) processes is deliberative, with citizens being involved in identifying and resolving trade-offs rather than simply developing shopping lists of needs. Chapter 4 of the Municipal Systems Act obliges a municipality to create the systems, mechanisms and enabling conditions for meaningful participation of the community in the affairs of the municipality beyond the IDP process, including in monitoring and reviewing municipal performance. The Act requires councillors and officials to play a key role in fostering community participation. However, while structures such as ward committees have been created to enable councillors and officials to engage with communities, these have not worked in the manner intended. Interactions are often formulaic and symbolic rather than meaningful and have generally not helped to strengthen links between communities and councillors. On the contrary, many councillors have become estranged from communities and their critical concerns. The link between councillors and citizens via the ward committee system needs to be improved. This could be addressed through the translation of IDPs into ward-level service improvement plans that respond to the specific needs of

each ward. Additionally, greater emphasis needs to be placed on ensuring two-way communication and interaction that enables citizens to express their needs and concerns as well as for citizens to be kept informed by councillors of key issues and developments that are underway in the ward.

### **2.2.5 Traditional leadership**

In addition to the institutions of representative and participatory democracy developed since 1994, many citizens' lives are also affected by institutions of traditional leadership. The British colonial government sought to co-opt traditional leaders to legitimise the colonial system of indirect rule and the apartheid government sought to use traditional leaders to legitimise the homeland system, awarding leaders limited powers and salaries to secure their allegiance to the apartheid regime. Nonetheless, some traditional leaders played a prominent role in opposing colonialism and apartheid and challenged the legitimacy of the homeland system.

Studies suggest that traditional leaders play an important role in a community's heritage and culture and impact on the lives of people living in areas covered by traditional leaders through their role in local governance, with many citizens having contact with both traditional leaders and public sector institutions. The result, which is not unique to South Africa, is overlapping systems of governance between traditional leaders and the three spheres of government. Recognising the complexities posed by this dualism, the democratic government embarked on a process aimed at correcting the wrongs of the past within the institution of traditional leadership.

Chapter 12 of the Constitution recognises traditional leadership and states that national legislation may provide a role for such leadership. Since 1994, government has developed legislation and policy frameworks to give effect to Chapter 12 of the Constitution, including the Traditional Leadership and Governance Framework Act (2003), the White Paper on Traditional Leadership and Governance (2003) and the National House of Traditional Leaders Act (2009). The National House of Traditional Leaders was established in 1997.

One of the objectives of the White Paper on Traditional Leadership and Governance was to ensure that traditional leadership

structures are in line with the principles of the Constitution. This has included a focus on improving gender representivity in traditional leadership structures. The development of policy and legislation has not fully resolved the challenges in ensuring constructive relations between traditional leaders and government, or the democratisation and transformation of traditional leadership to ensure alignment with the principles of the Constitution. Debates about traditional leadership focus on a range of issues, including gender relations, the principles of the Constitution, and the rights of individuals to opt out of traditional systems.

The Presidency's Fifteen Year Review highlighted the need to assess "whether the exercise of traditional power and authority reflects the letter and spirit of the Constitution, without the emergence of two classes of citizens: those ruled by democratically elected institutions and those ruled by unelected traditional leaders". In 2004, after consultation with the traditional leadership institutions in the country, the government established an independent commission, commonly known as the Nhlapo Commission. The purpose of the commission was to address disputes and claims on traditional leadership.

In 2009, the Department of Traditional Affairs was established to support the institution

of traditional leadership. In addition, the Traditional Affairs Bill (2013) has been drafted to consolidate national legislation dealing with traditional leadership and make statutory provision for the recognition of the Khoi-San communities and leaders. The National Khoi-San Council, consisting of 30 members drawn from the five main groupings of Khoi-San society, was also established.

The Traditional Courts Bill, which was intended to affirm the recognition of the traditional justice system and its values and to regulate the role of traditional leadership in the administration of justice, faced strong opposition from a range of civil society groups and ordinary citizens, especially women in rural areas, resulting in its withdrawal in December 2012. The Bill is perceived by some as undermining equal citizenship rights and imposing a segregated legal system on those living in the former homelands. As a result, the statutory deadline of 30 December 2012, by which the Bill should have been enacted into law, has not been met and consultations on the Bill are ongoing. The debates around these Bills indicate that the scope of influence of traditional leadership remains highly contested. There is a need for society to reflect on the Constitutional provisions on traditional leadership and how they are being interpreted through legislation so as to ensure protection of the rights of all citizens.

