

# 3rd SAAPAM LIMPOPO CHAPTER Annual Conference

## CONFERENCE PROCEEDINGS

### Corruption & Democracy in Post-colonial Africa

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## FOREWORD

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This compilation provides only 34 papers out of the 56 that were received. Three of the 56 papers were rejected, 19 were accepted for publication in the September Edition of the *Journal of Public Administration* (Vol.49, No.3,) and the remaining 34 are published in this Proceedings. Conference Editors received a total of 125 abstracts (paper proposals) for consideration and, presentations which were made during October 29-31, 2014 at the Park Hotel, Mokopane, in Limpopo Province. This Conference Proceedings is also published online in order to be as accessible as possible to as many academics, researchers and practitioners interested in *post-colonial Africa corruption and democracy*. The Conference Proceedings is also printed in CD and e-Book that are deposited with the National Bibliography of the South African National Library and the University of Limpopo Library and Information Services.

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## EDITORIAL PERSPECTIVE: CORRUPTION AND DEMOCRACY IN POST-COLONIAL AFRICA

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### 1. Introduction

Corruption and democracy have attained inescapable currency in the world, often precipitating interventions in domestic affairs of states and fatal wars. A common denominator about corruption and democracy is power (Douglass, 2009). Whereas democracy relates to popular power, people power and political equality, corruption involves a combination of opportunity and inclination to avoid rules that are considered to be costly, with the expectation that decision-making processes, penalties and laws would be favourably modified (Pope, 2000; Melgar et al., 2010). In fact, a person offering and/or taking a bribe reveals a deep sense that democratic rule of law would deny them entitlements to the specific products involved in the transaction (Melgar et al., 2010). Importantly, corruption is more revealing of the powerlessness of the poor, especially in Africa. Indeed, there are no less than two sides to corruption; hence, the social fabric is crucial to its framing (Rubin, 2011; Cibane, 2013). That is, if the public sector is corrupt in a democratic system where freedoms of expression are upheld and freely exercised, then society itself must be corrupt. Liberal democracies that provide for freedom of access to information and protection of whistle blowers (Montinola & Jackman, 2002; Melgar et al., 2010), such as that in South Africa, have not necessarily won the “fight against corruption”. Perhaps, democracy should be blamed for creating fertile grounds for corruption because rules could be tacitly encouraging corrupt activities. Indeed, liberal democracies have ironically exposed the stark power relations of inequality within societies.

Nevertheless, keen interest has to be directed to the reality that the thought process and language that underwrite the framing of corruption “may vary dramatically from one culture to another and among people”, depending upon societal values and personal vies (Melgar et al., 2010: 121). Grosfoguel (2007: 214) instructively urges that “the notion of a “disembodied and unlocated neutrality and objectivity of the geo-politics of knowledge is a Western myth”. Equally, the so-called “fight against corruption” deploys, engages, contests, deflects and appropriates mechanisms of power in complex ways to perpetuate its continued inherent contradictions (Cooper, 2003; Ndlovu-Gatsheni, 2007). Hence, states across the world, as well as non-state actors such as Transparency International, are agitating further legislation and strengthening of their applications in the so-called “fight against corruption”. This metaphor is interesting because it suggests a “fight” against an enemy that is barely, if not poorly, defined. The popular “fight against corruption” has degenerated into a struggle against everything else, but self. If anywhere else in the world, corruption is described as rampant, it would imply that the state is opaque,



distant, capricious and inefficient (Blundo et al., 2006; Rubin, 2011: 487), failing to either conveniently manage the scourge away from full-view of the publics or to prevent such acts from recurring. It is not uncommon for governments, especially those in Africa, to set out to fight corruption only to do everything possible to deflect attention from societal concerns about maladministration and misconduct of state power and resources. A clumsy, opaque, confused and capricious state would almost always give credence to strong negative social perceptions of corruption, even when unsupported by reality and practice (Rubin, 2011). In South Africa, for example, the problem about Nkandla Project is not necessarily with the entity itself, but it lies with the sense that Ministers and other organs of the state appeared to collude in attempts to deflect public attention away and to dismiss societal concerns as malicious. That is, what exactly is the matter with “corruption?” Could corruption potentially continue unattended if societal conscience is engineered towards being content with the *status quo*? Could it be argued that Africa is generally corrupt? Perhaps, an unthoughtful affirmation should be avoided because the hegemonic global measure of corruption relies on experts’ perceptions, which are a function of personal values and vies. When adequately managed, corruption could sail for ages under a benign flag that no citizen would ever notice. Whilst thinking that way, corruption cannot be dismissed as a myth for Africa.

## 2. Business of the 3<sup>rd</sup> SAAPAM Limpopo Chapter Conference

Historically, African leaders and bureaucrats continued to be accused of deliberately “distorting history” in order to “justify dictatorial” governance, with African political systems being generally characterized as imposition of “rational-legal authority”, pervasive clientilism, patronage, corruption, personalistic rule and economic stagnation. In recent decades, the vogue of democratization on the continent has agitated for questions of the types of regimes and authority as well as the attendant contemporary strategies and forms of governance prevalent in Africa.

It is hard to deny that post-colonial Africa strove to ensure that positions of power in a state are filled through means that are often regarded as participatory democracy, allowing involvement of the citizenry. However, Africa continues to boast a wide spectrum of regimes and authority, ranging from liberal democracies to politically-closed authoritarian governance. These types of regimes are correlated with differential applications of authority, inclusive of patrimonial governance. Generally, Africa’s governance has been thought to be subordinated to reciprocities that involve predominance of personalities, deference, subservience, loyalty and such other non-material exchanges. These exchanges are blamed for lack of accountability and transparency, with the result that the public blurs with the private as the ideals of politics are subordinated to the business logic.

To this extent, the specific types of regimes and forms of authority are also associated with sources of legitimacy, largely dependent upon cultural variations. Interpreting Weberian conceptions, Pitcher, Moran & Johnston (2009: 126) observe that patrimonialism is “not a synonym for corruption, bad governance, violence, tribalism or weak state”. This observation questions received wisdom that ties authoritarianism and/or autocracy with governance-ills such as corruption, nepotism and so on. Liberal democracies too tend to lose legitimacy to rule if poor governance persist for years. International agencies suggest that some of the liberal democracies in Africa rank high on governance-ills, especially as measured through the corruption index. At the occasion of the African National Congress’ centenary, having being the oldest liberation movement, and the twenty years of democracy in South Africa, whose transition agitated for notions of continental leadership and renaissance, SAAPAM Limpopo Chapter extended invitation to academics, researchers and practitioners to Conference for the purposes of knowledge exchange and engagements of pragmatic significance on the following sub-themes:

- Democratic transitions in Africa
- Relationships of types of regimes, authority and governance
- Governance-ills such as corruption, clientilism, patronage, personalized rule and nepotism
- Applications of authority and state violence
- Strategies and forms of governance
- What and whose democracy?
- Legitimacy to rule or govern
- Pragmatic expressions of the principles of democracy
- Active citizenry and the “fight against governance-ills”
- Is Africa generally corrupt?
- Continental leadership and African Renaissance
- Corruption and Service Delivery
- Oversight institutions for democracy
- Anti-corruption institutions

The response to the call was amazing, demonstrating that the twin-concepts of corruption and democracy are topical among African scholars, researchers and practitioners. Hence, this Proceedings presents 34 papers of the 56 that were received; and, Conference itself hosted 125 paper presentations.

### **3. Corruption Framing in 2014: The African Perspectives**

Africa is not monolithic; instead, the continent hosts both the dominant and the subaltern views of the world and of itself. It would be farfetched to characterize African scholarship in respect of the nature of its intellectual engagements on corruption and democracy. Instead, it is this diversity that breeds wealth of ideas; however, Africa cannot be characterized as deeply “corrupt” when the framing of the concept of corruption remains scarcely unambiguous. If corruption involves slippages and complexities that are hard to detect, observe or measure, and if the hegemonic “fight against corruption” is predicated on mere social perceptions, and if Afro-pessimism is not a new phenomenon, how else would anyone ever reach a different conclusion. One conference paper, published in the September Edition of the *Journal of Public Administration*, engages the discourse on corruption, and it asserts:

“The question of what to observe and/or measure as corruption, remains socially situated and complex, amidst ongoing academic reverence for conformity with universalistic mythologies and fundamentalist truths. The evidently opaque, arbitrary, clumsy and anecdotal framing of corruption has largely accounted for the paucity of academic subaltern perceptiveness” (Tsheola, 2014: 712).

Desai, Maharaj & Bond (2011) mourn the intellectual sloth and the rush to conformity in a democratic South Africa; and, it is unsurprising that Africa is blamed for being unable to “chase shadows”. The papers in this Proceedings are widespread in terms of their focus, ranging from those that seek to establish the meaning of the concept of corruption to those that jump onto the bandwagon for the poorly defined chorus that scorns Africa of its purported “hobbesian trap”. Additionally, others seek to establish and test the mechanisms for detection and prevention of corruption, whilst others strive to examine the implications and impacts on various aspects of existence such as development, service delivery and so on.

Mwanawina opens the account of this Proceedings with examination of Africa’s institutional arrangements for fostering democratic ideals and development at a continental scale, whereas Mathebula & Makamu examine conceptions of corruption to determine their legislative and service delivery implications for South Africa. Adejuwon juxtaposes leadership, corruption and underdevelopment to argue that the current state of affairs relates to this uncomfortable relationship. Then, a vexed question is raised whether or not Africa is corrupt. Chizuma seeks to impose a regional perspective, using the Southern African Development Community (SADC) to establish if it would be tenable to characterize Africa as corrupt. Responding to this difficult question, Mamogale discusses the role of political patronage in state performance, from a South African perspective. Characterizing corruption as social pathology, Coetzee examines its complex nexus with crime. Mechanisms of power have always revolved around corruption or lack thereof; hence, Masipa discusses the political-economy of the so-called

“fight against corruption”, drawing into the picture society at large, represented by communities, business and the public sector.

Seven papers test the oversight mechanisms from almost all dimensions, in the interest of determining if democratic systems could probably provide adequate instruments to deal with corruption. Tshishonga tests the probability of creating a culture of accountability and trust through proportional representative system at the local government scale. Further, the concept of governance is examined by Coetzee to determine if it could provide a paradigm for institutional reform and transformation. Murwa & Ngobeni discuss the democratic state policies and their implications on efforts for the prevention and “eradication” of corruption in South Africa’s Public Service. Apparently, motivated by a questioning mind whether or not the Public Protector held adequate powers to enforce compliance with remedial measures, Msaule asks if such powers are needed. Thakathi examines the Public Service Commission to determine if it should participate in enforcing constitutional values and principles that strive for good governance. As it were, Mashaka & Malila demonstrate the extremes of oversight with the unrecorded police brutality in Botswana, which is often regarded as an oasis of democracy in Africa. Lethoko concludes this part by asking if Limpopo Province’s alleged corruption was curbed when it was placed under national government administration. Her questioning is eloquently suggestive that placing a province under administration cannot be a panacea because corruption is fomented by values and vies of socialization. These papers provide an interesting spectrum that covers a broad range of concerns about oversight institutions, relating to corruption. Overwhelmingly, they highlight serious drawbacks in some of the institutions under examination.

Three papers make a significant attempt to test prospective measures that could reduce corruption. Based on detailed analysis, Maswime calls for intervention in the tender adjudication processes. Having identified gifts as the fundamental cause of Public Service maladministration, mismanagement and corruption, Mzini proposes guidelines and procedures for handling this practice so that it may not precipitate corruption. Using Gauteng Provincial Legislature, Malapane proposes interventions that are research-based in order that measures adopted could be accurately targeted for effectiveness of oversight.

Whereas never adequate, the foregoing papers set the scene for engagement of the implications and impacts of corruption. Indeed, the manifestations of corruption are experienced in everyday life of citizens; and, an academic study of this phenomenon for its own sake would be unhelpful in Africa. To this extent, five papers address the effects of corruption on service delivery, development and the management of Public Service. Musitha & Nkuna kick-start the cognitive contestations with an analysis of the implications of corruption on the Millenium Development Goals, Sibiya relates corruption to service delivery whilst Holford & Phago tease out an interesting dimension about fear of change in the management of Public Service, with

specific reference to Limpopo Provincial Department of Public Works. Given that the framing of corruption relies heavily on perceptions, this notion of fear of change charts an exceedingly appealing discourse-path. As they say, the law of the jungle applies because the thinking that others are accumulating resources through corrupt practices, rather than the reality thereof, could precipitate a sudden rush for demanding bribes among public functionaries. One of the major challenges in the delivery of sustainable human settlements is the dearth of usable knowledge about the phenomenon of corruption; and, the latter is indeed difficult to define, measure and/or trace. In this context, Ngoepe & Lukhele examine the challenges and achievements in the delivery of sustainable human settlements in urban South Africa, whilst Manamela & Mkhwanazi, considerate of the centrality of corruption to development problems, argue that water provision is critical to service delivery. To this extent, if corruption halts the supply of water, then it would imperil the rest of societal progress.

Perhaps, South Africa and Africa could return with nostalgia to the leadership and management of public administration under former President Mandela. Notwithstanding the fierce debate, Maimela reflects on the Mandela Administration legacies in search of the ideal leadership and management of public administration for a democratic South Africa. Pooe too explores the democratic transitions of Nigeria and South Africa to determine the form of evolution that may have occurred. In a democratic transition, there is often a high probability to ignore the ingredients that gave birth to democratization. To avoid this pitfall, Langa & Matheba examine the role that religion played in the liberation struggle, however minute and often underestimated. In a democratic era, labour has continued to suffer the legacies of apartheid. The Marikana Massacre, as it were, is a stark reminder that society remains unequal. However, Labane, Chirwa & Lukamba place a spin on the role that labour unions could play in strategic management and productivity enhancement of organizations; and, the South African Broadcasting Corporation (SABC) was in the news in recent times about workers' rights. These papers provide timely examination of factors that may be fodder for citizens and explanation why Public Service appears to be prone to corruption.

Among other things, communication systems can enhance the flow of information and restrain wastage of municipal resources and services. Tshibalo & Mzini discuss the converse side of this coin wherein they determine how municipal resources could be used to enhance communication and information exchange. Corruption is indeed multifaceted. Mariga, Motsitsi & Lekonyane demonstrate this moral sloth through the academic credential and recruitment processes that have no measure in place for vetting qualifications. In the sphere of energy too, there is corruption of the consumers and agents where electricity is being stolen. Serobane & Mzini examine the implications of residential electricity theft, detection and enforcement.

