

RESEARCH ARTICLE

Papua New Guinea's Public Services Commission since independence: Sidelined or strengthened?

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Abstract

This paper investigates reforms to the Public Services Commission (PSC) in Papua New Guinea (PNG) since independence in 1975. It looks at the original role of the PSC and then the various reforms it has been subject to: in 1986, 2003, and 2013, by constitutional and legislative change, and in 2019, by court ruling. We argue that since independence, PNG's PSC has been at different times made both less and more powerful. We explain these conflicting trajectories by reference to conflicting reform objectives: at times to make the civil service more flexible and responsive and at times to protect the civil service from corruption and political interference. Beyond PNG, the paper speaks to the different reform trajectories of PSCs in developing countries compared to developed ones; to possible limitations of the punctuated equilibrium approach to policy change; and to the civil service reform failure literature.

KEYWORDS

civil service reform, Papua New Guinea, politics, Public Services Commission

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Points for practitioners

- The reforms to Papua New Guinea's (PNG) civil service over the years reflect a tension between making the civil service more flexible and responsive and protecting it from corruption and political interference. This case study shows the importance of being aware of the trade-off between the two goals.
- Efforts to improve civil service should also focus on changing political behaviour rather than exclusively on structural reform.
- In many countries, such as Australia, central bodies such as the Public Services Commission (PSC) have lost nearly all their power: indeed, this has been a central component of the New Public Management (NPM) reforms that were popular in the 1990s. The PNG case, however, is one of a number that shows that this trend is far from universal when developing countries are considered.

1 | INTRODUCTION

Public Service Commissions (PSCs) first emerged in the 19th century as a response to the widespread prevalence of patronage and corruption in the public sector. The early development of PSCs can be traced back to the UK, where the Northcote-Trevelyan Report of 1854 laid the groundwork for a merit-based civil service system (The Northcote-Trevelyan Report, 1954). This report criticised the existing patronage system and led to the establishment of the first Civil Service Commission in 1885 in the United Kingdom to oversee recruitment and promotions based on competitive examinations. This model inspired other countries, such as the United States, where the Pendleton Civil Service Reform Act of 1883 created the U.S. Civil Service Commission (CSC) to address similar issues of corruption and inefficiency associated with the 'spoils system' (Hughes, 1998). H. W. Marsh, the Secretary of the New York Civil Service Reform Association, once called the CSC the 'Only Defense Against Politics' (Marsh, 1927). During the 20th century, PSCs spread globally, particularly to countries under British colonial rule and to other countries as part of civil service reform (see Tyagi, 1959).

With the rise of New Public Management (NPM) reforms in the public sector during the 1980s, traditional public administration—focused on due process and adherence to rules—was increasingly seen as old fashioned and inefficient (Kapucu, 2007, p. 892). NPM reforms weakened centralised institutions like PSCs, shifting towards more decentralised structures that emphasised flexibility and managerial autonomy (Ibid).

However, while the above is accurate for developed countries, several developing countries retain powerful PSCs (or equivalent), and the reform process, to the extent that it has occurred, has

TABLE 1 Role of the Public Services Commission (PSC) in relation to (a) entire civil service and (b) senior appointments.

	1975–1986	1986–2003	2003–2013	2013–2019	2019–current
Entire civil service	Central	Marginal	Marginal (no change)	Marginal (no change)	Marginal (no change)
Senior appointments	Central	Marginal	Even more central (than 1975–1986)	Even more marginal (than 1986–2003)	Even more central (as per 2003–2013)

been far from inconsistent and contentious. Thus, in Sri Lanka, the powers of the PSC have waxed and waned, reflecting the fact that ‘[t]here has been much argument over the question whether the PSC should be an advisory body or an executive body’ (Transparency International Sri Lanka, 2014, p. 17). Ghana’s PSC has been abolished and then restored, and, while today it is ‘one of the most independent service commissions in Commonwealth Africa’ (Oppong, 2016, p. 130), there continue to be interventions that ‘undercut critical components of its mandate’ (Oppong, 2016, p. 151). In Bangladesh, the PSC has thrived under authoritarian rule, but its authority has been circumscribed during periods of democratic rule (Jahan & Shahan, 2008, p. 327).

This paper examines reforms to the PSC in Papua New Guinea (PNG) since this country’s independence in 1975. It looks at the original role of the PSC and then the various reforms it has been subject to: in 1986, 2003, and 2013, by constitutional and legislative change, and in 2019, by court ruling. As shown in Table 1, since the 1980s, civil service reforms have significantly impacted the functions and role of the PSC. Major reforms have moved the PSC in different directions, in relation to both civil service management and senior appointments. This paper evidences and details these changes and explains them.

Apart from the intrinsic interest of this case study, this paper speaks to three broader literatures. First, it contributes to the still-underdeveloped literature on PSCs in developing countries. It helps explain why, while PSCs have been sidelined in developed countries, their reform has been more contentious, and less linear, in developing countries. This is because, we argue, while in developed countries the concerns about patronage that gave rise to centralised public service control in the first place have abated, they are still very real in developing countries.

Second, the sequence of regular fundamental changes seen in PNG in this policy area is at odds with the popular punctuated equilibrium theory of change, which predicts long periods of stability punctuated by short, large policy swings (Baumgartner & Jones, 1993). We attribute this to PNG’s unstable, personalised politics, which provides quite a different policy context relative to the mature democracies within which the punctuated equilibrium theory is typically applied.

Thirdly, PSC reform is, ultimately, a story of policy failure and confirms the argument that civil service reform is ineffectual for reasons of political economy (Nunberg, 1999).

The paper is divided into seven sections. After this introduction, Section 2 sets out the original roles and functions of the PSC. Section 3 explores the reforms from 1982 to 1986, which reduced the power of the PSC, turning it into an advisory body. Section 4 looks at the period from 1999 to 2003 when the power of the PSC in relation to senior appointments was increased. Section 5 looks at the period from 2011 to 2014 when the PSC’s power in relation to senior appointments was reduced again. Section 6 focuses on the period from 2019 onwards, which has seen the PSC’s 2003 powers restored following the court’s intervention, as well as further reform efforts. The concluding section discusses the factors behind this complex and contradictory story and its broader implications for PNG and for the related literature.