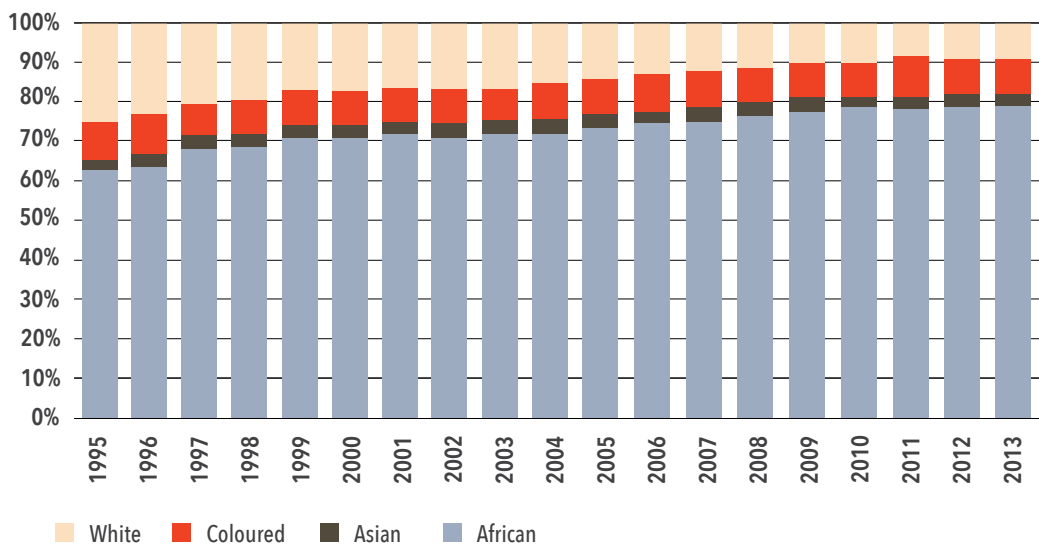


### 2.2.6 Representivity of the public service

The apartheid public service was a major source of employment for the white population and was used as a tool to empower Afrikaans-speaking whites. To address this legacy, the Constitution stipulates that “public administration must be broadly representative of the South African people, with employment management and personnel practices based on ability, objectives, fairness and the need to redress the imbalances of the past to achieve broad representation”.

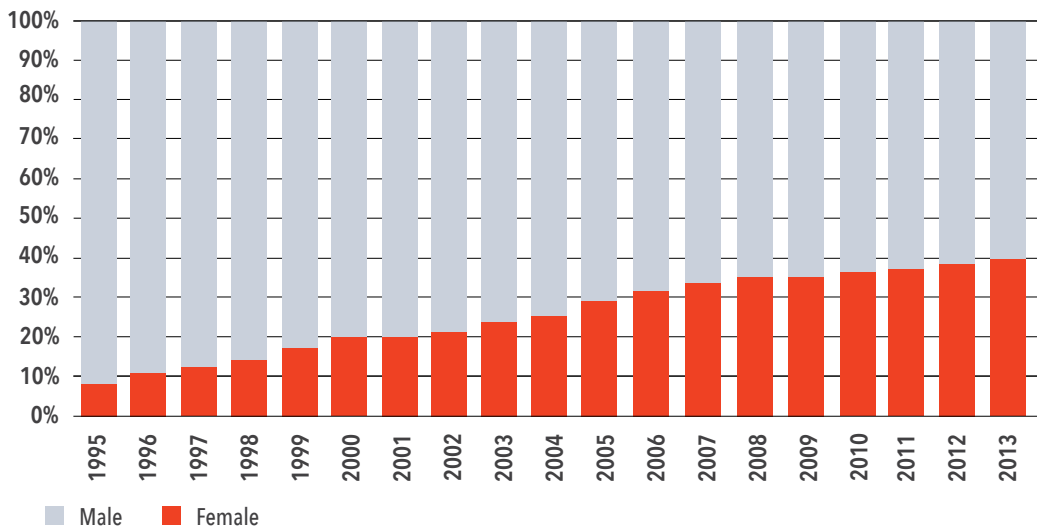
Significant progress has been made since 1994 in addressing this Constitutional imperative, as the composition of the public service and local government has been transformed to better represent the entire population. Overall, national and provincial government combined employed 1.3 million people by the end of 2011/12. Of these, 57 percent were female and 43 percent male. Furthermore, 80 percent were African, 9 percent white, 8 percent Coloured and 3 percent Asian. This is a remarkable shift from