It is already a cliché to suggest that the poor, who are largely rurally-based, would suffer the worst effects of corruption. There is not much public resources to waste in poor rural areas,

though. In the final analysis, poor rural communities are at the short-end of the stick of corruption, whatever it may mean. Teffo & Yirenkyi-Boateng are calling for nuance approaches to rural development wherein Indigenous Knowledge Systems could be harnessed. Madzivhandila, in agreement, points to the need for entrepreneurial creativity within the context of rurality rather than the common importation of urban ideas. In most of Africa, rural areas belong to traditional leaders; so, there is no way development there could be contemplated outside their consideration. Tshitangoni & Francis discuss traditional leaders' roles in community development under the democratic dispensation. This matter is emotive because at first the modern democratic state undermined the positions of traditional leaders; and, now that they are finding ways of partnerships, there are already insinuations that some traditional leaders may be involved in shadowy deals. Hence, Dikotla & Mahlatji believe that the missing link for traditional leaders is records management, the absence of which creates opportunities for corruption. This paper uses land claims to show that traditional authorities could do better if they had effective records management systems. As the adage has it, land and elements thereupon are fundamental to development everywhere else in the world. Mutenyoka & Maake conclude the Proceedings with an attempt at theorization of land reform as an ideological dimension of rural development.

These collection of thematic papers offer a good cognitive engagement in the intricacies of democracy, power and corruption that captivate Africa in the present era.

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## THE PURSUIT OF AFRICAN CONTINENTAL GOVERNANCE: THE STONE THAT THE BUILDERS “FORGOT”

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### Abstract

The African Union is an inter-governmental arrangement aimed at fostering democratic ideals and development on the African continent. The metamorphosis of inter-governmental arrangements has led to the need for the inclusion of the civil society in the decisions of such organisations on the basis that at the heart of democracy lies public and inclusive governance. The Pan-African Parliament is one of the organs of the African Union as envisaged in Article 5(1)(c) of the Constitutive Act. The Pan-African Parliament was formally inaugurated in 2004. It attempts to secure the full participation of African people in the development and economic integration of the continent by providing a platform for civil society participation. The importance of having a legislative and oversight body especially in organisations at a continental scale cannot be over emphasised, however the manner in which the Pan-African Parliament has been established leaves much to be desired. This paper will analyse the institutional arrangements around the establishment of the AU and in particular, the Pan African Parliament. It will illustrate the importance of civil society participation in governance and determine whether the African Union has attained an acceptable level of civic-inclusive arrangements in its architecture.

**Keywords:** Governance; African Union; Pan African parliament; Africa

### 1. Introduction

The African Union, formerly the Organization of African Unity (OAU) is an inter-governmental arrangement aimed at fostering democratic ideals and development on the African continent. The metamorphosis of inter-governmental arrangements has led to the need for the inclusion of the civil society in the decisions of such organisations on the basis that at the heart of democracy lies public and inclusive governance. Further, the decisions of sovereign member states that constitute international organisations such as the AU, are heavily shaped by the treaties and decisions of such organisations and as such it is only logical that the civil society be included in shaping the priorities of the AU. The Pan-African Parliament is one of the organs of the African Union as envisaged in Article 5(1)(c) of the Constitutive Act. The Pan-African Parliament was formally inaugurated in 2004. It attempts to secure the full participation of African people in the development and economic integration of the continent by providing a platform for civil society participation. This was one of the grand ideals of the great Pan-Africanist debates of the 1950-1960's that gained momentum when Ghana (under Nkrumah) became the first black African country to gain its self rule, additionally as an independent state tasked with organising the All Africa Conference in Accra in 1959 (Sherwood, 2012).



The road to the establishment of the OAU was not without its own hurdles. One such hurdle was the ideological contests over the manner in which the organisation would relate to the newly formed independent states. The OAU was thus a compromise between the aspirations of three blocs which had emerged during its establishment. First, the Casablanca group (Ghana, Mali, Guinea, the United Arab Republic, and the Algerian Provisional Government) identified as carrying Kwame Nkrumah's integralist position took a more radical approach to unity. They favoured socialistic planned economies for members and viewed strident anti-colonialism as a unifying force. The group envisioned the formation of a supra-national government and parliament. This ideal to the formation of a continental structure is what *Rossi* would label the "federalist" approach to integration. He observes that it presupposes the coming together of diverse entities in order to create a central unit, to which they relinquish their sovereignty, thus leading to the creation of a supra-national entity (*Rossi* 1974). Nkrumah had argued that a federation of African states or a Union Government for Africa would be the most effective vehicle for Africa's economic, social and political emancipation (*Wapmuk*, 2009). Second, the Brazzaville group mainly consisted of former French colonies (Central African Republic, Cameroon, Ivory Coast, People's Republic of Congo, Dahomey, Mauritania, Gabon, Upper Volta (the present-day Burkina Faso), Senegal, Niger, Chad and Madagascar). This cluster stood for a gradualist approach to the concept of African unity, starting with regional economic and cultural co-operation. The third group, identified as the Monrovia group (Nigeria, Sierra Leone, Liberia, Togo, Ivory Coast, Cameroon, Senegal, Dahomey, Malagasy Republic, Chad, Upper Volta, Niger, People's Republic of Congo, Gabon, Central African Republic, Ethiopia, Somalia, and Tunisia) was more moderate, placing more emphasis on economic cooperation and less on politics and ideology.

The title of this paper emanates from here. Whilst the opinions of the three ideological groups occupied the intellectual space towards shaping the architecture of the OAU, there was very little consideration given towards the idea of ensuring that the African civil society has a concrete and measurable participation in the running of the organisation that was to be born. The "builders" that dominated the 1963 Addis Ababa Summit, constituting the above mentioned three groups eventually settled on the "flexible associative structure" that was embodied in the Treaty of the OAU. However, these builders did not secure a firm foundation for public participation and accountability within the Treaty establishing the OAU as will be illustrated by this work. The paper will also illustrate the importance of civil society participation in governance and indicate that in order to drive the African integration process forward, policy reform should be undertaken by the AU in this regard.

## 2. Understanding Regional Integration and Public Participation

From an African perspective, regional integration was first identified as a strategy by African states for over-coming colonial rule, underdevelopment and dependency on western states (Nyirabu, 2004). Following the independence of Africa states, integration was pursued as a tool to strengthen African trade relations as well as political ties. Regional or continental integration is an observable fact that has gained momentum within globalization trends. Integration does not have a fixed definition and varies depending on the discipline under study. From an international relations perspective, it may be defined as the unification of nation states into a larger whole or their willingness to shed some of their sovereignty to a supra-national body (ECCB, 2003). The concept of continental integration as defined in this work and globalisation are a closely related phenomena. Globalization has been defined as the growing interdependence of the world's people. It fosters the advancement of a "global mentality" and conjures the picture of a borderless world to create partnerships and foster greater financial and economic integration (Obadan, 2003). It is submitted that the above definitions directly relate to the aims of the AU. In a study "Towards the United States of Africa", that was commissioned and adopted by the AU, it was pointed out that continental integration should be one of the strategic areas which the African governments should focus on (Wapmuk, 2009). It therefore signals that successful political and economic integration are a priority on the continent.

### 2.1. Public Participation

Article 3 of the Constitutive Act of the AU entrenches that the institution should promote democratic principles and institutions, popular participation and good governance. The idea of allowing the public to participate in the conduct of public affairs is not a new concept. On the Africa continent, the traditional means of public participation have been imbizo's (*lekgotla/bosberaad*). These have been participatory consultation processes that were, and still are followed within the African communities. They have been used as a forum to discuss issues affecting the community. The adoption of civil governments and constitutional structures has not absolved elected representatives from these practices, in fact most Constitutions and laws require that authorities and the institutions they run be held responsible for facilitating public involvement in decision making as indicated in the South African Constitutional Court cases of *Doctors for Life International v Speaker of the National Assembly and Others* (2006) and *Matatiele Municipality and Others v President of the Republic of South Africa and Others* (2006).

At continental level, the African Union has gone as far as establishing the Pan-African Parliament under Article 17 of the Constitutive Act. The inherent inadequacies of this body in serving the requirement of public participation is the crux of this article. These will be discussed later.

## ***2.2. Statehood and International Organizations***

International Organizations such as the AU are founded by the collective resolve of independent member states. Once established, depending on the scope of the organization, numerous treaties and protocols are adopted that ultimately have a direct effect on the internal practices of member states. These treaties or protocols may be on areas of immigration, trade, transportation, education, etc. Steffek (2003) has observed that the globalization debate has within the last few decades drawn open public attention to the fact that states are ceding increasingly more competences to international organizations, and in turn have become influenced by their rules and decisions. As a consequence, a widespread debate regarding the legitimacy of these kinds of governance “above” or “beyond” the nation-state features emerged. He has also described international institutions as slowly starting to acquire characteristics of a state. The observation that international institutions are beginning to acquire characteristics of a state is one that should be closely explored in order to highlight the importance of public participation in these organisations.

A state has been defined as an association of a considerable number of men living within a definite territory, constituted in fact as a political society and subject to the supreme authority of a sovereign, who has the power, ability and means to maintain the political organization of the association, with the assistance of the law, and to regulate and protect the rights of the members, to conduct relations with other states and to assume responsibility for its acts (Grant 1998). The 1933 Montevideo Convention articulated the following qualifications for statehood:

- a permanent population;
- a defined territory;
- government;
- capacity to enter into relations with the other states.

Article 3 of the Convention provides that ‘the political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts’. It is argued that inferences may be drawn between these requirements and what the African Union aspires to achieve as outlines in Article 3 of the Constitutive Act. *Steffek’s* observations are indeed correct in that the AU has begun acquiring state-like features. For instance, it is a political society consisting of member states that have the

power to pass collective decisions, resolutions and directives through various organs and it can conduct relations with other organizations such as the European Union and United Nations. Another example illustrating how the AU has been slowly acquiring features of a state is the manner in which its organs loosely reflect the *trias politica* of a traditional democratic state. The following table places organs of the AU in accordance to their democratic function.

**Table 1: Roles played by AU Organs**

Branch of Government	AU Organ
Executive	<ul style="list-style-type: none"> <li>• The Assembly of the Union</li> <li>• The Executive Council</li> <li>• The Commission</li> <li>• The Peace and Security Council</li> </ul>
Legislative	<ul style="list-style-type: none"> <li>• The Pan-African Parliament</li> <li>• The Economic, Social and Cultural Council</li> </ul>
Judiciary	<ul style="list-style-type: none"> <li>• The African Commission on Human and Peoples' Rights</li> <li>• The African Court on Human and Peoples' Rights</li> <li>• <i>The Court of Justice and Human Rights</i></li> </ul>

Having illustrated how the African Union is slowly attaining state-like characteristics it is imperative to reflect back on the requirements of the Montevideo convention. Of importance from these discussions to the current discourse is the ability of the African Union to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its organs. This ability has been executed without challenge since its formation in 1963 by the Assembly of the Union. The Assembly is the supreme organ of the Union composed of Heads of States and Governments or their duly accredited representatives. It has been endowed with enormous executive powers. It can approve or disapprove sanctions directed against member states as articulated in Article 23 of the Constitutive Act, appoint or terminate the terms of judicial officers, determine policies and consider requests for membership. In a traditional governance model, most of these powers would have been placed in the competence of a parliamentary body or rather the Assembly would have been accountable to such a parliamentary body. Neither is the position in the AU.

### ***2.3. The intended Role of the Pan African Parliament***

The role played by the Assembly, the Commission and the Executive Council of the Union cannot be discounted from the achievements of the Union. However, if the Union is to succeed in its integration objectives, then a stronger legislative organ is a must. The Constitutive Act provides that in order to ensure the full participation of African peoples in the development and economic integration of the continent, a Pan-African Parliament should be established (Art. 2). In

2001, AU member states adopted the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament (2001). The functions of the Pan-African Parliament as provided in Article 3 of the Protocol are to:

- facilitate the effective implementation of the policies and objectives of the OAU/AEC and, ultimately, of the African Union;
- promote the principles of human rights and democracy in Africa;
- encourage good governance, transparency and accountability in member states;
- familiarize the peoples of Africa with the objectives and policies aimed at integrating the African Continent within the framework of the establishment of the African Union;
- promote peace, security and stability;
- contribute to a more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery;
- facilitate cooperation and development in Africa;
- strengthen continental solidarity and build a sense of common destiny among the peoples of Africa; and,
- facilitate cooperation among Regional Economic Communities and their Parliamentary fora.

The Protocol further outlines that the Parliament may:

- examine, discuss or express an opinion on any matter, either on its own initiative or at the request of the Assembly or other policy organs and make any recommendations it may deem fit relating to, inter alia, matters pertaining to respect of human rights, the consolidation of democratic institutions and the culture of democracy, as well as the promotion of good governance and the rule of law;
- discuss its budget and the budget of the Community and make recommendations thereon prior to its approval by the Assembly;
- work towards the harmonization or co-ordination of the laws of member states.
- make recommendations aimed at contributing to the attainment of the objectives of the OAU/AEC and draw attention to the challenges facing the integration process in Africa as well as the strategies for dealing with them;
- request officials of the OAU/AEC to attend its sessions, produce documents or assist in the discharge of its duties;
- promote the programmes and objectives of the OAU/AEC, in the constituencies of the Member States;
- promote the coordination and harmonization of policies, measures, programmes and activities of the Regional Economic Communities and the parliamentary fora of Africa;

- adopt its Rules of Procedure, elect its own President and propose to the Council and the Assembly the size and nature of the support staff of the Pan-African Parliament; and,
- perform such other functions as it deems appropriate to achieve the objectives.

In addition, the drafters of the Protocol were careful not to overlook the fact that in a continental integration setup, there already exists national and sub-regional parliaments. As a result Article 18 of the Protocol provides that Parliament shall work in close co-operation with the Parliaments of the Regional Economic Communities and the national parliaments or other deliberative organs of member states. To this effect, the Pan-African Parliament may, in accordance with its Rules of Procedure, convene annual consultative fora with the Parliaments of the Regional Economic Communities and the national parliaments or other deliberative organs to discuss matters of common interest. With reference to the above it *prima facie* appears that the powers conferred upon the Parliament are broad enough for the institution to play its role. This is not the case.

Within the same instrument that articulates all the power and functions illustrated above, Article 2(3) of the states that the ultimate aim of the Pan-African Parliament is to evolve into an institution with full legislative powers, *however*, until such time as the member states decide otherwise by amending the Protocol, the Pan-African Parliament will remain a consultative body with and advisory powers only. This then defeats the whole purpose of public participation since as it stands, the other organs of the AU have the discretion to consider or not to consider the opinion of the Parliament. Further, its Parliamentary representatives are deployed from the legislatures of its member states, rather than being directly elected in their own capacity thus furthering the distance between the Union and the ordinary civil society.