2 | THE PSC AT AND AFTER PNG'S INDEPENDENCE

Prior to its independence in 1975, PNG's public service was run by a Public Service Board by a delegation from Australia's Minister of External Territories, under section 30 of the Papua New Guinea Act. The PNG constitution established the Public Services Commission, modelled on the Board, and gave it extensive powers under five separate sections. The full text of the original sections of the constitution that established the PSC, as well as of subsequent revisions to those sections, is contained in [Annex A](#).

- Section 190 established the PSC with not less than four members (the idea being that each of PNG's four regions would be represented, though this was not specified).
- Section 191 established the PSC's wide-ranging powers, making it 'responsible for the efficient management and control of the National Public Service' and 'all personnel matters connected with the National Public Service'. 'Personnel matters' were defined expansively as relating to 'appointment, promotion, demotion, transfer, suspension, discipline, or cessation or termination of employment'.
- Section 192 established the independence of the PSC, stating that it should comply with government policy, but would not otherwise be subject to direction or control.
- Section 193 provided a carve-out for senior positions, including those reporting to ministers, stating that these appointments would be made by the National Executive Council (NEC or cabinet) after consultation with the PSC (rather than, as for all other positions, by the PSC itself).

By 1983, the Commission had five divisions, including three regional inspectorates. It was a powerful body, regarded as 'independent of politics, and fundamental to the charter of public service' (Pieper, 2004, p. 2). Its broad mandate meant that the PSC held 'the entire authority for the recruitment, training, placement and promotion of civil servants' and was involved 'deeply in the operational details of the nation's human resources management system' (World Bank, 1983, p. 36).

The PSC operated under the Public Service Act (PSA) which PNG put in place around the time of independence and which gave effect to the PSC's extensive powers. Only the PSC could create, abolish, classify, transfer, define the required qualifications for and duties of, or modify a public service position (or office) (Section 19 of the PSA). The Commission was also responsible for advertising vacant positions and for transferring public servants from one position to another (Sections 28 and 29). A representative of the Commission chaired all selection committees and decided on all promotions. The Commission set public service salaries (Section 50) and was responsible for sanctioning public servants for serious offences (Section 69).

Why did PNG invest its PSC at independence with such extensive powers? There are three reasons.

First, PNG simply copied the institutions it saw around it, especially in its colonial ruler, Australia. The Public Service Board, which the PSC succeeded, was similar in terms of its power and functions to those of the boards of the state of Victoria in Australia and of New Zealand (Cochrane, 2019, p. 59). The nationalists that took PNG to independence aimed not to abolish existing institutions but to remove them from Australian control (Kiki, 1968).

Second, it was felt that a strong central body, with powers enshrined in the constitution, was required to support an independent and meritocratic civil service, especially during the

localisation process in which expatriates were being replaced by PNG nationals. The Constitutional Planning Committee (CPC) was responsible for consultations on and drafting of PNG's original constitution. In relation to the PSC, it wrote:

In order to have career officers who will provide the government of the day with loyal and impartial service, we believe that the Public Services Commission, as the body to determine matters which vitally affect those officers as individuals, should be independent. We have also found that opinion in all parts of the country strongly supports an independent body of this kind so that, for example, merit should be the major criterion for decisions on appointments and promotions, rather than personal friendships and ethnic or political affiliations (Constitutional Planning Committee, 1974).

Third, the PSC was even more powerful than the CPC had envisaged. The CPC had recommended that the powers of the old Public Service Board be divided between two entities: the PSC and a department responsible for personnel management. The CPC wanted the PSC to be responsible for 'matters about individual public servants and other officers' (appointments, transfers, promotions, and dismissals) and the department to be responsible for the management of the public service as a whole (organisation, classification, conditions, recruitment, and training). The CPC had also recommended that the PSC delegate some of its functions to departments. However, none of these two things happened: there was no delegation and no personnel management department was created.

While the PSC was extremely powerful at independence, there was an important limit to its power, which was the carve-out for senior appointments. As provided by Section 193 of the original constitution, senior appointments were the prerogative of the Cabinet, and the PSC was only required to be consulted in relation to them. The reasoning for this was also provided by the CPC in its report:

We support the widely accepted principle that the government must have confidence in those who have the major responsibility for tendering it advice and carrying out its policies. . . . [T]herefore, although the Commission would be consulted on the respective merits of the candidates, it should be the National Executive Council that selects persons to be appointed Heads of Departments and also those to be appointed to a number of other senior posts which involve special statutory responsibilities (Constitutional Planning Committee, 1974).

The original Public Service Act implemented this requirement in an ambiguous way. Section 57(2) said that departmental heads were to be appointed 'on the recommendation of the Commission'. However, the very next sub-section said that if 'for any special reason he thinks it proper to do so' the Head of State 'may appoint a person to a vacant office of Departmental Head without reference to the Commission' (Section 57(3)). In practice, the PSC did constitute selection committees for the selection of departmental heads. For example, the 1978 PSC annual report states that 'all level 14 Departmental Head positions are within the jurisdiction of the Chairman of the Public Services Commission. The Chairman appoints a special Committee to consider applications for these positions' (PSC, 1979, p. 63). According to the 1979 report, the committee was normally chaired by the PSC Chairman and included two other departmental heads, and its recommendations were sent to Cabinet (*ibid.* p. 29). Thus, it would seem the PSC did actually play a much bigger role in the

selection of departmental heads than a consultative one. In other words, even in this one area where the PSC's powers were deliberately limited, it still exercised significant power.

Things did not go well for the PNG public service after independence, for a number of reasons. There were sharp fiscal constraints, and the rapid program of localisation resulted in a loss of experienced staff. There was also a decentralisation of powers to provinces which disrupted traditional lines of authority without necessarily replacing them with anything sounder. In a retrospective written into its 1986 Annual Report (reproduced in full in [Annex B](#)), the PSC wrote of the 70s that:

Written and verbal bombardment by individuals and organisations within and outside the service, criticising the over-large apathetic, over-centralised, and unproductive service, became the accepted preamble to any public address in the country (PSC, 1987, p. 2).

As early as 1979, the government established a high-level committee, named after its chair, Sir Henry ToRobert, Governor of PNG's central bank, to investigate the poor performance of the public service and make recommendations for reform (May, 2006).