**Figure 2.2: Improved representivity of the public service, 1995–2013**



Source: PERSAL

**Figure 2.3: Increase in the representation of women in senior management positions in the public service, 1995–2013**



Source: PERSAL

the skewed demographics that characterised the apartheid public service.

The improvement in the representivity of the public service is particularly striking at senior management level. In 1994, senior management in the public service (i.e. Director to Director-General level) was 94 percent white and 95 percent male. By 2011, 87 percent of senior management was black (African, Coloured and Asian)<sup>5</sup>.

The representation of women (at senior levels) and people with disabilities (throughout the public service) still needs to improve further. Although women make up 57 percent of the public service, and a substantial number of women occupy leadership roles, their numbers are nonetheless concentrated at salary levels 1 to 10, while the proportion of men increases from levels 11 to 16<sup>6</sup>. Only 38 percent of senior managers in provincial and national government are female. Similarly, the 2 percent target for employing people with disabilities has not been met, with the figure standing at 0.4 percent<sup>7</sup>.

### **2.2.7 Coordination and planning**

Coordination is a perpetual challenge for all governments. The Presidency's Fifteen Year Review noted the progress made since 1994 in establishing the necessary structures to foster greater integration and cooperation within and across the three spheres of government. These include clusters of ministers, corresponding clusters of directors-general and the Forum of South African Directors-General (FOSAD), the forums for ministers and members of the Executive Council (MinMECs) and the Presidential Coordinating Council (PCC). As highlighted in the NDP, these formal coordination mechanisms need to be supported by a greater focus on routine day-to-day coordination through regular communication and interaction among mid-level officials.

Effective coordination between departments also helps improve coordination with other arms of the state, the private sector and society at large. For example, municipalities and state-owned enterprises sometimes receive mixed messages from different departments, while businesses often complain about a lack of policy clarity due to the way responsibilities are divided between government departments. These are issues that more focused

coordination and a strengthened planning system can help to resolve.

The Fifteen Year Review highlighted the absence of comprehensive medium-term planning, an effective, ongoing system for monitoring service delivery, and a system for ensuring government accountability for poor service-delivery performance. To address these challenges, the National Planning Commission (NPC) and the Department of Performance Monitoring and Evaluation (DPME) were formed within the Presidency in 2009. The NPC was tasked with developing a long-term vision and plan for the country. The resulting National Development Plan was published in 2012, providing South Africa with a common vision and strategy for eliminating poverty and reducing inequality and providing a common framework to guide more detailed medium- and short-term planning in government.

This increased focus on long-term planning helps address a number of weaknesses in our planning system. In particular, it focuses attention on long-term priorities and how the decisions we make today impact on the country's future trajectory. The existence of a long-term plan also helps bring about a greater degree of policy certainty. As was highlighted in the NPC's diagnostic overview, progress in improving implementation has sometimes been undermined by overly frequent changes in policy approaches and organisational design. While such changes are sometimes necessary, they are also destabilising and can divert attention from the steps needed to achieve longer-term objectives.

After 2009, government also introduced an outcomes-based system to strengthen medium-term planning. Targets for deliverables in the government's priority policy areas were set and ministers signed performance agreements with the President to meet these targets. These agreements were used as the basis for delivery agreements between departments and spheres of government. Existing coordinating structures, such as the clusters and Cabinet committees, were tasked with ensuring that the targets were achieved. A rigorous system for evaluating major government programmes at both national and provincial level was also introduced. As a result, government has become more focused on results and how its actions are affecting society.