#### ***2.4. AU legitimacy and the Pan African Parliament***

It is argued in this work that the gap in public participation as well as the toothless nature of the Pan African Parliament severely affects the legitimacy amongst the African people of not only the Parliament but the Union as a whole. Legitimacy in general terms may refer to the popular acceptance of authority and in this context the authority and presence of the African Union on continental affairs. In his work, *Krajewski* (2010) has defined legitimacy in two forms, being positive and normative. He argues that positive legitimacy addresses the question whether a norm of international law or a decision of an international organisation is accepted as legitimate by the international legal community. This encompasses actual compliance with the norm or decision, but also relates to the perception of the norm from the perspective of those who have to comply with it. Normative legitimacy is based on the processes, structures or institutional frameworks of how a rule is created or how a decision is made. On the other hand, it can also be based on the substantive results of a rule or decision. According to the same author, democracy

in international organisations requires that every state has an equal right and practical opportunity to participate in the decision-making process of the international organization.

It is submitted that *Krajewski's* definitions and observations are correct. They however do not take into account a certain aspect of legitimacy and democracy. One of the key principles of representative democracy is connecting citizens to the decisions that affect them and ensuring public accountability for those decisions. One cannot rely solely on member states taking decisions on behalf of their citizens. This principle underlies decentralization, community empowerment and participatory development. It also underlies widely accepted elements of good governance, namely transparency, accountability of citizens' representatives, independent scrutiny, clear laws predictably applied and effective mechanisms to ensure checks and balances (Willets, 2006). The UN Report of the Panel of Eminent Persons on United Nations–Civil Society Relations (2004) entitled “We the peoples: civil society, the United Nations and Global Governance” observes that:

“Public opinion has become a key factor influencing intergovernmental and governmental policies and actions. The involvement of a diverse range of actors, including those from civil society and the private sector, as well as local authorities and parliamentarians, is not only essential for effective action on global priorities but is also a protection against further erosion of multilateralism”.

The report further noted that:

“Concerning democracy, a clear paradox is emerging: while the substance of politics is fast globalizing (in the areas of trade, economics, environment, pandemics, terrorism, etc.), the process of politics is not; its principal institutions (elections, political parties and parliaments) remain firmly rooted at the national or local level. The weak influence of traditional democracy in matters of global governance is one reason why citizens in much of the world are urging greater democratic accountability of international organizations”.

Taking the observations of the report in mind, one crucial aspect of the rising disaffection with globalization is the lack of citizen participation in the global institutions that shape people's daily lives (Falk & Strauss, 2001). Any governance model should be inclusive of the civil society. The African Union and NEPAD have already been criticized for their lack of citizen participation. *The Daily Monitor*, (2002) a well-known web-based publication in the region has observed that, very little is known of the NEPAD initiative and the African Union on the continent. Both emerged from the highest political level without any serious and sustained effort to consult with stakeholders

and key actors. Neither is a subject for public discourse in the continent. There is no evidence of any on-going serious debate on them even in the national parliaments.

Another author, Olowu (2003) wrote that one of the criticisms levelled against the African Union was the virtually unilateral manner by which some African political leaders established the body without proper consultations with their peoples or significant popular participation. It is submitted that legitimacy and accountability lie at the heart of democracy and the values entrenched within the Constitutive Act. Therefore, it is only correct that the AU adopts a citizen inclusive form of governance.

### **3. Reflecting on Practices from the European Union**

The emergence of the OAU was modelled on a foundation similar to that of the European Union (EU). The ideology of integration has also been pursued by European member states for decades. Treaty on the European Union (EU, 2010) provides that:

- the functioning of the Union shall be founded on representative democracy;
- citizens are directly represented at Union level in the European Parliament;
- political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

It is submitted that these provisions in the EU Treaty are a basic example of how much citizen participation in the EU is fostered and valued. The European Parliament is directly elected by universal suffrage, whereas the African Pan African Parliament is composed of members nominated by their respective governments. This gives the European Union greater democratic legitimacy to the process of European integration, linking it directly with the will of the people. The Union is made even more democratic because it gives the Parliament a greater role to play, by creating genuine European political parties and by giving ordinary people a greater say in European Union policy-making via non-governmental organisations and other voluntary associations (Europa, 2010).

In addition to the above, the Treaty on the European Union created the post of Ombudsperson. The European Parliament appoints the Ombudsperson who remains in office for the duration of the Parliament. The Ombudsperson's role is to investigate complaints against EU institutions and bodies. Complaints may be brought by any EU citizen and by any person or organisation living or based in a member country. The Ombudsperson tries to arrange an amicable settlement between the complainant and the institution or body concerned. It is important to also mention that European Union citizens have, amongst others, the following rights (Art. 20):



- the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their member state of residence, under the same conditions as nationals of that State; and,
- the right to petition the European Parliament, to apply to the European Ombudsperson, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language.

Reflecting on the above provisions, it is submitted that the gap between the ordinary citizen and the European Union governance model is minimized, thus allowing for the integration project to be owned and understood by the people of the region, an idea that has not yet taken root in the African continental processes. Further, the importance of the autonomy of organs in international organisations cannot be over emphasised and has been well-illustrated in the European Union. In the European case of *European Parliament v Council of the European Communities* (1990), the European Parliament brought an application in which it sought to annul legislation promulgated by the Commission without having properly considered the reservations of the Parliament. In granting the application in favour of the Parliament, the Court opined that by setting up a system for distributing powers among the different Community institutions, assigning each institution to its own role in the institutional structure of the Community and the accomplishment of the tasks entrusted to the Community, the Treaties had created an institutional balance. It is submitted that observance of that balance means that each of the institutions must exercise its powers with due regard for the powers of the other institutions. It also requires that it should be possible to penalize any breach of that rule which may occur. The Court also observed that:

The Court, whom under the Treaties has the task of ensuring that in the interpretation and application of the Treaties the law is observed, must therefore be able to maintain the institutional balance, and in order to do so must be able to review observance of the prerogatives of the various institutions by means of appropriate legal remedies. Although the Treaties contain no provision giving the Parliament the right to bring an action for annulment, it would be incompatible with the fundamental interest in the maintenance and observance of the institutional balance which they establish for it to be possible to breach the Parliament's prerogatives without that institution being able, like the other institutions, to have recourse to one of the legal remedies provided for by the Treaties which may be exercised in a certain and effective manner .

It is argued that this is the ideal position which the African Union should work towards. The Pan African Parliament should not only become an advisory body whose recommendations are not

binding on the AU Assembly or other organs. It should play the same Parliamentary role that national parliaments play and this role should be respected within the Union processes.

The importance of maintaining institutional balance with international organisations is just as important as maintaining the separation of powers within a nation state. It is submitted that since this work has already argued and illustrated that international organisations such the African Union have begun attaining state-like characteristics, it flows from such inferences that the international organisations should also respect the separation of powers within themselves. Parliamentary organisations in particular, play various roles beyond legislative functions; one of which is the oversight and control of executive bodies. This role has also been endorsed by the NEPAD as a critical ingredient to the strengthening of political governance and building the capacity to meet developmental needs. It is therefore submitted that if the African Union is to succeed, it should first embrace such ideals.

#### 4. Conclusion

The Pan African Parliament cannot continue to exist as a consultative and advisory body only. The Parliament was created to promote popular participation and representation of African peoples in decision-making, good governance, oversight, accountability and transparency. Since its establishment, there has not been any amendment to the powers of the Parliament with a view to achieving the full legislative powers envisaged in Article 2(3) of the Protocol. Furthermore, the current practice whereby members of the Parliament are nominated from other respective national parliaments undermines the actual independence of such members, as they will probably be beholden to their principals and they are thus likely to be able to pursue national interests or agendas as an alternative to continental representation. The independence of the parliamentarians is crucial in a democratic society since parliament should participate in the creation of treaties/ protocols, scrutinise and oversee executive action, as well as facilitate public participation and involvement in the legislative and other processes within the African Union. In addition, an effective Parliament will be able to monitor and set timelines within which member states and the regional communities have to enact legislation to give effect to the agreements that they willingly enter into.

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## REFLECTIONS ON CONCEPTIONS OF CORRUPTION IN SOUTH AFRICA: IMPLICATIONS FOR SERVICE DELIVERY

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### ABSTRACT

The purpose of this paper is to reflect on the conceptions of corruption and legislative instruments for the fight against it in South Africa as well as its implications on service delivery. Over the past decades, South Africa has been confronted with corrupt deeds which in turn undermine the democratic principles of and commitments to nation-building. Corruption includes among other activities, maladministration, abuse of power, unfair or improper conduct, unlawful enrichment, receipt of any improper advantage, or promise of such enrichment or advantage, act or omission in the public administration and management of public institutions, act or omission by a person in the employment of any sphere of government or a person performing a public function, which results in unlawful or improper prejudice to other person(s). Despite mechanisms such as pieces of legislation, regulations and institutions put in place for remedying corruption, South Africa continues to suffer losses due to unscrupulous conduct within the public sector. This paper argues that although corruption has become prevalent in the public service, there are measures that could be adopted to minimize the impacts it has on government's capability to deliver services. To this end, the paper reflects on the nature, conception and the prevalence of corruption in order to identify the primary causes and mechanisms for combating this unethical phenomenon. It recommends measures that could potential assist the South African public service to combat the scourge of corruption and improve on the state capacity for service delivery.

**Keywords:** Corruption; Public service; Service Delivery; South Africa

### 1. Introduction

Corruption has adverse effects on the state's capability to effectively deliver services to the citizenry as mandated by the 1996 *Constitution* of the Republic of South Africa. Corrupt activities are not only limited to commercial dealings, but may also be prevalent when citizens seek to access social services such as health, welfare and education services. A bribe may be claimed by a public official in order to deliver the service or grant access to the service to which the citizen is entitled, and which the public official is obliged to deliver (Fraser-Moleketi, 2009). Despite the pieces of legislation and several regulations promulgated to curb corruption, public officials remain static in theft, bribe, embezzlement and other forms of corruption and unethical conducts. This paper, therefore, argues that despite the laws of parliament, codes of conduct and

institutions put in place, corruption in the South African public service remains rife, with potentially deleterious implications on the service delivery mandate.

## 2. Conceptualizing Corruption in the South African Context

Any endeavour to conceptualize corruption may easily become revisionist, with repetition of long-standing definitions. It remains difficult to put a finger on what constitutes corruption (Egwemi, 2012). In the South African context, the complex political and economic environment has given rise to various forms and dimensions of corruption such as political corruption, fraud, bribery, nepotism, systemic corruption and conflicts of interest (Pillay, 2004; van Wyk, Dahmer & Custy, 2004; Bamidele, 2013). With all these forms of corruption, this phenomenon carries diverse meanings and scopes. According to Amundsen (1999), "Corruption is a disease, a cancer that eats into the cultural, political and economic fabric of society, and destroys the functioning of vital organs". In other words, it is one of the greatest challenges of the modern-day world. It undermines good governance, fundamentally distorts public policy, leads to the misallocation of resources, harms the private sector development and hurts the poor (Transparency International, 1998). Furthermore, corruption can be defined as the behaviour that deviates from the formal rules of conduct governing actions of those in positions of public authority due to motives such as greedy desires for wealth, power, or status (Nye, 1967; Khan, 1996). To this end, it can be asserted that acting out of the scope of conducting public duties in the interest of enriching oneself with public funds constitutes corruption, irrespective of the form and dimension it takes. The reasons, ethics and conflict of interest underlying corruption continue to be closely debated (Kuye & Mafunisa, 2003; Mafunisa, 2003, 2008), creating challenges in respect of the nature of "drivers" behind public officials getting involved in scrupulous and corrupt activities. However, note has to be made that prevalent measures of corruption depend entirely on experts opinion; and, the problem continues to be that such framing is predicated upon specific personal values and vies. Whereas attempts are made to capture corruption in terms of precise quantitative statements, its science remains imprecise.

## 3. Ethics and Conflict of Interest

Ethics is the branch of philosophy that examines right and wrong moral behaviour. Ethics have a Greek origin from the word "*ethos*", which means the attitude that distinguishes the agreeable conduct of a profession or work. In public administration, ethics is the collection of moral principles, norms, values and obligations that serve as rules of conduct to be observed by political office bearers and officials in order to ensure that their actions remain focused on the promotion of the general welfare of all members of the population (Mauzy & Milne, 2002; Dobuzinskis, Howlett & Laycock, 2005). To make matters worse in the public service, politics is

lesser regulated than public administration (Giannou, 2009; Malloy, 2009), making public servants prone to unethical dealings. In the South African civil service, for instance, the issue of ethics is being compromised if conflict of interest arises, especially where private financial interest are involved. To be precise, conflict of interest denotes a situation in which elected representatives or officials have private personal financial interests, sufficient to influence the exercise of public duties and responsibilities (Mafunisa, 2003; 2008). According to the South African Communist Party (SACP) (2010), in 2006 the Office of the Auditor General found that six out of every ten civil servants have private business interests. Conflict of interest is pigeonholed in various categories such as using inside knowledge and influence, self-dealing, outside employment, gift-giving traditions and entertainment as well as post-employment revolving door politics.

### ***3.1. Insider Knowledge and Influence***

The insider advantage occurs when public officials use or disclose official information for personal gain of others. For example, city managers could be in a position where they know which land is to be rezoned and can use such information for personal gain (Moeti, 2007).

### ***3.2. Self-dealing***

Self-dealing refer to a situation where one takes action in official capacity, which involves dealing with oneself in a private capacity thereby conferring benefits to oneself; and, this notion also extends to family, spouse and children

### ***3.3. Outside Employment***

Outside employment refers to the work or activity in which a person engages outside normal working hours for additional remuneration. That is, a public official could be running a business, working for NGOs or consulting, in ways that influences their discretion in the exercising public affairs (Mafunisa, 2003).

### ***3.4. Gift-giving Traditions and Entertainment***

Gift-giving refers to seeking or accepting gifts and hospitality that might imperil public employees' ability to impartial discharge of duties. It includes things such as discount on purchases, theatre thickets, sex vacation trips, the use of vehicles, lavish meals and recreational equipment and liquor (Baai, 1999).

### ***3.5. Using Government Property***

Public employees should not use, or permit the use of, government property of any kind for activities not associated with the performance of their officials duties, unless they are

authorised to do so. The use of government property include unauthorized taking of minor stationery such as pencil home, or using a government office for non-governmental duties (Kaganova, 2011; Garmendia & Kapur, 2013).