In the meantime, PNG's politicians had a desire to expand their influence in the civil service. They were asserting themselves and starting to take into their hands decisions previously left to bureaucrats. Pieper (2004) summarises the views of early senior bureaucrats:

There was an increasing feeling amongst politicians that the bureaucracy was too powerful and independent, and not astute to political needs. ... [B]y the mid-eighties they were generally much better educated, and a belief grew that they 'knew it all' and did not need to rely on the advice of public servants. Public resources increasingly became controlled by politics rather than public policy, and politicians began involving themselves in administration, project management, and senior appointments (p. 3).

These two concerns—politicians wanting more power and the public service not meeting performance expectations—gelled together into a unified opposition to the PSC, which was seen as being slow and unresponsive and as suffering from excessive proceduralism. Politicians deemed the PSC too powerful. Its ability to create positions made budgetary management difficult. They were also frustrated by the PSC-induced delays to projects, especially matters concerning appointments and dismissal of civil servants. Forty per cent of public servants were in acting positions (Cochrane, 2019, p. 58).

3 | REDUCING PSC POWERS, 1982–1986

The 1979 ToRobert Committee recommended, among other things, greater delegation of responsibility to departments (World Bank, 1983, pp. 2–3). In the early 1980s, the PNG government asked the World Bank to send a mission to PNG to evaluate the public service and recommend improvements. In 1982, the World Bank sent a team led by the Bank's country economist, which included a planner and a management consultant. The report (World Bank, 1983) found that the PSC dominated the public service administration and that the Department of Finance and the National Planning Office dominated budgeting and strategy formulation/planning. Together, the

Bank argued that these departments exercised excessive control over line departments. The report noted:

The strong centralisation of administrative systems is perhaps the most fundamental aspect of public management in Papua New Guinea.

While a certain degree of control by the centre [PSC, Department of Finance and the National Planning Office] of these functions is desirable (and indeed, in most developing countries, the weakness of the central departments has been the major source of management problems), in the view of the mission these Departments exercise too much control over the line Departments in PNG (World Bank, 1983, p. 4).

Accordingly, the World Bank report endorsed ToRobert's recommendation for decentralisation of powers. It argued that a 'considerable amount of decision making responsibility with respect to recruitment, promotions, transfers, etc. should be decentralized to Departments and Provinces' (World Bank, 1983, p. 36).

These recommendations were in line with the global thinking of the time. During this period, traditional public administration came under challenge from the NPM reforms in countries such as New Zealand, the United Kingdom, and Australia. These reforms aimed to make the public service more businesslike (Osborne, 2006).

Following the publication of the World Bank's report, PNG's prime minister (PM) requested the World Bank provide an advisor to assist with the restructuring of the PSC. The Bank sent Glynn Cochrane, who arrived in 1984 and spent the next 2 years in PNG on this task (Cochrane, 2019).

Since the PSC was a constitutional body, reforming it required constitutional amendments. The reform of the PSC resulted in Constitutional Amendment No. 8. The key amendment was to Section 191 (see [Annex A](#) for a precise wording of all amendments). This converted the PSC from an executive to an advisory body. The PSC would no longer be responsible for 'management and control of the National Public Service' and 'all personnel matters connected with the National Public Service', as per the original constitution, but instead would be responsible for 'the review of personnel matters connected with the National Public Service' and '[t]he continuous review of the State Services'.

Section 190 was amended to reduce the number of Commissioners from four to three. It was no longer felt that the Commission had to represent PNG's four regions. In addition, the process of appointing Commissioners was formalised with the introduction of its own bipartisan appointments committee. Section 192 which protected the independence of the PSC was recast to make it an independent adviser.

Importantly, the 'carve-out' Section 193 was left untouched. Since the entire aim of the exercise was to reduce PSC power, and since Section 193 already gave the PSC only an advisory or consultative role in relation to senior appointments, there was no need to change it. However, important legislative changes were made with regard to the implementation of Section 193, discussed below.

These constitutional amendments were made between 1984 and 1986. In PNG, Parliament can amend the constitution by a two-thirds majority; however, the amendments have to be put to the house twice, separated by at least 2 months. That it took 2 years rather than 2 months to put these amendments through was probably due to the political instability PNG was experiencing at this time.

These reforms have endured. Sections 190, 191, and 192 have not been amended since 1986. Rather, the focus of controversy has become Section 193.

The other part of the PSC reform process of the 80s was passing the new Public Services (Management) Act 1986. This act removed from the PSC executive powers and functions relating to the appointment, terms, and conditions of the public servants. Some of these functions were given to a newly created Department of Personnel Management (DPM), staffed by former PSC staff, which was given responsibility for policy formulation and operational functions. The rationale was to give more executive power to a body that would be responsive to the government. Responsibility for hiring within departments was given to departmental heads.

The 1986 Act also resolved the ambiguity of the 1975 one in relation to the appointment of departmental heads by stating that '[a] Departmental Head may be appointed by the Head of State, acting on advice, given after consultation with the Commission' (Independent State of Papua New Guinea, 1986, Section 25 (22)). This was consistent with the unamended Section 193 and avoided the inconsistency in the Act it replaced which both required that the PSC recommend a candidate and allowed the government to sidestep the PSC entirely.

The public administration reforms of the mid-80s were a cooperative affair, undertaken with the active support of the PSC. In its first annual report after the 1986 reforms, the PSC wrote an extensive account of the rationale for and objectives of the reforms, attached in full as [Annex B](#). The PSC statement concludes as follows:

The reform of the Public Service was achieved through the dedication and commitment of the members of the former Commission, successive Ministers for Public Service in the last two governments, and public servants involved in the exercise. We now have a Public Service which has been structured to be more responsible, more accountable, more manageable and more effective. It should provide the government with the structure it requires to bring about planned developments in the country (PSC, 1987, p. 2).

4 | INCREASING PSC POWERS, 1999–2003

The hopes embodied in the 1986 reforms were not realised, and the performance of the public service continued to worsen. The politicisation of the public service was seen as a growing problem. Indeed, the decade starting in the mid-80s has been described as one of a 'creeping crisis in [the] public sector' (Turner & Kavanamur, 2009, p. 12). Over the 80s and 90s, '[p]ersonal connections started to become more significant determinants of who occupied seats on boards of public authorities or filled the higher departmental positions' (Turner & Kavanamur, 2009, p. 13). The behaviour of the Skate government of the late 90s was particularly egregious. It replaced 'many competent and experienced senior officials with its own less qualified political clients. . . . By early 1999 few departmental heads had held their jobs for more than a year and observers described a climate of fear in the bureaucracy' (Standish, 1999, p. 6).