With these monitoring structures in place, the focus for the next period will be on ensuring that medium-term planning (in the form of the Medium Term Strategic Framework, delivery agreements and departmental plans, as well as provincial and municipal plans) form the first of a succession of five-year plans towards achieving the NDP's vision for 2030.

The NDP places particular emphasis on the need to improve the quality of implementation. This will require improvements in medium- and short-term planning, as well as a sustained focus on improving performance.

### **2.2.8 Performance of the public service**

The NDP states that government's ability to achieve its developmental objectives requires an effective public service. In the first decade after the transition to democracy, government focused on restructuring, intensive policy development and comprehensive legislative reform, including the wholesale revision and modernisation of the legislation governing the public service. New legislation introduced during this period includes the Public Service Act and the Public Finance Management Act (PFMA), as well as the Municipal Systems Act and the Municipal Finance Management Act. The frameworks that governed the public service before 1994 were based on highly centralised decision-making and detailed regulation, and tended to result in a bureaucratic, unresponsive and risk-averse public service. The new frameworks sought to empower managers to take decisions by making provision for decentralised decision-making within broad policy frameworks. This legislative reform process was largely completed by 2004, and since then the focus has shifted to improving implementation.

#### ***Improving operational management***

Poorly maintained or dirty service-delivery sites, excessive queues and waiting times, long turnaround times for processing permit applications, shortages of supplies such as medicines, and under-expenditure of budgets for social infrastructure such as schools and clinics, are all usually symptoms of managerial weakness rather than budgetary constraints. Poor audit outcomes, non-payment of legitimate invoices within 30 days and the large debts owed by national and provincial departments to municipalities are also examples of ineffective management.

Over the past decade, substantial progress has been made in improving government performance and service delivery in some areas, particularly where attention has been given to improving operational management. Improvements in the South African Revenue Service, as well as the identity document and passport functions at the Department of Home Affairs, show what can be accomplished when there is standardisation and continuous improvement of work processes, when productivity levels are set, measured and monitored, and when there are improvements in information technology. They also highlight the importance of managers working closely with frontline staff to ensure there is clarity about how their work contributes to meeting departmental objectives.

Improvements in operational management translate into an improved working experience for staff, as well as dramatic improvements in the quality of service delivery. As a result of such operational management improvements in the Department of Home Affairs, the average time taken to process applications for identity documents decreased from 127 days in 2006 to less than 45 days in 2011. The new smart ID cards can be issued within three days of application.

Other examples of operational improvements that have been achieved include reducing the average reaction time for the police responding to serious crimes in progress from 22 minutes in 2010 to 18 minutes in 2013; increasing the response rate for calls to the Presidential Hotline from 39 percent in 2009 to 94 percent in 2013; and reducing the percentage of vacant funded posts in the public service from 18.7 percent in 2011 to 8.6 percent in 2013. The Department of Social Development and the South African Social Services Agency reduced the average turnaround time for processing social grant applications from 30 days in 2010 to two days in 2012.

Moving forward, government will need to build on these examples in order to replicate these successes in other areas of the public service. The Department of Health has recently put in place minimum competency requirements for hospital managers and established an Office for Health Standards Compliance, which is now monitoring indicators such as the availability of medicines and supplies, cleanliness, patient safety and waiting times. The Department

of Public Service and Administration and National Treasury are developing measures to improve the oversight and support available to ensure that departments improve the standard of financial, human resource and operational management. The Department of Performance Monitoring and Evaluation is carrying out assessments of the quality of management practices in national and provincial departments and municipalities, and is making these public to increase managerial accountability.

#### ***Instability in administrative leadership***

Over the past 20 years, South Africa has experienced high levels of instability in the top levels of administrative leadership. This has been a particular challenge during transitions between administrations, when the arrival of new ministers and members of the Executive Council (MECs) can lead to sudden changes in senior management as new ministers and MECs often prefer to appoint their own heads of department. An assessment of the quality of management practices in all 156 national and provincial departments in 2012 indicated that there is a strong correlation between the performance of departments in terms of meeting their targets in their Annual Performance Plans and the stability of their senior management<sup>8</sup>.