### ***3.6. Post-employment***

Economic interests for public functionaries are likely to arise on retirement or resignation, where there are potential opportunities for using confidential information or expertise acquired in the public office, or influencing policy either for their own benefit or for that of their prospective employer (Mafunisa, 2003; Maskell, 2014).

### ***3.7. Revolving Door Politics***

Revolving door politics involves a situation whereby government officials work for private companies in their capacity as civil servants to serve the interests of those who departed their public sector posts previously. It also arises in situation where senior government officials serve in the board of directors of corporations, which in that capacity they tend to act for their financial interests (Maskell, 2014).

These categories of conflict of interests and ethical dilemmas confronting public servants have adverse consequences on civil servant's capabilities to exercise their public duties and thus negatively impact on the service delivery mandates of government. The recipients of public services are trapped in the dilemmas of infrequent services or receiving services of poor quality.

## **4. Corruption and its Implications on Service Delivery**

While corruption can be experienced anywhere in the world, what is conceivably exclusive to Africa is the permeation of corruption in the African civil service, leading to vast continental poverty due to the impact it has on service delivery. As the old saying goes, "*where there is poverty, there is corruption*" (Transparency International, 1998). Corruption is not just one of the causes of lack of service delivery in Africa, it is the root cause (Lerrick, 2005). It creates a nation of self-service and enrichment while disregarding the circumstances of other members of the general citizenry. With the infiltration of corruption to every aspect of society, from education to the economy, corrupted civil servants make it difficult, if not impossible, for the already impoverished African population to escape their undesirable situations because of lack of housing, electricity and running water just to mention a few (Mauzy & Milne, 2002). Although reports signpost that South Africa and other African states have become destinations for corporate foreign investment, the remaining challenge is the search for better governance, both in terms of less corruption and better economic policies and service delivery (Kristof, 2006).

Politics, political process, economic exchange and public service are entangled with corruption in many African countries. Systemic corruption, arising from unethical and corrupt conduct of the political office bearers and top-level government bureaucracy, produces a failure of institutions designed to contain and to curb corruption. It is very important to acknowledge and distribute knowledge on the role that corruption plays in the failure of the state capability to provide even the mere basic services as enshrined in the *Constitution* of the Republic of South Africa (1996). It is reiterated that “*corruption levels can mean the difference between life and death when money for hospitals or clean water is at play*” (TI Corruption Perceptions Index 2008). Due to under-the-table bribes, hospitals, doctors and other practitioners often leave patients seeking medical attention with no assistance, while school administrators and teachers demand bribes to pass students in examinations. In short, corruption has infused almost every fabric of society in many countries in Africa (BBC News Opinion Survey, 2004). The South African government has developed programs, pieces of legislation and codes of conduct and regulations in order to ensure delivery of quality services to the people and to grow the economy through the creation of wealth, while combating crime and corruption (Zuma, 1999).

The 1996 *Constitution* of South Africa thus affords a rich store of ethical elements to inform and guide civil servants on the role placed on them to ensure that the people of the Republic receive the services they deserve. It ushered democratic ideals, indicating core values and principles, ensuring human rights and setting key requirements for conduct of public administration (Chapter 10). This is vital because public servants are at the centre stage of service delivery. The mission to deliver a just and decent society is being derailed by an unarmed contest for power and resources. Whilst government may have built schools, hospitals and clinics it has not been able to adequately direct the resources to these institutions to enable them to function properly and to deliver quality services to people, due to corrupt activities within all spheres of government. Despite having inclusive mechanisms and tools that govern rights of access, financial management and service delivery in the public sector, and an imposing collection of oversight institutions (Asmal, 2007), corruption in the spheres of government seems to have become increasingly rampant. If corruption remains rife in South Africa, despite pieces of legislation, what purpose do these laws serve?

## 5. Legislative Framework for Curbing Corruption

South Africa has enacted various pieces of legislation in the fight against corruption. Among the pieces of legislation enacted to deal with corruption and unethical dealing include the *1996 Constitution of the Republic of South Africa*, the *2004 Prevention and Combating of Corrupt Activities Act*, the *2000c Protected Disclosures Act*, the *2000a Promotion of Access to Information to Information Act*, the *2000b Promotion of Administrative Justice Act*, the *2000d*



*Witness Protection Act*, the 1999 *Public Finance Management Act* and the 2001 *Financial Intelligence Centre Act*, among others.

### ***5.1. The Constitution of the Republic of South Africa, 1996***

Chapter 10 of the Constitution sets out the basic values and principles governing public administration in every sphere of government, organs of state, and public enterprises. These values and principles promote a public administration that is free from corruption and bad governance. The principles include that; a high standard of professional ethics must be promoted and maintained, the efficient, economic and effective use of resources must be promoted, public administration be development-oriented, services should be provided impartially, fairly, equitably and without bias and services should be provided impartially, fairly, equitably and without bias, public administration must be accountable and transparency must be fostered by providing the public with timely, accessible and accurate information.

### ***5.2. Prevention of Organised Crime Act, 1998***

This Act gives provision on that any person who is in charge of a business undertaking has to report activities relating to unlawful activities or proceeds, makes it an offence to belong to a criminal gang or to aid any criminal activity by a criminal gang, the civil forfeiture of criminal assets used to commit offences or are the proceeds of unlawful activity and that the obtaining of restraint orders by the Directorate of National Prosecutions against any person charged or to be charged with an offence from dealing with the property specified in the order.

### ***5.3. The Prevention and Combating of Corrupt Activities Act, 2004***

According to this Act the offence of corruption, authorises the National Directorate of Public Prosecutions to investigate any individual with unexplained wealth, or any property suspected to be used in the commission of a crime prior to instituting asset forfeiture or criminal proceedings, the creation of a Register for Tender Defaulters within six months by the Minister of Finance, places a duty on any person who holds a position of authority to report corrupt transactions and grants the courts extraterritorial jurisdiction in respect of corruption offences committed outside South Africa in certain circumstances, for example, if the person who committed the crime is a citizen of South Africa or ordinarily resides in the Republic.

### ***5.4. Protected Disclosures Act, 2000***

This Act encourages whistle-blowing, and provides for the protection of employees in both the public and private sectors from occupational detriment by reason of having made a protected disclosure relating to unlawful or irregular conduct by an employer or employee of the

employer. The Act makes provision for employees to report unlawful or irregular conduct by employers and fellow employees, while providing for the protection of employees who blow the whistle. The Act makes provision for the following; Employees to report unlawful or irregular conduct by employers and fellow employees; and the protection of employees who blow the whistle from “occupational detriment” by employers when making certain “protected disclosures”.

#### ***5.5. Promotion of Access to Information Act, 2000***

This Act promotes transparency by giving effect to the Constitutional right of access to any information held by the state, and information held by any other person that is required for the exercise or protection of any rights. This can be an effective measure that seeks to ensure that the general public is furnished with information which could be useful to hold public official accountable for the exercising of their public duties.

#### ***5.6. Promotion of Administrative Justice Act, 2000***

Like Promotion of Access to Information Act, 2000, this Act also promotes transparency which is a cornerstone of good governance by giving effect to the Constitutional right to administrative action that is lawful, reasonable and procedurally fair, and the right to written reasons where one's rights have been adversely affected by administrative action.

#### ***5.7. Witness Protection Act, 2000***

This Act encourages state witnesses to give evidence in trial proceedings and commissions of enquiry by providing them with protection.

#### ***5.8. The Public Finance Management Act, 1999***

This Act promotes the effective and efficient use of resources by departments and constitutional institutions Accounting Officers of these institutions are required to maintain inter alia by ensuring that the is effective, efficient and transparent systems of financial and risk management and internal control, a system of internal audit under the control and direction of an audit committee and an appropriate provisioning and procurement system which is fair, equitable, transparent, competitive and cost-effective.

#### ***5.9. Financial Intelligence Centre Act, 2001***

This Act aims to combat money laundering activities, and to this end establishes a Financial Intelligence Centre. The objectives of the Centre are to assist in the identification of the proceeds of unlawful activities, the combating of money laundering activities, making information

available to it to investigating authorities, and to exchange information with similar bodies in other countries. In order to combat money laundering activities, it requires Accountable Institutions to establish and verify the identity of a client before concluding a single transaction with such client, and to keep a record of such identity for at least five years. Accountable institutions are also required to report transactions exceeding a certain amount. The Act also places a duty on business owners or managers to report suspicious and unusual transactions to the Centre.

Although the pieces of legislations highlighted above could be deemed efficient for the purposes of fighting corruption and any unethical conducts in the public sector, public servants always exploit loopholes in them. This could mainly be that the Acts fails to impose any punitive measures on offenders and perpetrators of corruption. To this stand, there is a need to the promulgation of the legislative framework which seeks to prosecute offenders and recovers the proceeds of corrupt activities from public servants.

## **6. Institutions for Combating Corruption**

South Africa has formed and implemented measures and institutions for combating corruption. Such institutions include among others; the Auditor General (AG), Public Protector (PP) and Public Service Commission (PSC). These institutions are established according to the Constitution of the Republic of South Africa of 1996 in chapter 9 and 10.

### ***6.1. Auditor General (AG)***

The AG was established in terms of chapter 9 of the Constitution of the Republic of South Africa (1996) and inherits its powers and functions in terms of the Auditor General Act (1995). The function of the Auditor General is to ascertain, investigate and audit all the accounts and financial statement of all departments of the central, provincial and local spheres of government and also any other statutory body or any other institution which is financed wholly partly from public funds. The Auditor General conducts performance audits at the request of the presidents. In the performance of his duties, the Auditor General has power to summon accounting officers.

### ***6.2. Public Protector (PP)***

The office of the public protector (PP) was established on 1 October 1995 in terms of the Constitution of the Republic of South Africa (1996). The PP is also known as the ombudsman. The PP has power to investigate any conduct in the state affairs in any sphere of government which is suspected to be improper or prejudicial. And again, the public protector has the power to investigate any alleged maladministration, abuse of power, dishonest act corruption, and unjust enrichment.

### 6.3. Public Service Commission (PSC)

The principal role of the PSC as mandated by the Constitution of the Republic of South Africa (1996) is that of effective oversight and monitoring of public service. It is a responsibility of the PSC to investigate, monitor and evaluate the organisation and practise of the South African public service and this mandate is derived from section 195 and section 196 of the Constitution (1996).

The existence and proper functioning of judicial institutions are further deterrents against unethical behaviour in the public service; judicial contributes to checking the abuse of administrative power and making political office bearers and public officials account for their actions. Legal disciplinary sanctions are instituted against the erring political office- bearers and officials.

## 7. Conclusion

This paper conceptions of corruption and the legislative measures to fight it, which have not been productive in South Africa. Although the South African government made significant strides in promulgating pieces of legislations and institutions that could help in curbing corruption in the public service, corruption continues to be rife. This has adversely affected the rights of the citizenry by depriving them of adequate access to basic services. This paper accepts that corruption cannot be completely eradicated, but it proposes that punitive measures be imposed on perpetrators. However, a societal mind-shift is necessary if corruption were to become history in South Africa.

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## LEADERSHIP, CORRUPTION AND UNDERDEVELOPMENT IN AFRICA: NIGERIA IN FOCUS

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### Abstract

Nigeria is unquestionably one of the most fertile countries in Africa and the richest in terms of natural resources; however, its image has been incrementally damaged by corruption and inept leadership. This paper is anchored on the character of the Nigerian state, mainly its “prebendal” and “patrimonial” tendencies that allow for leadership to accumulate public wealth. It examines corruption as one of the leadership problems in Nigeria and its attendant consequences on development. The paper assesses the level of corruption in various civil and military regimes, starting from 1960 to date. Also, it adopts historical methodology in examining leadership, corruption and the challenges of underdevelopment in Nigeria. It recommends, among others things, that a culture of honesty, patriotism and sincerity be inculcated in society in order to effect change in public functionaries' attitude towards management of national wealth. The paper concludes that corruption and inept leadership are responsible for the state of underdevelopment in Nigeria.

**Keywords:** Leadership; Patrimonial State; Corruption; Development; Nigeria

### 1. Introduction

Africa's poor state of political leadership is more profound. The unfortunate situation of Africa was aptly captured by Rotberg (2004) that “Africa has long been saddled with poor, even malevolent leadership, predatory kleptocrats, military-installed autocrats, economic illiterates and puffed-up posturers. By far, the most egregious examples come from Nigeria, the Democratic Republic of Congo and Zimbabwe – countries that have been run into the ground despite their abundant natural resources (cited in Popoola, 2011). Under the stewardship of these leaders, infrastructure in many African countries have fallen into despair, currencies have depreciated, and real prices have inflated dramatically, while job availability, healthcare, education standards and life expectancy have declined. Ordinary life has become beleaguered, general security has deteriorated, crime and corruption have increased, much-needed public funds have flowed into hidden bank accounts (local and foreign), and officially sanctioned ethnic discrimination become prevalent. After decades of independence, Africa is still home to majority of the world's poor irrespective of the enormous potentials of economic growth in its arsenal call for more than just tears (Igwe, 2010). The reality of the matter is that the major culprits of Africa's destruction today are Africans themselves, that is, Africa's leadership. Though Africa is unarguably one of the most fertile region of the world and the richest continent on earth in terms of natural resources. But today, the image of Africa has been damaged by corruption. This malady has tragically devastated African societies and made millions of people destitute. From South Africa to Egypt, Ghana to Mali, Niger to Gabon, Kenya to Nigeria, the tentacles of corruption reaches everywhere.

From the offices of Presidents and Prime Ministers to the smallest administration unit of government, corruption is everywhere.

The above descriptions fit into the description of Nigeria. A country where we live on hopes, potentials, aspirations and dreams. Today, Nigeria is a paradox, a rich nation with a large segment of the population living in poverty and misery. It is an axiom that Nigeria is richly endowed by providence with human and material resources critical for national development and advancement (Dike, 2011: 30). Nigerian leaders since independence have so impoverished the country that her social and economic institutions have virtually collapsed. They embezzle public funds with impunity due to weak or the absence of effective institutional checks and balances. They get involved in grand corruption and acquire wealth through questionable means which they use to bribe their ways to remain in power. They are fraudulent and opportunists who are so selfish to the detriment of overall national interest (Anazodo, Agbionu & Ezenwile (2011). It is instructive to note that of all the problems that undermined our national development, corruption arising from bad leadership is the greatest impediment that stifles development, produces poverty and reinforces inequality in Nigeria (Smith, 2007: 55). The main question which this paper set out to address is why Nigeria suffers from underdevelopment despite its reasonably sufficient oil wealth. Whilst the poor state of Nigeria's development has prompted this study, it is the intricate interface between leadership, corruption and underdevelopment that informs and underpins the analysis and arguments. The paper therefore offers a politico-administrative explanation to this paradox of underdevelopment amidst of abundant resources.