Take the Bank of Papua New Guinea as an example. Its first governor was Henry ToRobert, who served an astonishing two decades from 1973 to 1993 before he was fired (Chan, 2016, p. 136). Between 1993 and 1999, there were four governors, with three in 1998 alone¹. Similarly, '[t]he telecommunications company had five chief executives between 1996 and 1999, and the postal service three between 1997 and 1999' (Garnaut, 2000, p. 35).

As early as 1993, the then Minister for Public Service, Bernard Mollok, made a statement to Parliament on 'Public Service Performance' in which he said that since 1990 'the average length of tenure of departmental heads has been less than two years, or half the contract length, due to premature termination of contracts by changing governments and ministers'. The Minister called for 'a revised system for the selection and appointment of departmental heads ... to uphold the constitutional integrity of their offices' and envisaged a prominent role for both the DPM and the PSC (Mollok, 1993, p. 15).

Meanwhile, conflict immediately started to develop between the PSC and the executive in relation to the one executive role the former still had, its consultative one in relation to the appointment of departmental and provincial administration heads. The 1987 PSC annual report stated that '... of fifty-one departmental head appointments made during the year, only eighteen followed the required consultation with the Public Services Commission. The Commission is of the opinion that these appointments made without consultation with the Public Services Commission are in clear contravention of Section 193 of the Constitution, [and] Section 25 of the Public Services Management Act' (PSC, 1988, p. 4).

In 1993, the PSC took the government to the court to complain that it had not been consulted in relation to five departmental head appointments. The PSC won that case, with the Court dismissing the argument of the Head of the Department of Personnel Management that it was not possible to contact the PSC because its phone has been disconnected due to the phone bill not being paid (National Court of Papua New Guinea, 1994).

The court victory did not, however, change the situation. The PSC's annual reports from the 90s continued to complain about a lack of consultation in relation to the appointment of departmental heads.

Even when they were consulted, the Commission complained that the consultations were not 'meaningful' and did not 'allow for a genuine interchange and consideration of views' as required by Section 255 of the PNG constitution, which provides a general definition of what consultation, when required by law, should entail.

Action was taken to reform the appointment system for departmental heads and other senior positions once the reforming PM Mekere Morauta came to power in 1999. In his maiden speech as PM, Morauta articulated the first of his five objectives 'to restore integrity to our great institutions of state, the very institutions that are necessary for our personal security and for our prosperity' (Morauta, 2021). This included 'encourage[ing] the return to public service of talented Papua New Guineans who have been discouraged and cast aside' (Morauta, 2021).

Morauta had seen the damage done by politicisation to the PNG state and economy, and his aim was to reduce the discretion available to politicians. He did not seek to return the Public Services Commission to its former pre-1986 glory in relation to *all* public service appointments, but he did want to give it a much bigger say in the appointment of departmental heads, as well as the heads of statutory authorities, of which there were by then a large number. To do this, Morauta targeted the constitution's untouched Section 193.

Morauta was only PM from 1999 to 2002. However, the PSC reforms he promoted were carried forward by Sir Michael Somare. Somare had been PM at independence and had served in this role from 1975 to 1980 and then from 1982 to 1985. After almost 20 years, he returned as PM in 2002. It is not clear to what extent the program of constitutional change put in motion by his predecessor was simply allowed by him to proceed, or whether Somare himself also felt the need to increase discipline over senior appointments and to boost the power of the PSC once again.

In any case, in 2003, Constitutional Amendment No. 25 was passed to alter Section 193. Now, the PSC was no longer only required to be consulted in relation to senior appointments. Rather, such

appointments were now to be made by the Cabinet 'in accordance with a recommendation by the Public Services Commission' (new S193(1A)). The same rules were applied to acting appointments, revocations, and suspensions, as per new clauses 1B to 1D, respectively (see [Annex A](#)).

Another Morauta-initiated, Somare-concluded constitutional reform was complementary in nature. Since independence, the number of statutory authorities had grown rapidly. These were subject to their own legislation, but not to any uniform or centralised hiring rules for their chief executive and board. Constitutional Amendment No. 29 was passed to bring in two entirely new sections on regulatory authorities. Section 203A defined statutory agencies, and 203B said that appointments to them were to be made on the recommendation of the PSC.

The Public Service (Management) Act 2003 and its associated regulations translated these new constitutional provisions into law, introducing a complex procedure for the making of senior appointments that gave roles to both the DPM and the PSC. In short, for substantive appointments of departmental heads and provincial administrators, the DPM was to advertise the position and draw up a short list of not less than five candidates. This would be submitted to the PSC to reduce it to a shorter list of three in order of preference. This list of three would then be submitted to Cabinet who would either accept the recommendation or order that the process be recommenced. (For provincial administrators, the list was first to be submitted to the Provincial Executive Council and then to Cabinet.) After appointment, Ministers could request a revocation (termination), but the DPM would then investigate the matter and report to the PSC which would then recommend to Cabinet whether the appointment should be revoked.

On the statutory authority side, the Regulatory Statutory Authorities (Appointment to Certain Offices) Act declared some 100 agencies to be subject to the new constitutional provisions of Section 208B. For these agencies, appointments of CEOs were made subject to similar procedures as departmental heads, except that the relevant board took the place of the DPM in creating the first list of five candidates (and placed them in order of preference). Once the PSC had its three candidates in order of preference, it would submit its recommendations to the board which would pass it to the minister and the cabinet. Either the board or the cabinet could restart the process if it did not want to accept the recommendation of the PSC. For board members, the PSC was required to carry out a 'fit and proper' person test in relation to nominees from the Minister.

These changes gave the PSC an even more central role in relation to senior appointments that it had held prior to the 1986 reforms. For a start, it covered statutory authorities as well as departments and provincial administrations. However, there was also no opt-out clause for the Cabinet. Prior to 1986, Cabinet could disagree with the PSC's recommendation and simply select someone else. The only way that was now possible was by ordering the process to start again. This would be an extremely costly response, and even then, there was no guarantee that the person Cabinet wanted would be recommended by the PSC. The Asian Development Bank supported these reforms, and an ADB report commented on them that they established the PSC 'as an independent entity with powers to appoint heads of department, statutory and regulatory authorities, and provincial administrators' (ADB 2015, p. 10).