The Public Service Act of 1994 allocated responsibility over appointments in the public service to the executive. This approach was necessary to manage the transition. However, it has created a perception that some public servants have been appointed based on their connections to a particular political principal rather than their level of expertise. It has also had the unintended consequence of creating high levels of turnover in the top levels of the bureaucracy. A high level of instability works against the longer-term task of building state capacity. It tends to result in frequent changes in policy approach and, ultimately, undermines efforts to build state capacity and improve the quality of service delivery.

#### ***Skills and skills development***

The creation of a representative public service resulted in many talented and committed people entering the public service. However, it also created the need for rapid promotions, meaning that some young black professionals were promoted to senior roles before they had developed the necessary experience



in managing large departments. In addition, a worrying trend has developed where, in many departments, junior and middle managers are no longer assigned significant responsibility or meaningful tasks, partly due to poor management and an increased reliance on outsourcing. If this is not reversed, it will undermine the ability of the public service to develop much-needed skills. In response to these challenges, increased attention is now being given to the skills needed to carry out particular roles. For example, the Department of Health has recently put in place minimum competency requirements for hospital managers.

The NDP highlights the need for a longer-term approach to skills development in order to develop the technical and professional



skills needed to fulfil core functions in the public service. It also highlights that most learning takes place on the job, and that staff members at all levels need to be stretched, supported and mentored to develop their skills and expertise. This requires paying attention to the role of recruitment, human resources and management practices in promoting ongoing learning alongside the provision of training.

Skills development programmes in the public service have tended to operate in isolation from broader human resource management practices. Entities tasked with human resource development in the public service – the Public Service Training Institute, the South African Management Development Institute and then the Public Administration Leadership and Management Academy – have struggled to provide focused, quality training programmes. As a result, substantial financial resources were invested in training programmes that had limited impact on the efficiency and effectiveness of the public service.

The establishment in 2013 of the National School of Government, which replaces

the Public Administration Leadership and Management Academy, aims to address past weaknesses in the training of public servants. In addition, sector departments, such as Basic Education, Health and Higher Education, have been putting mechanisms in place for anticipating and addressing shortfalls in scarce skills in their sectors, while the Department of Public Service and Administration has introduced occupation-specific employment dispensations to help departments attract and retain scarce specialist and technical skills.

**Public service ethos and culture**

In 1997, the government introduced the Batho Pele (“people first”) principles and campaign, signalling its commitment to creating a people-centred public service that is impartial, professional and committed to the public good. These principles sought to encourage public participation and promote citizens’ ability to know and claim their rights. The Presidency and Offices of the Premiers monitored frontline service delivery at more than 300 state service centres between 2011 and 2013. Overall, it was found that frontline staff generally treated the public with dignity

and showed commitment to Batho Pele principles, indicating a degree of success of the Batho Pele campaign. The monitoring found challenges with complaint management systems, cleanliness, maintenance of facilities, waiting times and queue management. These are largely attributable to weaknesses in operational management.

Significant attention has been given to developing mechanisms through which citizens can raise complaints about specific issues. The government information website lists over 60 hotlines for national and provincial government. The Presidential Hotline, which was launched in September 2009, provides citizens with a mechanism for raising issues that they have been unable to resolve elsewhere. By June 2013 the Presidential Hotline had logged over 200 000 cases and had a response rate of over 90 percent.

While the attitudes and motivation of staff are important factors in shaping the public service ethos and culture, these are heavily influenced by the work environment, including the effectiveness of management and operations systems. Badly managed, poorly organised and under-resourced work environments make it harder for staff to respond to the needs of citizens, and ultimately undermine staff morale.