## **2. Leadership: Evolving a Conceptual Framework**

This section aims to contextualize the discussion by familiarizing ourselves with the meanings of leadership through a review of the relevant literatures. Therefore, for more classification and its usage in this work, we start the conceptual framework with the definition offered by Munroe (1984). According to him, leadership is like beauty, it is hard to define but you know it when you see it. More, leaders he argues are "ordinary people who accept or are placed under extra ordinary circumstances that bring forth their latent potential, producing a character that inspires the confidence and trust of others". Leadership is an essential oil that keeps the wheel of government working without any difficulty (Omolayo, 2005). According to him, leadership makes the difference between success and failure in a country. It involves giving direction to citizens who are the critical assets of the nation. To Mullins (cited in Omoyibo, 2013: 30) leadership is a process in which the leader and followers interact such that the leader influences the actions of the followers towards the achievement of certain aims and objectives. Leadership is the activity of leading a group of people or an organization (Olayiwola, 2013). According to him, leadership involves:



- establishing a clear vision;
- sharing that vision with others so that they will follow willingly;
- providing the information, knowledge and methods to realize that vision; and,
- coordinating and balancing the conflicting interests of all members and stakeholders. A leader steps up in times of crisis and is able to think and act creatively in difficult situations.

From the above definitions of leadership, a common trend to be seen among the various interpretations of leadership is that it relates to exerting influence among a group of people so that the collective purposes of that group will be achieved optimally. It entails the ability to inspire other people to work towards the attainment of a common goal.

### 3. Corruption: The Hydra-Headed Monster

There is no comprehensive and general acceptable definition of the term “corruption”. Corruption is one of the oldest and most perplexing phenomena in human society. It exists in every country and it is not exclusively a problem of developing countries. Etymologically, the word corruption is derived from the Latin word “*rumpere*”, meaning to “*break*”. Also, the Greek word “*corropius*” meaning, “*an aberration*” or “*a misnomer*”. This connotes the breaking of normal or societal norms or practices. While the destructive nature of corruption is less contentious, the definition of what constitutes corruption tends to defile consensus among scholars and institutions (Ganiyu, Rasak & Taiwo, 2014: 35). From sociological perspective, Nwabueze (2002: 128) conceptualized corruption thus:

“form of social deviance in some cases, of criminal deviances, the result of failure or lack of will to respect the norms of social interactions. It is an extra-legal or normative approach to gaining access. It is a form of mal-adaptation involving the acceptance of society’s cultural goals and the rejection of the socially approved means of attaining the goals. It is an indictment on the ineffectiveness of society’s socialization function; a sign of some defects in the development of citizen’s personality system. It indicates the existence of weakness in agencies of social control which should punish rather than reward the perpetrator of corruption”.

The World Bank (1997) defined corruption as “the abuse of public office for private gains”. This includes, when public officials accept, solicit or extort bribes to subvert or circumvent public policies for competitive advantage and profit”. Also, Transparency International (TI) (2002) sees corruption as “an inappropriate or illegal behavior of the public sector official (politician or public officer) by misusing the entrusted power for private gain of the person or related people. It is usually an activity that is outside of constitutional government process, which involves the sale of publicly produced goods and services by government employees for payment or bribes not

sanctioned by the government. While Klitgaard (1998) explain corruption using the following equation:

$$\text{Corruption} = (\text{Monopoly}) + (\text{Discretion}) - \text{Accountability}$$

or

$$\text{in abbreviated form as: } C = R + D - A$$

In the above equation, C stands for Corruption, R for Economic rent or Monopoly, D for Discretionary powers, and A for Accountability. The equation states that the more opportunities for economic rent (R) exist in a country, the larger will be the corruption. Similarly, the greater the discretionary powers (D) granted to administrators, the greater, will be, the corruption. However, the more administrators are held accountable (A) for their actions, the less will be the corruption, and hence a minus sign in front of A. So, the opportunity for corruption is a function of the size of the rents under a public official's control (M), the discretion that official has in allocating those rents (D), and the accountability that this official faces for his or her decisions (Khan; Khan & Ahmed, 2012). Corruption covers a broad spectrum of activities ranging from fraud (theft through misrepresentation), embezzlement (misappropriation of corporate or public funds) to bribery (payments made in order to gain an advantage or to avoid a disadvantage). Corruption without doubt, is a hydra-headed monster capable of inflicting colossal damage to a nation and its citizenry by truncating initiatives for economic growth and political stability.

#### 4. The Concept of Underdevelopment

The phenomenon of underdevelopment has gained momentum in both national and international discourse. Underdevelopment is not absence of development, nor the absence of human and natural resources. Underdevelopment depicts an appalling situation where the human and socio-economic potentials of a given society have either been externally exploited to the detriment of its inhabitants, or have not been fully or optimally harnessed by the government for a better and quality living of its citizens. Underdevelopment is used as antonym for development in the same sense. It is concerned with the reality of today when more than 1 billion people live on less than \$1.00 a day; more than 850 million are malnourished; more than 1 billion lack access to safe water; about 115 million school-age children are out of school; and more than 10 million children die every year before their 5<sup>th</sup> birthday (UNDP, 2005). The issue of underdevelopment has gained a specific and dramatic focus from a context that includes the demise of classic European imperialism, and the conflicting claims of rival socio-economic systems.

To Otite (2011), underdevelopment is not lack of development, because development of some sort and degree thus exists in the state of underdevelopment. What this translates to mean is that in reality, underdevelopment does not mean zero-level development; it is still greater than

zero. Underdevelopment only takes place when socio-political and economic resources are not used to their full capacity, with the result that local or regional development is slower in most cases than it should be. Furthermore, it results from the complex interplay of internal factors that allow less developed groups only an uneven development progression (Adetiba, 2013). In the view of Frank (1995), underdevelopment is a necessary product of capitalist development and of the internal contradictions of capitalism itself. He identifies the contradictions as “the expropriation of economic surplus from the many and its appropriation by the few, the polarization of the capitalist system into metropolitan centre and peripheral satellites, and the continuity of the fundamental structure of the capitalist system throughout the history of its expansion and transformation, due to the persistence or re-creation of these contradictions everywhere and at all times”. Though this definition given by Frank (1995) and that of Walter Rodney (1972) believed that the underdevelopment of African societies is a product of capitalist, imperialist and colonialist exploitation. In as much as we agree with this position in the pre-colonial and colonial era, we believe that African States ought to have changed for the better after many years of political independence. Nigeria, for instance, is still battling with underdevelopment after fifty three years of political independence. The major problem is clearly corruption. This prompted Omotoye (2012) for instance, to argue that African and Nigerian scholars should not continue to accuse the colonial authorities the underdevelopment of African states.

### **5. Leadership and Corruption in Nigeria: An Overview**

Since independence, Nigeria has continued to meander the path befitting failed, weak and “juvenile” states. A state that had very great prospects at independence and was touted to lead Africa out of the backwoods of underdevelopment and economic dependency, Nigeria is still stuck in the league of poor, corrupt and underdeveloped nations. The Catholic Secretariat Forum in Nigeria gave credence to this view when it declared thus:

“Corruption is responsible in large measure for the broken promises, the dashed hopes and the shallow dreams that have characterized the existence of the multitude of Nigerians in the last decades. The choice before us is clear. We either go to war against corruption in all its ramifications, or we shall soon be totally consumed by this hydra headed dragon” (cited in Wolf & Gurgun, 2000: 11).

The day, 01 October 2014 will mark Nigeria's fifty four (54) years of political independence. Today, Nigeria is yet to attain the expected level of development, despite the availability of both human and material resources that are much needed in any developmental efforts. The inability to build a virile nation since 1960 therefore, prompted Achebe (1985) to conclude that the trouble with Nigeria is simply and squarely a failure of leadership. The Nigerian problem is the unwillingness

or inability of its leaders to rise to the responsibility, to the challenge of personal example which are the hallmarks of true leadership" (Achebe, 1985). Achebe (1983: 1) reiterated that the problem of Nigeria is simply and squarely that of failure of leadership where political power is used to perpetrate and sustain corruption. This prompted Awolowo (1979) to state that since independence, our governments have been a matter of few holding the cow for the strongest and most cunning to milk, under those circumstances everybody runs over everybody to make good at the expense of others. Thus, one cannot but agree with the position that Nigeria is a victim of poor leadership and convoluted systemic corruption which has become pervasive and cancerous in the country's national life (Imhonopi & Ugochukwu, 2013: 79). As a matter of fact, a careful study of Nigerian politics between 1960 and 2014 shows why it has been extremely difficult and challenging to produce credible leadership. Rather, production of weak and primitive accumulative class of leadership has been imposing itself on the Nigerian state, thus leading to national underdevelopment in almost all facets of the nation's existence (Ehiabhi & Ehinmore, 2011: 136).

The reverberation effects of the failure of leadership as a result of corruption are being felt across all sectors and segment of Nigeria; unemployment, insecurity, crude oil thefts, dearth of infrastructures, problems in education, health services, transportation, accommodation, communication, medication and so on and so forth. Nigeria has remained a laggard in social, political and economic developments. Nigeria's socio-politico-economic history has revealed that many of its leaders over the years have been using the "iron law of oligarchy" which explains the triumph of the leaders' ambitions for office over the membership's revolutionary goals (Michels cited in Olayiwola, 2013: 10). Corruption has impeded development in Nigeria because through it, a significant part of the oil resources which would have aided development has been drained. No wonder, Jega (1990) argued that the trouble with the country was that of leadership not corruption. To him, it is bad leadership that breeds corruption and that, "we have corruption as a problem because we have poverty of leadership who has institutionalized corruption in the country." Leadership had been largely responsible for the persistence of corruption in Nigeria, and that in addition to addressing the issue of leadership, "we must exterminate corruption in Nigeria

Ogbeidi (2012: 19), examined leadership and corruption in Nigeria since 1960, he opined that it is an incontrovertible fact that corruption has been the bane of Nigeria's development. Thus, without mincing words the phenomenon has ravaged the country and destroyed most of what is held as cherished national values. Unfortunately, the political class saddled with the responsibility of directing the affairs of the country have been the major culprit in perpetrating this act. Thus, from 1960, venality in terms of corruption and bad leadership have drown the destiny of the Nigerian nation, and has always been part of the Nigerian government (whether military

or civilian regime). For instance, since independence, Nigeria has made US\$ 1 trillion dollars, of this US\$ 600 billion has been stolen by our leaders; in 1999, the poverty level was 45 percent and in 2012 it is 76 percent all due to mismanagement of our resources through corruption; the money made from oil from 1999 to 2011 was more than all that was made from 1960-1999 (Save Nigeria Group, 2012), but squandered by our leaders with nothing to show for it in terms of improving the living standards of the people. In Nigeria, the leadership we have been unlucky to be saddled with for most of our lives as a nation has been that which has exhibited incompetence at the highest level." This has manifested in poor management of resources, both human and material. It can also be seen in the army of sycophants and blind loyalists who owe their sustenance and allegiances only to their benefactors.

## **6. An Assessment of Leadership and Corruption in Nigeria: 1960 -2014**

If we embark on an exhaustive analysis of leadership and corruption in Nigeria and how it has fostered and nurtured underdevelopment, we believe we might keep writing till the end of our lives. However, this section presents a brief analysis of how leadership since independence has perpetrated corruption in Nigeria. While the Presidency of any nation should be looked upon as the apex seat of good governance, transparency and accountability, which should filter down to the citizens, socio-economic, political and cultural environment of the country, such situation has not been realized in Nigeria since independence (Oputa, 2004). Successive Nigerian leaders (military and civilian) have been coming to power to loot the public treasury and paying little attention to the welfare of the citizens or development of the country (Bakre, 2008). This is evident in the brief overview of various governments in various governments in Nigeria since independence as shown below.

### **6.1. *Abubakar Tafawa Balewa, 1960-1966***

On independent in October 1960, Nigeria allowed British cabinet system of government Alhaji Balewa was Prime Minister and Nnamdi Azikwe and the President. The administration battled among the major ethnic groups to restore peace and order in the country due to political impasse at that time each region then, had ethnic instead of national loyalty. There was struggle to share in the pool of the office in the federal government. The struggle for power at the center with corruption led to the disintegration of the central government (Ganiyu et al., 2014). The First Republic was marked by widespread corruption. Government officials looted public funds with impunity (Ogbeidi, 2012). The political disorder according to Agaga (1999), led to the military coup of January 1996.

### **6.2. *General Aguiyi Thomas Ironsi, 1966***

The Ironsi government came with a broom to sweep clean the polluted political atmosphere. At least a major reason advanced by Major Kaduna Nzeogwu, the leader of the 1966 coup d'état of which Ironsi was the inheritor, was to tackle the enemies of the country. According to Nzeogwu, the political profiteers, the swindlers, the men in high and low places that seek bribes and demand ten percent. Under Ironsi regime, series of Commissions of inquiry were set up to probe corrupt cases. Unfortunately, the government floundered on political corruption, which weakened its capacity to take decisive decisions (Akinola, 2012). The zeal to punish the wrong doers of the first republic died with the Gowon coup of July 1966, which ousted the Ironsi government.

### ***6.3. The Gowon Regime, 1966-1975***

Gowon seized power in July 1966, six months after the first military coup. Immediately after the coup, the corrupt politicians that were detained were freed. This development had serious implications for the polity as the new set of rulers embarked on white elephant projects, which served as a means of looting public funds. The ensuing development clearly showed that the military rulers were not better nor different from the ousted civilians leaders (Ogbeidi, 2012: 7). Although cases of corruption have been reported during the civil war which broke out later, it was after the war in the 1970s that allegations of corruption in the Gowon regime became more glaring (Osoba, 1996). General Yakubu Gowon ruled the country at a time Nigeria experienced an unprecedented wealth from the oil boom of the 1970s. Apart from the mismanagement of the economy, the Gowon regime was enmeshed in deep-seated corruption (Oyediran, 1979). For instance, corruption scandal surrounding the importation of cement engulfed Gowon's administration in early 1975. Many officials of the Defense Ministry and the Central Bank of Nigeria were involved in the scandal. Some officials were later accused of falsifying ships manifest and inflating the amount of Cement to be purchased. Again, there was the controversial corruption charges labeled against some of Gowon's Governors and Ministers. In particular were the sworn affidavits of Mr Aper Aku against Governor Joseph Gomwalk of Benue - Plateau State and Godwin Daboh against Federal Commissioner Joseph Tarka, a situation which signal a cause for exigent action on corruption (Oyediran & Nwosu, 2005). Many government officials were found guilty of corrupt practices. Despite the earlier promise by Gowon that the fight against corruption would continue, and proven cases of corruption will be firmly dealt with (Omotoye, 2012). Unfortunately, he was not able to address the old problem as he was overthrown by another coup d'état.