5 | REDUCING PSC POWERS, 2011–2014

The period from 2003 onward was one of relative political stability. Somare became the first PM to survive a full term, and he returned as PM after the 2007 elections, staying in power until 2011. However, there is no sign that public service improved. Peter O'Neill became PM in controversial circumstances in 2011, after a prolonged period of illness and hospitalisation on the part of Somare.

Part of O'Neill's claim was that the previous government lacked energy and had allowed things to drift. He would improve service delivery. The PSC was once again seen as part of the problem, and there were complaints about it being 'constrained by a lack of qualified staff and the assignment of inappropriately skilled staff' (ADB 2015, p. 11) and about 'the delays and inefficiencies of the PSC' (*ibid*). In addition, PNG politicians were unhappy with the extent of the PSC's power. They wanted to be responsible for the appointment of senior bureaucrats. Subsequent to the 2012 elections which saw O'Neill returned as PM, his coalition set out its priorities in the Alotau Accord. On public sector reform, the two key commitments were:

The [Public Service] Commission will be accountable to the National Executive Council and Parliament.

Government will also immediately amend the Constitution and the Public Services Management Act to allow the National Executive Council to hire and fire Departmental Heads (O'Neill Coalition, 2012, pp. 5, 10).

In the end, the O'Neill government did not change the status of the PSC, but it did deliver on its second undertaking. In 2013 and 2014, the government put forward and Parliament approved Constitutional Amendment No. 38. This amended both Sections 193 and 208B of the constitution, that is, those sections which gave the PSC its central role in relation to senior appointments. The amendments were all of an identical nature, simply deleting the words that indicated that senior appointments were to be made on the recommendation of the PSC and replacing them with ones which indicated that the procedures for senior appointments would be defined by an Act of Parliament. The PSC was now to have no role, not even a consultative one, in relation to senior appointments. To underline its relegation, a new clause was added to the constitution saying that the PSC would be able (only) to 'exercise its powers under Section 191 from time to time to review the appointments made under Section 193' (Section 193 1E).

A new 2013 Public Sector Management Act was then drawn up and passed. It created a Ministerial Executive Appointments Committee (MEAC) comprising the public service, treasury, justice, and planning ministers as well as the minister of the concerned portfolio. Not the PSC, but now this ministerial committee would receive a short list from the DPM and recommend one candidate for appointment to cabinet (Sections 28 and 61). A similar arrangement was put in place for provincial administrators. The Regulatory Statutory Authority (Appointment to Certain Offices) (Amendment) Act 2013 likewise replaced the role of the PSC by the MEAC in relation to the leaders of statutory authorities.

6 | REINSTATING PSC POWERS, 2019

The PSC was party to the diminution of its powers in 1986 but was neither involved in the 2013 reforms nor happy with them. In 2015, then PSC Chair Phillip Kereme appealed to the Supreme Court, challenging the validity of the 2013 constitutional amendments on both procedural and substantive grounds².

Four years later, in March 2019, the Supreme Court sided with Kereme. As noted earlier, constitutional amendments in PNG have to be passed twice by the parliament, with at least a month's notice each time, and 2 months apart. Neither of these requirements was met in the case of the

2013 amendments; for example, only 14 days' notice was given before the second introduction of the amendments into parliament. The Court therefore ruled that the amendments were invalid on procedural grounds and did not consider the substantive arguments made (Supreme Court of PNG, 2019).

This ruling returned the status quo to 2003. The government could have resubmitted the amendments to parliament, but O'Neill resigned as PM in 2019 to avoid a vote of no confidence. O'Neill was beset by allegations of corruption, and it may be that his replacement, James Marape, did not think it wise to once again sideline the PSC. Yet, another Public Services Management Act was passed in 2020. This basically restored the 2003 PSM Act, though it increased the retirement age for public servants (from 60 to 65).

It is difficult to say whether either centralising or sidelining the PSC has made any difference to public service performance over the last two decades. Senior tenures are longer on average than in the 90s, but few would say that civil service performance has improved.

7 | DISCUSSION AND CONCLUSION

The first question this paper sets out to answer is whether PNG's PSC has been sidelined or strengthened since independence. The answer, evident from Table 1, is: some of both. In relation to the civil service as a whole, the PSC has clearly been sidelined, with its powers transferred to the DPM and departmental heads in 1986. However, in relation to senior appointments, while the PSC's powers have waxed and waned, it has never been stronger than it is now. The PSC played a central role in senior appointments prior to 1986, a marginal role between 1986 and 2003 and between 2013 and 2019, and an even more important role than pre-1986 from 2003 to 2013 and from 2019 to the current time.

Confirmation that the PSC is more powerful today in relation to senior appointments than even at independence came from the courts recently. In early 2023, PNG's Supreme Court found that a Secretary of Higher Education had been wrongfully dismissed and should be reinstated because the dismissal was not on the basis of a PSC recommendation (Nangoi, 2023). This can be contrasted to the Bouraga case of 1982 (Supreme Court of PNG, 1982), where the country's highest court ruled that the PSC had no jurisdiction in relation to the sacking of the Secretary of Police.

Overall, PNG's PSC is not as powerful as at independence, but in the key area of senior appointments, it is even more powerful today than then.

It is unlikely that current arrangements regarding senior appointments will survive indefinitely. While the idea that the PSC should not manage the civil service has long been accepted, what the PSC's role should be in relation to senior appointments remains controversial³. Sooner or later, politicians will likely seek more power over the civil service and push through reform to once again reduce the power of PSC. Indeed, in 2023, the government announced a plan to merge the PSC with the DPM (DPM, 2023). While details of this plan are not available, it would be a major reform, likely requiring constitutional change.

The second question this paper addresses is how the contradictory trajectories public service reform has taken in PNG can be explained. The answer lies in the contradictory motives for reform. The 1986 and 2013 reforms were both driven by a desire to make the public service more flexible and responsive and to increase the power of politicians relative to bureaucrats. The 2003 reforms, which are still intact, were driven by a loss of faith in PNG's politicians to act in the national interest and the resulting desire to make the public service less corrupt by reducing the power of politicians relative to bureaucrats.