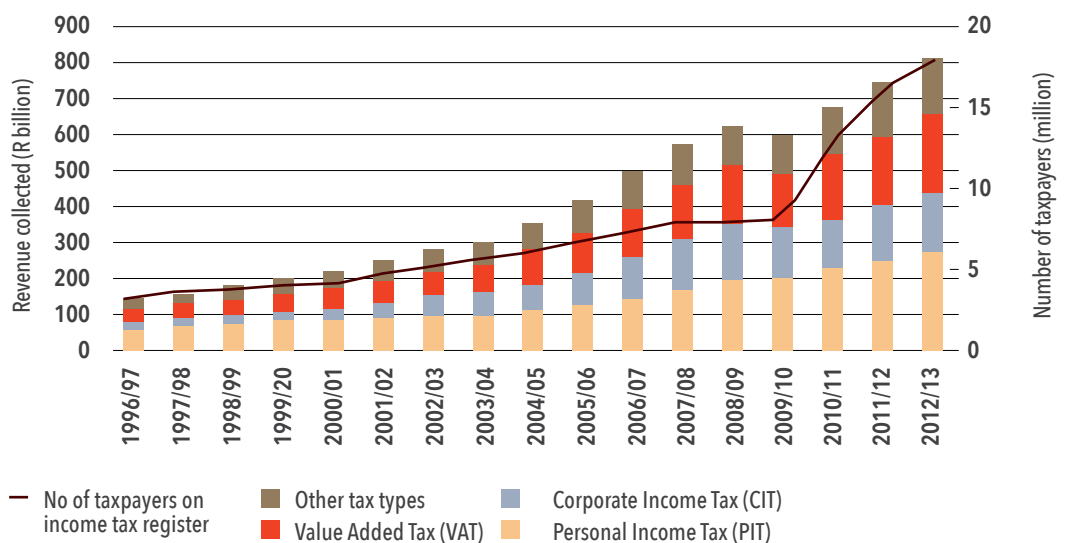
The improvements in the identity document and passport functions at the Department

of Home Affairs flowed from improvements in operations systems, as well as from managers working closely with frontline staff to ensure that they are aware of how their work contributes to meeting departmental objectives. This has translated into an improved working experience for staff and dramatic improvements in the quality of service delivery. Going forward, strategies for improving the public service ethos and culture need to address shortcomings in operations and management systems so that staff at all levels have the authority and support they need to fulfil their responsibilities.

**Management of financial resources**

Since 1994, South Africa has successfully restructured public finances and built a highly efficient tax administration that ranks number one among the BRICS (Brazil, Russia, India, China and South Africa) countries for efficiency and ease of use. Total tax revenue grew from R114 billion in 1994/95 to a projected R895 billion<sup>9</sup> in 2013/14, while the number of registered individual taxpayers grew from approximately 3 million in 1996/97 to approximately 18 million in 2012/13 (see Figure 2.4). The rapid improvement in domestic revenue mobilisation is a major achievement and provides a sustainable resource for financing development and avoiding dependence on aid. The budget process has also become highly transparent,

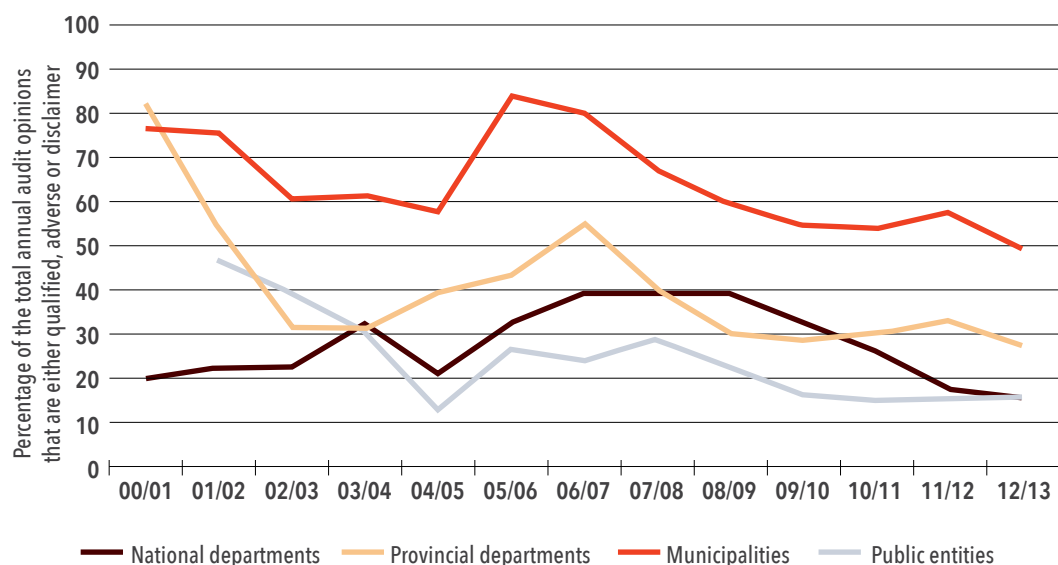
**Figure 2.4: Improvements in revenue collection, 1996/97–2012/13**