### ***6.4. Murtala/Obasanjo Regime, 1975-1979***

The Murtala regime focused on stamping out corruption in Nigeria. It instituted Assets Investigation Panel under the Corrupt Practices Decree of 1975 to look into allegations of

corruption in order to bring to book those found guilty of abusing their powers. The Panel examined the assets of all former Military Governors. It was reported that ten out of the twelve Military Governors who served under Gowon were found guilty of corruption after investigation by Murtala Mohammad's administration (Sadiq & Abdullahi, 2013: 86). The only two Governors that were found clean were Brigadier Mobolaji Johnson of Lagos and Oluwole Rotimi of Western State. All the affected Governors were dismissed from service with ignominy and their earnings-asserts totaling over ten (10) million naira for which they failed to account for was seized. Murtala did not stay long in power because he was assassinated. His brief tenure was described by Awolowo (1985) in the following words, "as there are good soldiers, so there are good politicians. Not all soldiers are saints, and not all politicians are devils." Following the assassination of General Murtala, who appeared to restore integrity and accountability in governance considering the first step he took, his Vice, General Olusegun Obasanjo was sworn in as the new Head of State but could not pursue the vision of his predecessor. He was submerged in the quagmire of allegation of corrupt practices. One of this was noticeable in the implementation and execution of Operation Feed the Nation (OFN) (Adesote & Abimbole, 2012: 84).

#### **6.5. *Alhaji Shehu Shagari, 1979-1983***

Alhaji Shehu Shagari was elected president in October 1979. His regime did not escape the corruption monster notwithstanding the fact that it was a constitutional democracy. In fact, it could be argued that it had outdone military regimes in corruption. The Shagari administration was marked by spectacular government corruption, as he did nothing to stop the looting of public funds by elected officials. Corruption took a new dimension under Shagari, the state did not only become "prebendal", but also predatory (Omotola, 2007). During his administration, corruption among the political leaders was amplified due to greater availability of funds. It was claimed that over \$16 billion in oil revenues were lost between 1979 and 1983 (Ogbeidi, 2012: 8). The Shagari government promoted high rate of corrupt practices through award of contracts. This was why Usman (1984) described his regime as "contractocracy regime", meaning, a government of contractors by contractors for contractors, all bonded together by the logic of fraud and corruption (Suberu, 1990). It was claimed that Sheu Shagari's administration met about US\$36million in the public treasury when he came to power in 1979, but cannot be accounted for. No politician symbolized the graft and avarice under Shagari's government more than his combative Transport Minister, Alhaji Umaru Dikko, who was alleged to have mismanaged about N4 billion of public fund meant for the importation of rice. Many State Governors were accused of corruption and misappropriation of funds; political parties were enriched by Governors; election results were manipulated; and some Ministers and Governors introduced a more dangerous dimension of corruption known as "money laundering." (Ayegboyin, 2001: 100). In addition, his



administration also made billions of dollars from petroleum. However, this administration left millions of dollars debt in the treasury when it was overthrown by Buhari in December 1983.

#### **6.6. *Buhari/Idiagbon Regime, 1983-1985***

Under this regime, efforts were made to recover some looted property and resources. Many politicians were kept in prison. The Buhari administration established cases of misuse of public funds by many politicians of the Second Republic. A good number of them were sentenced to jail terms. For instance, the Lagos zone of the special military tribunal that investigated the cases of corruption, charged the three Unity Party of Nigeria (UPN) Governors, Chief Bola Ige, Chief Michael Ajasin and Chief Bisi Onabanjo of Oyo, Ondo and Ogun States respectively for corruptly enriching UPN by way of kickback of N2.8 million representing 10% of a N28 million contract sum awarded to Boargues Nigeria Limited that was meant for the construction of a building for the Great Nigeria Insurance Corporation. The Ibadan Zone of the tribunal jailed Ambrose Alli, Governor of Bendel State and his Commissioner for Finance, Augustine Omoleye for collecting kickback from one Babatunde Adeyemi, Chairman and Managing Director, Hispanic Nigerian Limited (Ojukwu & Shopeju, 2010; Sadiq & Abdullahi, 2013). The probe panel under the leadership of Justices Sam Uwaifo and Muhammed Bello tried and found at least about 65 public officers who amassed illegal wealth in various ways (Adelekan, 2012). The regime of Buhari was overthrown in 1985 by Babangida.

#### **6.7. *The Babangida Regime, 1985-1993***

Unlike Buhari/Idiagbon regime, Babangida is alleged not only to have condoned corruption, but rather to have encouraged it and to have participated in it directly. Although, there have been corruption in Nigeria right from the onset, the phenomenon became institutionalized under Ibrahim Babangida military regime. During the period, corruption was raised to a level of state policy and allegation of corrupt practices were treated with utmost levity thereby destroying all the efforts of the Buhari regime (Ogundiya, 2009). The regime was credited with the dubious achievement of “democratizing corruption” in Nigeria (Akinola, 2009). Corruption reached an alarming rate and became institutionalized. Leaders found guilty by tribunals under the Murtala Mohammed and Mohammadu Buhari regimes found their way back to public life and recovered their seized properties. His government witnessed various settlements or settling, and advanced free fraud, otherwise known as “419.” With this ‘settlement’ attitude, it was no surprise that corruption became so pervasive during the Babangida era. It was carried out with such impunity that it was often thought that Babangida wanted to corrupt enough people so that nobody could speak about corruption or public accountability. Babangida’s government, by disregarding and trivializing corruption, provide the enabling environment for its growth. One notable case



involving him directly was the mysterious “missing” of some \$12.4 billion crude oil revenue generated during the Gulf War in the early 1990s. Despite this windfall, Babangida declared deficits of billions of naira during the period (Maduagwu, 2000). Under the regime of Babangida, the system was not only prebendal, but also praetorian. A praetorian system is one that “is corrupt and an unstable regime of coups, cliques and conspiracies tempered only by occasional political dictatorship” (Ake, 1996). Its major features include indiscipline, mercinerism, self-seeking, greed and avarice, sale of public office and prebendalism. Praetorianism is therefore the military equivalent of the corrupt society. Babangida’s regime did not fundamentally threaten the existence of Nigeria as a corporate entity and thus, the continued prosperity of the power elite (Aleyomi, 2013). The heat from the citizen as a result of the annulment of 12 June 1993 Presidential elections made him to unceremoniously “step aside”. Before Babangida stepped aside, 12 billion dollars realized from oil revenue wind fall during the gulf war was not accounted for.

#### **6.8. *The Abacha Regime, 1993-1998***

When General Sanni Abacha assumed office on 17 November, 1993, after overthrowing the Interim National Government under Chief Earnest Shonekan, he declared that his administration inherited an economy which was characterized by grave debilities and instability. Although the Abacha regime claimed to have instituted machinery for prudence in governance, particularly with the setting up of the Petroleum Special Tax Fund (PTF) headed by Retired General Muhammadu Buhari which had recorded some successes in the area of infrastructure development, the regime was not immune from the syndrome of corruption (Sadiq & Abdullahi, 2013). Abacha’s regime only furthered the deep-seated corrupt practices, which already characterized public life since the inception of the Babangida regime. Under Abacha, corrupt practices became blatant and systematic. Abacha and his family alongside his associates looted Nigeria’s coffers with reckless abandon. The extent of Abacha’s venality seemed to have surpassed that of other notorious African rulers, such as Mobutu Sese Seko of Zaire (now called the Democratic Republic of Congo). Abacha’s kleptocratic ambition of corruption was the most destructive of development that the country has ever experience. Because of the massive looting, the Nigerian National Petroleum Corporation (NNPC), the four refineries broke down. The era of production without maintenance was experienced, as fuel was being imported to the country for domestic use (Aliu, 2013). The stunning revelation of depletion of the nation’s resources was the “Abacha Loot” as revealed by the Obasanjo regime. It has been said that the Abacha family had deposited large amount of money in foreign accounts out of what they looted from the Nigerian treasury. In 2000, exactly two years after the death of General Abacha, a Swiss banking commission report indicted Swiss banks for failing to follow compliance process in allowing family and friends of the late General, access to accounts and depositing amounts totaling \$600

million dollars into the accounts. In the same year, more than \$1 billion dollars were found in various accounts across Europe (Ojukwu & Shopeju, 2010). This is indeed a puzzling revelation of loot. It was Abacha's sudden death and the accession to power of Olusegun Obasanjo that made possible the disclosure of this loot.

#### **6.9. *Abdulsalami Abubakar Regime, 1998-1999***

The sudden death of Sanni Abacha ushered in the regime of Abdulsalami Abubakar in June 1998 as the new Head of State of Nigeria. Official corruption was also evident during the Abdulsalam's administration particularly in the award of contracts as in the case of the Central Bank of Nigeria (CBN), Defence and Police Force Headquarters (Ali, 2013: 6). Though General Abdulsalami Abubakar regime was very brief, the last minute rush for the awards of contracts was questionable. The contract was over 60 billion naira, and the foreign reserve dropped down to 4 billion from 7 billion dollars. This is another dimension of looting the nation's treasure (*Tell Magazine*, 1999). After seeing the scale of corruption during the nine months rule of Abdulsalam Abubakar, who succeeded Abacha and ruled Nigeria between late July 1998 and 29 May 1999, Dr Christopher Kolade Probe panel's report set up to probe his administration said that Nigerians should thank God that Abdulsalam Abubakar did not rule more than nine months (*Daily Sun*, 10 June 2008). General Abdulsalam Abubakar tenure was riddled with several allegations of corruption. But by that time, all what the Nigerians wanted was democracy. Since Abdulsalami was willing to give democracy to Nigerians, nobody was interested in whatsoever was going on in the administration. It was at the inception of the new democratic government in May 1999 that the country woke to the rude shock of depleted foreign reserves (Glamour, 2004). In fact, his successor, President Olusegun Obasanjo had to review some contracts that were hurriedly signed at the time Abubakar was leaving office.

#### **6.10. *Obasanjo Administration, 1999-2007***

With the evidence of monumental looting of the public treasury by the past leaders, Nigerians enthusiastically voted for a civilian administration in 1999, with a great expectation of achieving the United Nations millennium goal of eradicating extreme poverty and hunger by 2015. Chief Olusegun Obasanjo laid the foundation of his civilian administration on the belief that corruption would be eliminated in Nigeria. Obasanjo stated in his inaugural address on 29 May 1999 that: "Corruption, the greatest single bane of our society today, will be tackled head-on. No society can achieve its full potential if it allows corruption to become the full-blown cancer it has in Nigeria ... There will be no sacred cows... Nobody, no matter who and where, will be allowed to get away with the breach or perpetration of corruption and evil." In his address to the joint National Assembly, he avowed commitment to eradicate corruption in Nigeria, He said "he was

to tackle corruption in government, halt the drift to chaos and breathe a new life into the polity.” (Obasanjo, 2009). Also, in his broadcast to the nation, Obasanjo says: “...no society can achieve its potential, if it allows corruption to become the fullblown cancer it has in Nigeria” (*Nigerian Tribune*, 30 May 1999). As a result of his determination to fight corruption in Nigeria, Obasanjo signed the anti-corruption bill into law. He established the Independent Corrupt Practices Commission (ICPC) and Economic and Financial Crime Commission (EFCC). Unfortunately, even with such determination he was more or less the only voice crying in the wilderness. Many of his party supporters and ministry officials were found guilty of corrupt practices (Mohammed, 2013).

It is important to note that throughout the eight years Presidency of Olusegun Obasanjo, he was fully in charge of the petroleum ministry, where high-level corrupt practices took place with impunity. He could not account for a total sum of N555 billion (US\$4.44 billion) from the Federation Account from December 2004 to April, 2007 (*Tribune*, August 13, 2007). Again, during the same period, the top officials of the NNPC under the ministerial control of the former president, Obasanjo, allegedly milked the nation’s cash cow of another N502 billion (US\$4 billion) through various frauds including producing crude oil far in excess of assigned Organization of Petroleum Exporting Countries (OPEC) quota and converting part of the proceeds to political electioneering and laundering the balance into private bank accounts abroad (*Daily Sun*, August 13, 2007). The over \$400 million invested on the Turn-Around Maintenance (TAM) and repairs of the refineries failed to yield any positive result, and the contractors awarded the contracts were never brought to book (Adekeye, 2003: 30). Olusegun Obasanjo, allegedly withdrew US\$29 billion from the Federation Account without recourse to the other two tiers of government (the Senate and National Assembly) as required by the Nigerian Constitution (Senate Committee on Finance, National Planning and Appropriation Report, 2006). The former Vice President, Abubakar Atiku, abused his supervisory mandate on the controversial Petroleum Technology Development Fund (PTDF), by illegally diverting US\$125 million of a public trust fund into his personal businesses (The Report of the Senate Ad hoc Committee on the PTDF, 2006). As a result of wanton corruption, the international community became so much concerned with the lack of good governance in the country. Consequently, the Obasanjo administration was placed under international pressure and threats of sanctions to implement measures against corruption and other forms of financial offences. The federal government of Nigeria was then promised some financial benefits if reforms were implemented. This included a possible debt cancelation, which eventually materialized when the Paris Club wrote off \$18 billion, representing 60% of Nigeria’s debt in 2005 (Ademola, 2011).

### **6.11. *Yar’Adua Administration, 2007-2010***

Alhaji Musa Yar'adua was sworn in as elected President on 29 May 2007. Yar'Adua gave indication that his administration intended not only to continue with the war against corruption, but that major reforms would be introduced in the anticorruption war to correct perceived lapses. President Umaru Yar'Adua promised zero-tolerance on corruption. He recognized that the level of the country's underdevelopment is a measure of its failure to optimize the use of its abundant natural resources. Having recognized this much, he made fight against corruption one of the 7-point agenda of his administration. Yar-adua efforts to eradicate corruption in governance were not successful. In fact, he admitted that, Nigeria is facing some challenges in its battle to combat corruption. Exactly three years in office, President Umaru Yar'adua passed on, following a protracted illness, paving the way for the emergence of his deputy, Goodluck Jonathan, as President and Commander-in-Chief.

