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## **National Development Plan Chapter 13 – BUILDING A CAPABLE STATE**

### **Objective of the capable state**

It is not clear what chapter 13 has in mind when it talks about building a capable state. It is important to have a clear idea what is meant by the capable state. The objective of the capable state is the delivery of state goods and services. The capability of the state is defined and measured in terms of its ability to deliver. The delivery objectives should be clearly defined at a strategic or state level. They cannot be defined at departmental or institutional level. In setting out the goods and services to be provided by the state, a policy should be adopted that state goods and services should encroach as little as possible on private sector suppliers of goods and services and should not crowd out the private sector.

### **State departments and/or institutions**

Having defined at a strategic level what is to be delivered, delivery objectives should be assigned to specific state departments or institutions. Each specific state department and/or institution should have a single objective. Multiple objectives within the same department and/or institution should be avoided. Overlapping objectives should be avoided. An example of a current problem which should be avoided is Occupational Training. The function for Occupational Training is assigned to the Setas, but another state institution, the regulator, the Financial Services Board (FSB), decided to introduce and run Occupational examinations. Education and training (delivery of education and examinations thereof) in any event is catered for in other Education and Training institutions. So the regulator is carrying out the function of the Setas and Education and Training in addition to being the regulator. So currently the state has produced various institutions which seem to take it upon themselves to execute functions assigned to other state institutions. This results in an inefficient, expensive, incoherent and confusing state delivery, if indeed any delivery as such takes place.

### **Delivery of state services – a government under law**

Many, if not most, of the services provided by the state involve mass delivery to individuals. Mass delivery is best produced through the bureaucratic process. It is a repetitive process which lends itself to standardised efficiency and yet this obvious process is currently missing within the current state operation. Take a practical example. A 90-year-old-lady has her car stolen out of her garage where it has been parked for years. She has long since stopped driving. She needs to get the car de-registered.

- (a) The forms used by the local authority do not coincide with the prescribed forms; in fact, the staff at the local authority do not know which forms are in use or should be used.

- (b) The 90-year-old is told that she must personally appear at the offices of the local authority, stand in one of the perennial queues for hours (which she is in any event incapable of doing) associated with government delivery, and hand in the form herself.

None of this is required by law, as it stands. The local authority acts outside of the law; it is a law unto itself. The problem conceptually is easy to remedy and in so doing will greatly improve state delivery.

- (a) All of the procedures required to provide these mass state services can be defined, simply in law, essentially as work instructions.
- (b) Staff can be trained in the operation of providing these services (instead of making up their own, which is inefficient).
- (c) The provision of these services once so defined can be optimised, especially using modern technology.

Once so defined and staff trained the government service becomes very professional and will be respected for its delivery.

So in the above example there is no reason at all why there cannot be an easily identified form which can simply be put in the post. Some government departments have made considerable strides in becoming efficient with respect to the public. Thus, for example, Home Affairs (which is routinely criticised) notifies the public via sms as to the progress with regard to applications for documentation. This is both modern and efficient. SARS has pioneered e-filing and rapid response times. These things can be done. What is needed is a professional systematic approach to be adopted covering the entire state delivery process. This will go a long way towards the solving of many of the current state delivery problems.

### **Avoiding state managerialism**

A new phenomenon has developed which can be described as state managerialism. State institutions effectively attempt to manage the private sector. The government should be a government under law. What is required to be done by the private sector should be clearly set out in as few laws as possible, passed by parliament. Various state departments and institutions are increasingly setting themselves up, essentially to be states within states. They make their own "laws", have their own "courts" and govern arbitrarily by decrees and discretion. This is far removed from the concept of a government under law. These institutions are not regulating industries; they are attempting to manage industries. The problem can be illustrated again by an example from the financial services industry.

A consumer lodges a complaint against a broker to a state institution. The matter is essentially a civil matter between the consumer and the broker which should be resolved in accordance with the law via the courts. In terms of the law it can be accepted (for purposes of illustration) that there is no foundation for the complaint. The state institution acting now as a "court" of law decides in favour of the consumer relying on a code of conduct issued by the same institution which is not, in law, applicable to the facts of the case in any event. The code of conduct was not signed off by a minister. Essentially it is no more than a circular by the state institution. So it can be seen what has happened. The state institution has set itself up as a legislator. It issues its own legislation, in this case the code of conduct. In all seriousness it treats its own circular as if it is legislation. It has its own "court" which does not apply the law of the land, but misinterprets the code of conduct to arrive at its pre-judged conclusion. The institution has become an arbitrary state within a state. It is impossible to see how this system adds to state delivery. This state institution has violated the above principle of one objective, one institution. It has taken over the legislative and judicial functions. It is not clear how this can be regarded as delivery. (See attached paper on competition policy as an example of a state within a state.)

**Conclusion**

A capable state can be built but this requires a focused approach as set-out above. Firstly, define what it means to be a capable state and that must be in terms of delivery. Having done so, the point of delivery must be allocated and the process defined and optimised as a process defined in law. The operation of existing departments and institutions must be confined to one of law.

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