Source: South African Revenue Service



**Figure 2.5: Decline in negative audit opinions in government and public entities, 2000/01–2012/13**



Source: Auditor-General South Africa

with South Africa ranking first in the Open Budget Index in 2010 and second in 2012<sup>10</sup>. The country has established a credible independent Reserve Bank.

An important indication of how public resources are used comes from the Auditor-General's reports. Figure 2.5 indicates that the number of audits with poor results (qualified, adverse or disclaimer opinions) has generally declined since 2000/01. There has been a particularly marked improvement at provincial level.

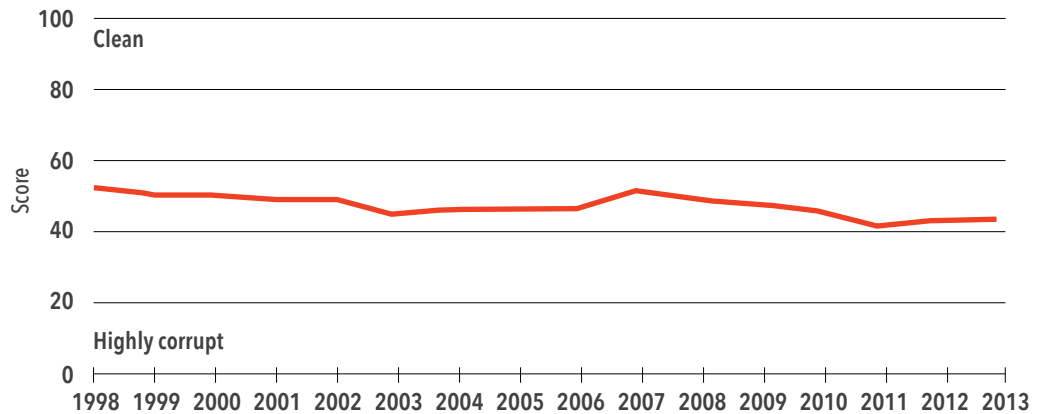
Adherence to the two key pieces of legislation that govern financial management – the Public Finance Management Act for national and provincial government and the Municipal Finance Management Act for local government – remains a challenge. The Auditor-General has identified the failure of political and administrative leadership to act on negative audit opinions as the main reason for the remaining poor audit results and high levels of irregular or unauthorised expenditure.

#### **Fighting corruption in the public service**

Corruption impedes service delivery and undermines public confidence in the state. Figure 2.6 is based on Transparency International's Corruption Perception Index. The graph suggests that public perceptions about corruption in the public sector in South Africa increased slightly

and gradually between 1998 and 2013 (a lower score indicates higher perceptions of corruption). It should be noted that an increase in perceptions of corruption does not necessarily mean that corruption has increased – it could mean that more incidents of corruption are being exposed, thereby increasing public awareness. Based on these scores, South Africa's ranking compared to other countries has not changed significantly over the last 20 years. In 2013, South Africa was ranked 72 out of 177 countries (where 1 is the least corrupt), compared with 32 out of 85 countries in 1998. Nevertheless, it is clear that perceptions of corruption are sufficiently high to impact adversely on public confidence in the state and strong efforts are needed to tackle this issue.

Corruption is partly a symptom of weak management and operations systems, which create the space for corruption to thrive. In this regard, a number of mechanisms have been put in place to limit the scope for conflicts of interest since 1994. Among these mechanisms is the compulsion for all senior managers, as well as officials working in procurement, to declare any financial and business interests. Recently, there has been an improvement in timeous submission of disclosure forms by senior managers to the Public Service Commission (PSC), from 47 percent in 2009/10 to 84 percent in 2013/14. The PSC has been developing

**Figure 2.6: Perceptions of corruption in South Africa, 1998–2013**

Source: Transparency International

the capacity to analyse these disclosures, including cross-checking with information on the database of the Companies and Intellectual Property Commission (CIPC) to identify potential conflicts of interest.