#### ***6.12. Goodluck Jonathan Administration, 2010 to Date***

When Jonathan was sworn-in as President, it was expected that he will continue with the anti-corruption war of his predecessor. The Jonathan administration is not doing anything tangible in the area of curbing corruption. Since the inception of his administration, several number of corruption cases has been reported such as Fuel subsidy, Pension Scam worth over 60 billion Naira, 600 dollars bribe collected by Hon. Faruk Lawal cannot be ignored in developmental process of this country (Aliyu et al., 2014). Over N5 trillion in government funds have been stolen through fraud, embezzlement and theft since President Jonathan assumed office on 06 May 2010. As noted by Melaye (2013), for the first time in the history of this country, corruption has graduated from the stealing of millions, billions and today into trillions", he said "the government of President Goodluck Jonathan is yet to prosecute one corrupt official; not one politically exposed person has been jailed under Jonathan's administration. Under his administration, there have been reported cases of corruption. These include; disappearance of billions of naira in NNPC; some of Jonathan's Ministers have been accused of corrupt practices, for example, Minister for Petroleum, Minister for Aviation etc. Yet none of those that have been alleged with corrupt practices have been prosecuted under his administration. As a result, corruption has continued to grow unabated.

Available records on the history of the political development of Nigeria since independence have shown that the reins of government has always fallen into the hands of a political leadership class that showed more interest in private, group or ethnic gains than in the general wellbeing of the Nigerian state. Indeed, the political leadership class has succeeded in entrenching corruption by providing a fertile ground and an environment conducive for the phenomenon to thrive incurably at the expense of national socio-economic, cultural and political development (Ogbeidi, 2012). In analyzing the plethora of leaders that have bestrode the

country's political landscape, Ebegbulem (2009) revealed that selfish, mediocre, tribal leaders and opportunistic small money-minded people masquerading as leaders have continued to regenerate over time. Having examined the level of corruption under different leaders that has run the affairs of Nigeria from 1960 to date, the question now is how did the relationship between leadership and corruption during all of the regimes mentioned above differ from each other. As noted by Ogbeidi (2012: 10) the answer to this is not farfetched. Without mincing words, it is not out of place to argue that a careful analysis of all the regimes reveals that leadership and corruption are positively correlated. This argument is based on the fact that virtually all the leaders came to power with the sole purpose of enriching themselves and their cronies rather than offering selfless services to the nation and its people. However, the magnitude of corruption during the era of the various civilian and military regimes cannot always be determined with precision because the trend, ways and means of illegal self-enrichment were not similar.

## **7. The Effects of Corruption on Nigeria's Development**

This section presents the basis of the main question which the article seeks to answer, i.e. why Nigeria suffers from the paradox of underdevelopment amidst abundant resources. General Yakubu Gowon, Nigeria's former Head of State, acknowledged this startling paradox when he referred to development efforts as "war on want in the midst of plenty". There is no gainsaying the fact that Nigeria's underdevelopment is to a large extent linked to corruption. This phenomena has become a cankerworm that has eaten deep into the fabrics of our system. Corruption has done a lot of damage to Nigeria polity and development. Well-endowed in terms of natural and human resources, it is ironic that Nigeria remains one of the most under-developed countries of the world, largely because of the menace of corruption (Obadan, 2001; Omotola, 2007). Nevertheless, its solution rests in our hands and cannot be put off to another day. That is why many countries have put in place different mechanisms for checkmating the spate of corruption. In Nigeria for example, the menace of corruption has been discussed at different levels, while different anti-corruption agencies have been set up, yet this ugly incidence keeps surviving with us at all facets of our endeavors (Mohammed, 2013: 119).

Corruption is an issue that is at the fore-front of national discourse. It is one of the most fundamental causes of underdevelopment in Nigeria. Scholars have written a lot on corruption and development. The Nigerian society is bedeviled with corrupt practices such that once a person is appointed into any political office the expectations from his people will be so high in terms of what the office will offer. Therefore, the people he/she represents are ready to teach him/her how to steal. Hence, corruption in Nigeria knows no bound irrespective of tribes or cultural affiliations. Corruption is probably the main means to accumulate quick wealth in Nigeria. It occurs in many forms and has contributed immensely to the poverty and misery of a large

segment of the Nigerian population (Atelhe & Agada, 2014: 310). Corruption is one of the fundamental problems of contemporary Nigeria. It has thrived, progressed and flourished unabated (Lawal & Oladunjoye, 2010: 232). Obama (2009) captured the situation of corruption in Nigeria thus:

“No country is going to create wealth if its leaders exploit the economy to enrich themselves, or police can be bought off by drug traffickers, no business wants to invest in a place where the government skims 20 percent off the top or the head of the port authority is corrupt... no person wants to live in a society where the rule of law gives way to the rule of brutality and bribery”.

In Nigeria, corruption is at a high level. It is prevalent in its various forms. It appears to be the order of the day. Corrupt practices did not begin today; the history is as old as the world. Ancient civilizations have traces of widespread illegality and corruption (Lipset & Lenz, 2000: 112-113). Though corruption has existed in Nigeria for long, the assessments by Transparency International (TI) between 1996 and 2008 indicate that Nigeria is perceived to be among the most corrupt nations in the world. In both 1996 (the first time Nigeria was included in the TI assessment) and 1997, its level of corruption was the highest in the world. It again recorded this unenviable position of the nation perceived to be the most corrupt in 2000. For five (5) times within the period, it was the second nation with the highest level of corruption in the world. The military era was the most unprecedented in corruption by leaders in Nigeria. In October 2006, the then President of the World Bank, Paul Wolfowitz disclosed that Nigerian officials had stolen more than \$300 billion of their nation's wealth over the last forty years. One can only imagine how much this amount of money would have contributed in lifting millions of Nigerians out of their situation of underdevelopment (Igwe, 2010: 102; Omoyibo, 2013: 33).

With the pathetic developmental crisis in Nigeria, it will be no exaggeration to say that the country is underdevelopment incarnate. A situation where over 70 percent of the population lives below the poverty line; where health facilities are inaccessible to the majority of the people and maternal mortality rate is second highest in the world; and where educational institutions are in shambles and a large portion of children are out of school really calls for a rethink in a country that has not been afflicted by war in recent history nor ravaged by a natural disaster. Not only has Nigeria enjoyed relative peace, it has been endowed with huge oil resources earning for it enormous wealth that could be used for development. Nigeria's underdevelopment is more perplexing having regard to the place of development in state policy, the state has over the years prioritized development such that one could not attribute the paradox to neglect of development in state policy. One could write volumes on corruption in Nigeria and its impact on development. The cases presented herein and others which have come to light are just tips of the iceberg. For one case of corruption that leaks out in one government department, there might have been

hundreds or more undetected. Each case of corruption means that money which might have been utilized for development has been siphoned off for personal gain.

## 8. Conclusion and Recommendations

This paper argued that that leadership and corruption are the bane of development in Nigeria wherein the ethnically-differentiated polity became the cover-up for corruption and profligacy, creating a cyclical underdevelopment syndrome. The inadequacy of government to utilize petroleum resources wisely and the gross corruption that has been and is still being perpetrated by virtually all public officials and other stakeholders keeps rubbing salt into the wounds of poverty. Corruption has persisted in spite of efforts at amelioration. There is lack of virtuous leaders, who are honest persons of integrity and trust. To stamp out corruption, Nigerians should elect or appoint people of probity to manage public affairs. The existing reforms and policies on corruption should be reviewed and strengthened in order to address the causes of corruption rather than symptoms. Whereas agencies and commissions saddled with monitoring corrupt practices play important roles, leadership commitment is essential to Nigeria's progress. Oil is the major source of funds in Nigeria; and, custody of the funds is held by the executive. Custody of these funds entails appropriate management mechanisms and effective leadership. To build a viable and productive economy and stable society, the leaders must put the nation's vast human and material resources into productive use and improve the business climate to lure innovative-minded entrepreneurs into the economy. But for this to be possible Nigeria needs people-centered leaders and servant-leadership with "new thinking and new choices", committed to creating "gross national happiness".

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## ARE AFRICAN GOVERNMENTS REALLY CORRUPT? A PERSPECTIVE FROM THE SOUTHERN AFRICA DEVELOPMENT COMMUNITY

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### Abstract

The paper challenges the notion that governments in the SADC region have high levels of corruption practices. This assertion is weakened by the fact that there is no generally agreed etymological basis for corruption in the African context. Academics and policy makers are consistently jumping on bandwagon to point out at the existence of corruption in African governments without factual cultural authenticity. This paper uses the existing literature on the phenomenon of corruption to question the popular, although not entirely correct, argument that African governments are generally and inherently corrupt. Transparency International (TI) has ranked many African countries as having an endemic corruption problem while media have highlighted instances of corruption at municipal, provincial, national and international levels. Preliminary evidence suggests that most African countries have high levels of corruption and efforts by respective governments to fight this scourge have proven to be ineffective. The paper concludes by challenging scholars of Public Administration in Africa to deconstruct the meaning of the concept of corruption based on African experiences and cultural value systems into this area which will help add to existing knowledge and invoke further inquest amongst academics, governments and other stakeholders.

**Keywords:** Corruption; Government; SADC; Watchdog

### 1. Introduction

The difficulties which Africans and their governments have had to face ever since they got their independence have largely, been the product of their past. This is not to suggest that the misdirection, corruption or incompetence of some African leaders or even environmental factors have not been partially to blame for Africa's continuing underdevelopment. The roots of many of Africa's recurrent difficulties in the last decades are to be found in the period of colonial rule of the previous governments before gaining independence. Agatiello (2010) states that corruption is an action, omission, vice or abuse that deters the ethical or legal obligations of a public function towards private purposes of economic, social or political benefit. De Maria (2007) stipulates that corruption through western eyes generally pertains to matters such as personal conflicts of interest and extracting private profit from a public office. Corruption is a concept drawn from the depths of western viewpoint. Therefore, it is tempered with sociological naivety and other-culture indifference. The western understanding of corruption is determined to a great magnitude by the established power of individualism to fashion our view of this phenomenon. Individual responsibility is placed in the forefront of our consciousness and family, village, history and ethnicity are pushed away in the pursuit for stand-alone culprits.

Human contact itself is a composite of reality, agreements, modes of rationalisation, world visions and loyalties that are more frequently than not ambiguous, contradictory, partial, unbalanced and problematic to interpret. In the case of African politicians, we take it for granted that they are not filled by the selfless ideals they proclaim while campaigning for office but rather by material interests and political mandates, including their very own, those of their families and friends, those of allies and other politicians who projected them to power (Bentham, 1996). Generally as a result of the subjectivity and complexity of political decision-making, it is hard to measure out the possibility of impartial and suprasectoral governance, with those in charge acting as independent guardians of the common good. That is, the political and social systems themselves delimit, and at times determine, the available choices and compromises. However, this does not mean that politicians need to be mere accommodating subjects to the system of interests of the status quo or that the rational and honest politician is a fantasy. This is because of the narrow path between given circumstances, circumstantial constraints and repeated uncertainty that lays the variable vein of genuine power and glory (Agatiello, 2010).

Far from “greasing the wheels”, corruption has been found to have deep and wide-ranging damaging effects. Previous research has established a causal connection between corruption and lower levels of private investment and growth capital flows and currency crises. By its nature, corruption is opaque and depends on avoiding capture and measurement. Although there have been little objective supportive historical data about corruption in Africa, there now exist indices aimed at measuring the perception of corruption across countries and of the most prominent ones are Transparency International and Corruption Perceptions Index (CPI) (Wei & Wu, 2001).

## **2. The Concept of Corruption**

The notion of corruption is that of the public agent who abuses his/her authority or the resources under her/his control, to gain a discrete benefit from a private agent or another public agent (Agatiello, 2010). It is also argued that corruption is an action, omission, or abuse that diverts the ethical or legal requirements of a public function towards private objectives of economic, social and political advantage (De Maria, 2007). Politics are a public interplay of allocative rules, methods and outcomes, its actors, beyond winning or losing, can also manipulate the public perceptions and expectations involved. That is why it is so problematic to separate the cases of corruption from the multitude of outrages and partial truths that characterise political friction (Agatiello, 2010). Furthermore, Grosfoguel (2007: 221) argues that in the so-called post-independence era, the “colonial axis” remains inscribed in relation to domination, exploitation as well as in “the production of subjectivities and knowledge”. So it should be more complex than just arguing that “the practice of nepotism and favouritism in public institutions has the potential to make systems inefficient, ineffective and demoralised, as

accomplishment is discounted in favour of political, familial and social connections. Corrupt practices might also encourage future, general disorder, uncertainty and lawlessness in society (Rubin, 2011). If the above was as easy as it sounds, the first nation where such negative potentialities would have been realised would have been the United States of America wherein most of these practices characterised as corruption for Africa have been officially institutionalised as lobbying. Africa is yet to attain emancipation, "complete capture and control" of its development and, at each turn of history, the alternative path is "commissioned to the West" (Kazingizi, 2009: 5, 6). The mythology about the decolonisation of the world disguises the continuities between the colonial past and current global colonial/racial hierarchies and contributes to the invisibility of neo colonialism (Grosfoguel, 2007).

Decoloniality cannot be expected to be smooth sailing. To this extent, submissive reception and endurance of the coloniality of knowledge implies that the victim offers no moral and physical or physical resistance to the tyrants' devilish outrages and scorn (Douglass, 2009). That is, if Africa accepts that its societies are uniformly corrupt, as measured through the crucibles set by alien cultural values and moralities, then such a status quo of coloniality of knowledge will endure. Coloniality of knowledge too entails a struggle of resistance. In this respect, conceptualisation of practices such as corruption cannot be accepted as value-free virtues. Just like in the case of development, conceptualisations of corruption have to be questioned because they are inseparable parts of societal perceptions. Kazingi (2009: 6) states that "a great African state, with a powerful government at par with other governments of the world, will be the only proof that slavery has finally ended". Maphunye (2009) presents that the proposition that democracy can limit the extremes of corruption by making it easier to scrutinise and control the operation of the state since public institutions are more responsible, transparent and accountable when democracy is practiced. Political and legal costs are more easily imposed on corrupt officials as the core language of conditionality, liberalisation, good governance and democratisation continues to be enforced by donors and democrats on Africans.

### **3. Misconceptions of Corruption in the SADC Countries**

Once contentedly viewed in the West as being virtually the domain of authoritarian or "developing" nations, the perception has continued to grow in the last decade, the phenomenon has spread to new areas that are not part of the Western countries, such that no state no longer seems safe in the eyes of the 'developed' countries not even the advanced democracy in Africa. Corruption has hardly been out of the headlines either. Set against corruption on this measure, Africa's experience of the problem seems more problematic according to the developed countries (Morris, 1998). Corruption in Africa results from what is possible given Africa's scanty resources, however, according to Transparency International, corruption in Africa is due to lack

of democracy and ineffective leadership (Zaman & Rahim, 2009). Indeed, those looting the African state can only envy the size of the 'pot' available to those in other countries. So it is perhaps the more ironic that it is in Africa where corruption is widely regarded as posing the most serious threat to both development and stability. It is in Africa that corruption along with ethnic conflict is seen as 'the political disease' by foreign observers (Morris, 1998).