Beyond their intrinsic interest as a case study, or for students of PNG or civil service reform, the findings of the paper have three implications for the broader literature.

First, PSCs have been sidelined in many developed countries, but, as noted in the introduction, in some developing countries, their reform has been inconsistent and contentious and they remain fairly powerful. The PNG case is consistent with and helps explain this phenomenon by reference to ongoing and legitimate concerns around poor performance and corruption.

It is certainly ironic that the original wish of the Constitutional Planning Commission that it should be politicians who decide on senior bureaucratic appointments is no longer reflected in the PNG's constitution, but it is a sign of the extent to which there has been a loss of faith in the country's politicians to act in the national interest.

It is this (justified) lack of faith in politicians which has resisted efforts to completely sideline PNG's PSC, and we hypothesise that the same factor explains why reforms to sideline PSCs in many developing countries today have been less successful and sustained than in developed countries.

There is in fact a clear need for a comprehensive survey of PSC reform experience in developing countries to deliver a deeper understanding of the various common and country-specific factors at play. That said, the case study we have presented of contradictory reforms to PNG's PSC has clear echoes in narratives presented earlier regarding the PSCs of Sri Lanka (Transparency International Sri Lanka, 2014) and Ghana (Oppong, 2016).

Second, punctuated equilibrium theory seeks to explain the fact that 'political processes are generally characterized by stability and incrementalism, but occasionally they produce large-scale departures from the past' (True et al., 2019, p. 155). In the case of PNG's PSC reform journey, however, there have been regular rather than occasional 'large-scale departures from the past'. Why is this?

Ideally, any country would want a public service that is both flexible and non-corrupt. One can understand why the World Bank supported the 1986 reforms (to make the civil service more flexible) and the ADB supported the 2003 reforms (to make it less subject to corruption), even though the latter contradicted the former, and, of course, why successive PNG governments supported both. But how to properly balance these desiderata remains a difficult question to answer, and not only in PNG.

There is no doubt that PNG's current system for making senior appointments is extremely lengthy and bureaucratic. The current system gives senior bureaucrats little incentive to cooperate with their political superiors since the latter are responsible for neither their appointment nor their dismissal. At the same time, reforms which gave politicians more discretion over senior appointments would give more room for abuse of power and corruption.

It is quite possible that the 2013 reforms in fact struck a sensible middle-ground: making senior appointments a matter for politicians rather than the bureaucrats (as between 1986 and 2003), but (unlike in that period) putting constraints around the process and making it a matter for group rather than individual decision-making. While there has been a general tendency internationally toward increased political control of the bureaucracy, there are inherent 'tensions between representative government and public administration' (Aucoin, 1990, p. 134). Different national systems resolve these tensions differently, including by giving politicians varying degrees of influence in relation to senior civil service appointments (Matheson et al., 2007).

At different times, different aspects of this intractable trade-off seem more important. Some PNG politicians stress the need to make things happen, in order to accelerate development. Others stress the need to strengthen institutions, in order to reduce corruption. PNG has an unstable political system in which parties are weak, and individual views matter a lot

(Kabuni et al., 2022). It is the combination of this personalised, unstable political system, combined with an intractable trade-off between probity and responsiveness, we argue, that has led to repeated large change, rather than repeated large change as predicted by punctuated equilibrium theory, which was developed to explain policy change in mature democracies, such as the United States (Baumgartner & Jones, 1993).

Third, civil service and more broadly public sector reforms in developing countries often fail (World Bank Independent Evaluation Group, 2008, p. 53; Huque & Conteh, 2014, p. 3; Polidano & Hulme, 1999). The PNG case study is consistent with this general finding. Some of the reforms failed in the sense that they were reversed; however, even the ones that lasted cannot be said to have succeeded in the sense of improving civil service performance.

The failure of public sector reform in PNG and other developing countries supports the argument that 'technical administrative fixes' will not solve 'fundamental problems of political economy' (Nunberg, 1999, p. 2). In the case of PNG, its status as a clientelist democracy with a high level of social fragmentation is well-established (Bizhan & Gorea, 2022; Kabuni et al., 2022). Members of Parliament (MPs) are elected on the basis of local not national issues. There are therefore weak incentives for MPs to act in the national interest. However, there is no guarantee that an autonomous public service will act in the national interest either. Indeed, history suggests the opposite, and certainly PNG's politicians see public servants as complacent (Kanau, 2021). Forging a more responsive public service requires strong leadership in the national interest. In turn, this requires making PNG's democracy less clientelistic.

The PSC story confirms that structural reforms (technical fixes) are indeed not the answer to PNG's governance problems. In the words of May, written in relation to PNG but much more broadly applicable, what is needed 'is less institutional reform than a fundamental shift in patterns of political behaviour' (May, 2001, p. 16).

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ENDNOTES

¹ Mekere Morauta (July 1993 to September 1994); Koiari Tarata (September 1994 to April 1998); John Vulupindi (April to July 1998); and Morea Vele (July 1998 to 1999). Wilson Kamit, a beneficiary of the 2000 Central Banking Act, served from 1999 to December 2009.

² The contrast between the first period of reform (1982–1986) in which the PSC and the government cooperated and the third (2011–2014) in which they did not and after which the PSC took the government to court is striking and indicative of a hardening of attitudes over the decades. There is less willingness to cooperate and try new approaches and more inclination to defend one's power and position.

³ It is interesting that the 1986 PSC reform that received the least attention is the one that became the most controversial. The one constitutional clause that the 1986 reforms did not touch was Section 193 dealing with senior appointments. The comprehensive account of those reforms by Cochrane (2019) does not even mention the legislative reform that marginalised the PSC's role in relation to senior appointments. Yet, all the PSC reforms since have been in relation to this change, with the 2003 reforms aiming to ensure that the PSC is given a central,

constitutionally mandated role in relation to senior appointments, and the 2013 reforms aiming to once again marginalise the PSC in relation to senior appointments.

⁴Constitutional Amendment No. 38 does not mention Subsection (6), but the 2019 Supreme Case, as well as Kwa and Wolfers (2020), says it was amended in line with the earlier Subsections.