The National Anti-Corruption Hotline was put in place to enable members of the public to report cases of alleged corruption to the PSC for investigation. Since the inception of the Hotline in 2004, government recovered about R330 million from offenders, and a total of 17 110 cases of alleged corruption were generated. Of the cases reported through the hotline, 2 638 officials were found guilty of misconduct, 491 were suspended, 1 600 dismissed, 210 prosecuted, 31 demoted, 256 fined three months' salary and 541 received written warnings. The feedback rate from departments to the public on reported cases improved from 40 percent in August 2011 to 59 percent in September 2013<sup>11</sup>. The finalisation of cases reported improved from 23 percent to 40 percent during the same period. Although this is a significant improvement, lack of feedback and finalisation of reported cases by departments has a negative effect on public confidence in government's commitment to fighting corruption, and improving the performance of the National Anti-Corruption Hotline needs to remain an area of focus.

More recently, the Department of Public Service and Administration has developed draft legislation to prevent public servants

from doing business with the state. The Department is also strengthening its capacity to provide support to departments to investigate alleged cases of corruption and to manage related disciplinary processes.

## 2.3 CONCLUSION AND WAY FORWARD

South Africa has made significant progress in transforming the apartheid state into a democratic one founded on the values of human dignity, non-racialism and non-sexism, the rule of law, and universal adult suffrage, as enshrined in the Constitution.

Effort has been put into building a modern state capable of meeting the developmental objectives of creating a better life for all. South Africa's progress in achieving this has few parallels elsewhere in the world. The South African state of today is utterly different from the racially fragmented administrative structures of the apartheid era. Although the foundations for an effective, capable and developmental state have been laid, there is still a need to address weaknesses in how some state structures function. The NDP identifies key steps that need to be taken to build a state capable of playing a transformative and developmental role. These are currently being incorporated into the Medium Term Strategic Framework for 2014–2019 as the first five-year building block of the NDP. In particular, the NDP has identified the following key areas for sustained and focused action:



- **Stabilising the political-administrative interface** to ensure a clearer separation between the roles of the political principal and the administrative head, as well as reducing the high turnover in top management positions.
- **Making the public service and local government careers of choice** so that recruitment is based on experience and expertise, especially in leadership positions, and ensuring that the public service plays a proactive role in reproducing the skills and ethos it needs by providing a conducive environment for staff to develop their skills and expertise over the course of their careers.
- **Developing the technical and specialist professional skills** that are essential for fulfilling the state's core functions.
- **Ensuring that procurement systems deliver value for money.** This priority is currently being taken forward through the creation of the role of Chief Procurement Officer in National Treasury.
- **Strengthening operational management.** This involves standardisation and continuous improvement of work processes, setting, measuring and monitoring productivity levels, and improvements in information technology.
- **Strengthening delegation, accountability and oversight.** Greater parliamentary oversight and public accountability, an active citizenry in governance processes and decision-making and robust Chapter 9 institutions (such as the Public Protector, the Auditor-General and the Electoral Commission) will be crucial in achieving this goal. Improved accountability to citizens will require a greater focus on day-to-day accountability at the point of delivery, as well as ensuring that participatory mechanisms allow for meaningful citizen engagement.
- **Improving interdepartmental coordination** to ensure that most issues are resolved through day-to-day interactions between officials. This will enable the cluster system to pay greater attention to strategic issues. The Presidency also has a vital role to play in mediating the resolution of the more intractable coordination challenges, as well as providing overall strategic direction.
- **Improving relations between the three spheres of government** to ensure a better fit between responsibilities and capacity, through the effective implementation of the principles of differentiation and targeted support. A more proactive approach is also needed to resolve intergovernmental coordination problems on a case-by-case basis.
- **Strengthening local government** to ensure the realisation of the vision of a developmental local government, particularly focusing on those municipalities that are performing poorly.



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