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APPENDIX

Annex A: The Public Services Commission in the PNG constitution

Key: Original text is in plain; text added by amendment is in italics in square brackets with the date provided before the amendment; struck through text is deleted by the same amendments

that follow the text; where no amendments follow the deleted text the date of deletion is given immediately prior to the deletion. Note that the 2014 revisions have been revoked by the Court, so, at the time of writing, the original text and the 1986 and 2003 revisions are in force. Note there was also one minor amendment made in 1976, not discussed in the main text, but included below.

Sources: Peaslee (1985) contains the constitution at independence; subsequent changes made by the 1986, 2003 and 2014 constitutional amendments can be found in Kwa and Wolfers (2020). (Note that although reforms were developed and put to parliament in 2013, by the time they were passed it was 2014, and hence that is the year used in this Annex.)

Part VII. THE STATE SERVICES

Division 1 – Introductory

...

Division 2 – The Public Services Commission

190. ESTABLISHMENT OF THE COMMISSION

1. A Public Services Commission is hereby established.
2. The Commission shall consist of not less than ~~four~~ [1986- *three*] members, who shall be appointed by the Head of State, acting with, and in accordance with, the advice of ~~the National Executive Council given after consultation with any appropriate Permanent Parliamentary Committee~~ [2003- *the advice of a Public Services Commission Appointments Committee consisting of (a) The Prime Minister, who shall be Chairman; and (b) the Chief Justice; and (c) the Leader of the Opposition; and (d) the Chairman of the appropriate Permanent Parliamentary Committee, or, if the Chairman is not a member of Parliament who is recognised by the Parliament as being generally committed to support the Government in the Parliament, the Deputy Chairman of that Committee; and (e) the Chief Ombudsman*].

[2003 - (2A) The Head of State, acting with, and in accordance with, the advice of the Public Services Commission Appointments Committee, shall appoint one of the members of the Public Services Commission to be the Chairman of the Public Services Commission]

3. All of the members of the Commission must be citizens [1986 - *who have gained substantial experience in the Public Service*].
4. Subject to this Constitution, an ~~Organic Law~~ [1986 - *Act of Parliament*] shall make provision for and in respect of the appointment and the terms and conditions of employment of the members of the Commission, and for and in respect of its constitution, powers and procedures.

191. FUNCTIONS OF THE COMMISSION

- (1) ~~Subject to this Constitution, the Public Services Commission shall be responsible, in accordance with an Act of the Parliament, for~~
- (a) ~~the efficient management and control of the National Public Service; and~~
 - (b) ~~all personnel matters connected with the National Public Service; and~~
 - (c) ~~such other matters in relation to the other State Services and the services of other governmental bodies [1976 - *and provincial services*] as are prescribed by Constitutional Laws or Acts of the Parliament.~~

[1986 - 191. (1) *The Public Services Commission shall be responsible, in accordance with an Act of the Parliament, for*

(a) the review of personnel matters connected with the National Public Service; and

(b) The continuous review of the State Services (other than the Papua New Guinea Defence Force), and the services of other governmental bodies, and to advise, either on its own initiative or on request, the National Executive Council and any authority responsible for any those services, on organisational matters.]

~~(2) It is a special function of the Commission to keep under continuous review the State Services (other than the Defence Force) and the service of other governmental bodies, and to advise, either on its own initiative or on request, the National Executive and any authority responsible for any of those services on organizational matters and the co-ordination of effort, and in particular on conditions of employment, with a special view to avoiding wasteful duplication of effort and competition.~~

~~(3) Nothing in Subsection (2) gives the Commission any power of direction or control.~~

[1986 - 191(2) *The Public Services Commission has such other functions as may be prescribed by or under a Constitutional Law or an Act of Parliament.*

(3) In carrying out its functions under Subsection (1)(b), the Public Services Commission – (a) shall take into account the government policy on a particular matter when advising the National Executive Council and other authorities responsible for those services; and (b) shall not have power to direct or control a State Service or the services of other governmental bodies.

(4) The Public Services Commission shall, in respect of each year, prepare and forward to the Speaker for presentation to the Parliament, a report on the advice it has given during the year to the National Executive Council or other authorities in accordance with Subsection (1)(b) indicating in particular the nature of the advice given and whether or not that advice was accepted.]

192. INDEPENDENCE OF THE COMMISSION

~~The Public Services Commission is responsible to the National Executive Council, but, subject to Section 193 (appointments to certain offices), in personnel matters~~

~~(a) it shall comply with any general directions as to policy from the Head of State, acting with, and in accordance with, the advice of the National Executive Council; and~~

~~(b) it is otherwise not subject to direction or control by any person or authority.~~

[1986 - 192. *The Public Services Commission is not subject to direction or control when carrying out its functions under Section 191(1)(a) (functions of the Commission).]*

193. APPOINTMENT OF CERTAIN OFFICES

1. This section applies to and with respect to the following offices and positions:

(a) all offices in the National Public Service the occupants of which are directly responsible to the National Executive Council or to a Minister; and

(b) the offices of the members of the Boundaries Commission; and

(c) the office the occupant of which is responsible for the administration of the Government broadcasting service, or, if that responsibility rests with a board or commission, the chairman or president of the board or commission; and

(d) the offices of the persons (including members of boards or commissions) responsible for the administration of any of the State Services; and

- (e) the office of the Commissioner of Police; and
- (f) the office of the Commander of the Defence Force; and
- (g) the office of the Secretary to the National Executive Council; and
- (h) such other offices and positions as are prescribed by an Act of the Parliament for the purpose, other than the offices of the members of the Public Services Commission.

(2) All appointment (whether temporary or substantive) to offices to which Subsection (1)(b), (c), (e) and (h) apply shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after consultation with the Public Services Commission and any appropriate

Permanent Parliamentary Committee, and a report concerning each of them shall be given to the Parliament by the responsible Minister as soon as possible after it has been made.

(3) All appointments (whether temporary or substantive) to which Subsection (1a), (d), (f) and (g) apply and such other offices and positions as are prescribed by an Act of the Parliament for the purpose of this subsection, shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after consultation with the Public Services Commission.

(4) An Act of the Parliament may make provision for and in respect of a temporary appointment to an office to which this section applies until such time as it is practicable to make an appropriate substantive appointment in accordance with Subsection (2).

[2003 - (1A) All substantive appointments to offices to which Subsection (1)(a), (g) and (h) apply shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council from a list of persons [2014 – selected and recommended] by the Public Services Commission following [2014 – through merit based selection and appointment] procedures prescribed by or under an Act of the Parliament.

(1B) All temporary appointments to offices to which Subsection (1)(a), (g) or (h) apply shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council in accordance with a recommendation by the Public Services Commission following [2014 – given in accordance with] procedures prescribed by or under an Act of the Parliament.

(1C) The revocation of appointments of persons appointed under Subsection (1A) or (1B) shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given in accordance with [2014 – a recommendation by the Public Services Commission following] procedures prescribed by or under an Act of the Parliament.

(1D) The suspension from office of persons appointed under Subsection (1A) or (1E) shall be made by the Head of State, acting with, and in accordance with [2014 - recommendation by the Public Services Commission following] procedures prescribed by or under an Act of the Parliament.

[2014 - (1E). Notwithstanding the procedures provided by an Act of Parliament under Subsection (1A) to (1D), the Public Services Commission shall exercise its powers under Section 191 from time to time to review the appointments made under Section 193.]

194. “PERSONNEL MATTERS”

In this Division, “personnel matters” means decisions and other service matters concerning an individual whether in relation to his appointment, promotion, demotion, transfer, suspension, disciplining or cessation or termination of employment (except cessation or termination at the end of his normal period of employment as determined in accordance with law), or otherwise.

...

[2003 - Part VII. REGULATORY STATUTORY AUTHORITIES**208A. DECLARATION OF REGULATORY STATUTORY AUTHORITIES**

...

208B APPOINTMENT TO CERTAIN OFFICES OF REGULATORY STATUTORY AUTHORITIES

1. *This section applies to and with respect to the following offices and positions:*
 - (a) *all officers (sic) of chief executive officers of Regulatory Statutory Authorities; and*
 - (b) *all officers of non ex officio members of Boards of Regulatory Statutory Authorities; and*
 - (c) *such other offices and positions as are prescribed by an Act of the Parliament for the purpose.*
2. *All appointments (whether temporary or substantive) to offices to which Subsection (1)(a) applies shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after considering recommendations from the relevant Minister, acting on the advice of the relevant Board [2014 - ~~in accordance with the recommendation from the Public Services Commission~~], following procedures prescribed by or under an Act of the Parliament.*
3. *All temporary appointments (whether temporary or substantive) to offices to which Subsection (1)(a) applies shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after considering recommendations from the relevant Minister, acting on the advice of the relevant Board [2014 - ~~in accordance with the recommendation from the Public Services Commission~~], following procedures prescribed by or under an Act of the Parliament.*
4. *The revocation of appointments of persons appointed under Subsection (1)(a) shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after considering recommendations from the relevant Minister, acting on the advice of the relevant Board [2014 - ~~in accordance with the recommendation from the Public Services Commission~~], following procedures prescribed by or under an Act of the Parliament.*
5. *The suspension from office of persons appointed under Subsection (1)(a) shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after considering recommendations from the relevant Minister, acting on the advice of the relevant Board [2014 - ~~in accordance with the recommendation from the Public Services Commission~~], following procedures prescribed by or under an Act of the Parliament.*
6. *All appointments (whether temporary or substantive) to offices to which Subsection (1)(b) applies shall be made by the Head of State, acting with, and in accordance with, the advice of the National Executive Council given after considering recommendations from the relevant Minister, acting on the advice of the relevant Board [2014 - ~~in accordance with the recommendation from the Public Services Commission~~], following procedures prescribed by or under an Act of the Parliament.*⁴

Annex B: The 1986 PSC reforms: a statement by the PSC

The Colonial Administration of Papua New Guinea, prior to independence in 1975, established a Public Service based upon the forms and structures accepted within Australia since Federation.

At Independence, the structure of the PNG Public Service continued in the borrowed pattern, partly through expedience, and partly in the hope that it would provide the necessary services to the people of the emerging nation.

This was a highly centralised system, only suitable during the colonial era. After Independence, the wishes of the Government, expressed in development policies, went through a lengthy process of screens and filters, before they could be implemented.

We also inherited a bewildering complexity of Laws, Regulations and Committees, a system that often proved incomprehensible in its intentions, its workings and its effects.

The Public Services Commission was in the middle of the complex administrative web. As the nerve centre of the entire public service, it had to be involved or consulted before the implementation of any policy was possible.

Under the now repealed sections of the Constitution, the Commission had powers to make policy decisions concerning the administration of the service, salaries, localisation and conditions of employment. It had a level of control over the management and operational aspects of line departments and agencies, which meant a certain extent of control over their day-to-day activities. Added to this was the quasi-judicial role of reviewing various aspects of policies and their implementation.

The old Commission was a policy decision maker, and implementor, a monitoring body, and an adjudicator. Members of the Commission enjoyed the Constitutional rights and privileges of Constitutional Office Holders. The Commission was specifically protected from influence, or restriction in the execution of its functions.

The Public Service machinery set up to deliver the goods and services to the people became ever more complex, as the number of establishments, and the amount of manpower to staff them, created ever more policies covering their operation and management. More and more time became wasted on trying to solve in-house problems, while both the speed and quality of services to the people shrank dramatically.

Eventually, it became clear that a major overhaul of the Public Service was needed if there was going to be any meaningful progress by the elected government. Several attempts were made by both individuals and committees to identify problems, analyse them, and propose possible solutions. These attempts produced some commendable recommendations, which failed to be fully implemented.

Written and verbal bombardment by individuals and organisations within and outside the service, criticising the over-large apathetic, over-centralised, and unproductive service, became the accepted preamble to any public address in the country.

In early 1983, the Government and the Public Services Commission for the first time made a concerted effort to begin a major Public Service reformation. The desired results were

The separation of executive decision-making powers from the Public Services Commission, and their allocation to other institutions or agencies.

The transfer of the role of implementing government policies to another institution or authority;

The reduction of PSC powers and functions to those of review and advice to the Government on personnel and organisation matters in the service,

A resulting increase in both the responsibility and accountability of these departments.

The reform of the Public Service was achieved through the dedication and commitment of the members of the former Commission, successive Ministers for Public Service in the last two governments, and public servants involved in the exercise. We now have a Public Service which has been structured to be more responsible, more accountable, more manageable and more effective. It should provide the government with the structure it requires to bring about planned developments in the country.

From the PSC 1986 Annual Report (PSC, 1987, pp. 1–2)