There is a pervasive cynicism in many international circles about the corruption of African states, an opinion that it is in the nature of Africans, and that there may even be a culture of political corruption (LeVine, 1993) which means corruption is the usual stuff of politics in Africa. The belief that Africa is corrupt is also reflected in the comment, quoted from the former British Tory MP, Matthew Parris, which appeared under the subheading: "Corruption is so widespread that African leaders no longer disappoint us; we no longer expect anything". It is also mirrored, also in the comment attributed to an American diplomat that you can no longer buy an African state; you can only rent one by the day (Morris, 1998). There is nothing odd with consecutively feeling admiration and rejection, attraction and reticence, particularly when we are confused by the inconsistency between the overt message and the suspected reality. That is exactly why Africa needs a reflexive, expanded moral conscience to put in order and judiciously interpret their own perceptions. The problem of corruption has become more complex though when a large portion of society opts for the reduction, and even the suppression, it deems ineffective because of failure to understand its roots. A new query then leaves us wondering if power corrupts, and also if corruption empowers (Agatiello, 2010).

The internationalisation of the misrepresentation of African societies as primarily being corrupt is furthermore evident in the tendency of many Africans to reject democracy as a Western ideal that is foreign to Africa. Other Africans, who have also internalised this misconception of corruption, but who are eager to embrace democracy, are unable to imagine that modern African countries can successfully incorporate elements of traditional African structures of government into a modern democratic system (Aboa-Bradwell, 2011). From the start, thus, political corruption has been at the forefront of the concerns raised by the economic restructuring of the last twenty five years and the tide of democratisation of the last decade. It has been an issue on which all Africa's creditors or donors agreed that it exists in Africa and if not dealt with will destroy the African states. Those primarily concerned with debt repayment and economic improvement especially the International Monetary Fund and World Bank regarded corruption as a threat to good governance because of its potential to 'redirect' aid, subvert policy reforms and weaken market institutions. And also those more interested in using conditionality to foster democracy and human rights focused on the role of corruption in the abuse of power, the unfairness of resource distribution and the negation of citizenship rights. For both, a bloated, unaccountable and authoritarian state promoted endemic corruption. This view also helped to link the donor

agenda to the demands of African democratic reformers in the eighties and nineties (Morris, 1998).

The difficulty of standing the test of time in the Western-styled courts could as well imply that the conceptualisation of corruption involves an imagination that could equally be divorced from reality (Pillay, 2004). The idea that corruption increased in one-party or military regimes where accountability and responsibility was lacking and, in turn, produced inequality, dishonesty, stagnation and debt was a constant theme of critics of the developed countries. Economic liberalisation and multi-party democracy were presented by donors to African elites and by elites to voters as the greatest effective means of fighting corruption. Economic liberalisation is also believed to be the means to remove and punish those who lined their pockets and abused their power and also to stop their successors from getting their own snouts too deeply into the trough. The misrepresentation of traditional African societies as fundamentally undemocratic and authoritarian was widespread in the West and, this has been so internalised by the Western countries that it is now deep-rooted and embedded in Africans too (Aboa-Bradwell, 2011). Chileshe (2014) illuminated that over the years, he has heard several misconceptions about Zambia and other African states from the citizens of the United States of America. Some of the wrong perceptions that the Western countries have of Africa and African culture is that all Africans need help to overcome disease and that all African rulers are corrupt. The U.S. media also over-generalizes the stories about Africa, however, what happens in one African country does not happen in all the countries. The Western countries do not always have a realistic judgment of Africans or an accurate picture of Africa because of an overall scarcity of information about the Africa continent.

#### **4. Are SADC Countries Generally Corrupt?**

Cibane (2013) states that there is evidence that replacement of public functionaries and government accused of being corrupt with the assumed saintly cohorts has historically reproduced the same histories described as corruption. Such eventualities should raise questions about the conceptualisation of corruption because cultural determinism cannot for be separated from their meaning of corruption for example some West supporting certain African leaders over many years later coming out to overthrow them as corrupt and charging them. Pillay (2004) analysts eagerly conclude that corruption threatens to block South Africa's path towards sustainable development since it has flourished in most sections of the South African National Public Service making it the "common cold" of the national evils. However, Caiden (2013) argues that corruption transpires in all walks of life. It traps everyone at some point in life. Once it is shared, it has possible public outcomes, implications, consequences, and emulations. Nevertheless, there are wide differences on how much wrongdoing should remain confined to the parties involved and left to their discretion to handle. Ideas differ in time, values and opinions



change, and situations get transformed. Because local cultures vary from place to place, few universals can be taken for granted. Nevertheless, more emphasis is placed on corruption that occurs in the public domain of governance where the stakeholders generally include everybody not just the parties directly involved, even future generations.

There is a general consistency laze in most examinations of corruption, especially when it involves Africa and Africans, because the suggestion that there was incorporeal and unlocated impartiality and objectivity of the ego-politics of knowledge is a Western myth (Grosfoguel, 2007). Generally the pertinent epistemological questions are avoided in the discussion of corruption in favour of characterisation of Africa as generally corrupt. There is cognitive laze in thinking that hegemonic Eurocentric paradigms that have informed Western philosophy and sciences in the modern world system have assumed a universalistic, neutral, objective point of view (Grosfoguel, 2007). Hence, throughout much history, the study of corruption has mainly concentrated on the institution of government, and more particularly on the behaviour of those who work within its machinery to implement public policies and directions in numerous categories of public functionary (Caiden, 2013).

Pillay (2004) stipulates that South Africa society of fabric is being eroded by corruption. The scholar blames the complex political design for the rise of corruption and the attendant adverse effect on stability and trust as well as damage of the ethos of democratic values and principles. However, Grosfoguel's (2007: 25) observation about the concept of global capitalism is equally relevant to that of corruption, because they are both "in need of decolonisation" with a decolonial epistemology that clearly assumes the decolonial geo-politics and body politics of knowledge as points of departure to a drastic critique. To this point, it is clear why South Africa's fight against the "evils of corruption" (Pillay, 2004) has appeared to be in vain. The evidence is clear that "corruption" index placing is beginning to influence the flow of anti-corruption resources. While TI says that its CPI ought not to be the basis of aid allocation, there is the strong likelihood that donors are using it nonetheless as an allocation basis (Galtung, 2006). Only one organisation has so far revealed that it depends on "corruption" index positioning when determining aid eligibility. This is the US Congress funded Millennium Challenge Corporation (MCC). To receive MCC funding countries must perform above the medium within their peer group on the World Bank's Control of Corruption Index (Millennium Challenge Corporation, 2005). As the begging dog will embrace unnatural behaviour when begging for food reward, African governments have found themselves in some vast operant conditioning exercise whereby public policy deviations towards West endorsed anti-corruption strategies achieve the incentive of aid inflows. So it is reasonable to expect that the politics of CPI targeting will narrow government behaviour towards the reductionist myth that "good governance no corruption" and thereby reduce performance where targets do not apply for example the public health. This is what is seen as "striking the target and missing the point (De Maria, 2008)."



The Anti-Corruption Commission Act, 1996 (Act 46 of 1996) of Zambia a SADC member country describes corruption in section 3 as the soliciting, accepting, obtaining, giving, encouraging or offering of a gratification by way of a bribe or other personal temptation or inducement, or the misuse or abuse of a public office for private advantage or a benefit. According to the 2001 Corruption Perception Index (CPI), Zambia was listed the ninth most corrupt country out of the 90 countries surveyed, 11th out of the 102 countries surveyed in 2002 and again 11th out of the 133 countries surveyed in 2003. It dropped to ninth position, alongside with ten other countries, out of the 163 countries surveyed in 2006. The CPI is a poll of polls reflecting the perceptions of business people and country analysts, both those that are resident and non-resident in a country. It measures the degree to which corruption is alleged to exist amid public officials and politicians. It is a composite index, drawing on corruption-related data in professional surveys carried out by a variety of reputable institutions. It reflects the views of business people and analysts around the world, including experts who are resident in the countries being evaluated.

The Transparency International National Integrity Systems Country Study Report of 2003 analysed the strengths and weaknesses in Zambia's governance system, as well as the executive, the legislature and the judiciary. It provided a overwhelming analysis of how a government can loot its treasury, corrupt key agencies in the country, interfere with privatisation and banking practices, and use the resources of the state to fund its supremacy in an election process and pay for its retention of power. The report indicated that the Zambian Anti-Corruption Commission (ACC) is both under-resourced and under-skilled, that Members of Parliament lack the ability to discharge their functions effectively, and that the offices of the Auditor General and Ombudsman are effectively waning. This is attributed to a policy of deliberate under-funding and failure to punish those exposed as being corrupt. In particular, the report called for improvements to the legal infrastructure, including protection of whistle-blowers, monitoring mechanisms for gifts to ministers and public officials, strengthening of conflict of interest rules, and an enforceable code of conduct for public officials if corruption was to reduce in Zambia (Zambia Institute for Security Studies, 2009).

According to the Institute For Security Studies 2009, eight in ten Zambian households and public officials interviewed for the National Governance Baseline Survey (2004) ranked corruption in the public sector as a very serious challenge to the country with nearly seven in ten managers (67 per cent) ranking it as the greatest difficult obstacle to business development in Zambia. Those that were surveyed by the Institute for Security Studies noted that almost 40 per cent of the respondents stated that they had been asked for a bribe to acquire a public service, licences or permits. According to the survey, the police, the National Registration Office, the courts and the Lands Department which are under the public sector are agencies where unofficial payments are solicited most frequently. Generally, public institutions are considered to

be only moderately honest. The organisation's rated the most honest as being the Ministries of Health and Education, the Postal Services, and church and religious organisations.

#### **5. On Whose Basis is Corruption Measured in Africa/SADC?**

The West has returned to Africa (again), this time with a focus on "corruption". The "C" word is on everybody's lips and is a set piece now in policy manoeuvres across Africa. Because the style and implementation of "corruption"-hunting will stand to primarily condition African public and cultural life for generations to come it is significant to carefully scrutinize western rationales that drive it (De Maria, 2007). For too long Corruption Perception Index (CPI) results have been indisputably accepted as a valid and reliable pointer of "corruption" by some of the governments in Africa, donors, media and academia (Wilhelm, 2002). Mbachu (2009: 1) stipulates that former colonial societies appear to have normalised headlines such as "removing Africa out of the abyss of 'darkness' and bring her back to light", "bring light unto Africa" and bring "bring socio-political and economies salvation". The epistemological questioning about corruption should be informed by deeper understanding of epistemic tradition, beyond social values in information production or partiality thereof instead, it involves "the locus of enunciation", meaning "the geo-political and body-political location of the subject that speaks" (Grosfoguel, 2007: 231). Furthermore, Mkandawire (2012: 22) argues that there is ignorance of Africa's knowledge which is largely occasioned by the weakness in "its ability to represent itself due to the silencing of African voices by Africa's own potentates", which is tantamount to self-erasure.

The tendency to overlook the democratic nature of traditional African societies has been long going by the Western societies. It is written that democracy was developed in Ancient Greece in general and in Athens in precise as it is described that direct democracy was first practised by the Athenians (Aboa-Bradwell, 2011). However, this agora that was being depicted was uncannily similar to the discussion tree, the place where, in African villages, people would gather to discuss vital issues and, when necessary vote to determine what to do. This brings about the debate on the evidence that the Athenians, and not our ancestors, had developed the practice of direct democracy. Furthermore, the West does not encourage us to interpret what was done in our villages under the trees as well as many other African villages as direct democracy because it was not documented as such in the books, and these were, of course, Western books (Aboa-Bradwell, 2011). The issue of corruption has to be understood as a moral, and perhaps a physical, struggle, if not both (Douglass, 2009).

A democratic South Africa has been dogged with headlines of corruption, which cast the local government as the minefield of this perceived social scourge. Intellectual analyses too jumped onto the bandwagon with negligible interrogation of the conceptual integrity and validity of the term corruption. The latter easily fits with and reacts to the prevailing societal perceptions, enforcing hegemonic cultural values and morality, which in most developing countries like South

Africa, Zambia and Zimbabwe are important conceptualisation and characterised of activities that may not necessary constitute the envisaged socio-political-economic ills (Tsheola, 2013). Scholarship too is guilty of failing to generate nuance knowledge and conceptualisation of practices (Pillay, 2004). This paper seeks to question the general acceptance of the hegemonic conception of corruption in Africa based on the SADC perspective and to argue that some of the activities that are cast through this conceptualisation may in practice be providing the opportunity for emancipation and development of former colonies. That is, the hegemonic conceptualisation of corruption needs to be questioned and tested for its integrity and validity within the Africa cultural values and morality matrices. This article also hopes to suggest that some of the activities classified as corruption may actually be productive for development. There can be no conceptual and analytical coherence on corruption across societies and countries (Pillay, 2004). To this degree, Non-Governmental Organisation and such other institutions that proclaim a fundamentalist perspective on universalic truths about corruption are actually pursuing a victim blaming agenda. To this extent, the Transparency International's Corruption Perceptions Index scoring of South Africa at 43 and the USA at 73 should remain meaningless.

Aboa-Bradwell (2011) argues that the myth of African rulers being intrinsically undemocratic, corrupt and dictatorial permeates the frequent references in Western media and books to some African leaders as being corrupt simply because they do not adhere to all the demands of the Western countries of how Africans should rule their states leaves much to be desired. Though surprising, the inability of so many people to admit that traditional African leaders do not have a monopoly on corruption, and that they should not be excluded from the democratic process on the basis that they may commit a misdeed that all human beings are exposed to, is understandable. It reflects the persistence of the misrepresentation of traditional African societies as intrinsically undemocratic, and highlights the crucial need to dispel this myth. International organizations like the World Bank as one of the institutions the world is using to measure corruption have identified corruption as 'the single utmost obstacle to economic and social development' (World Bank, 2001).

Corruption is a variable that cannot be measured directly. However, in recent years, numerous organizations have developed a corruption perception-based index across a wide range of countries to qualitatively measure the universality of corruption. These indices have been used in econometric studies either as a dependent variable when exploring the roots of corruption or as an explanatory variable when scrutinising its consequences. Undoubtedly, these perception-based indices have made a significant influence to the understanding of the pervasiveness of corruption across countries. They are, however, not free of problems. One such problem refers to the fact that these indices do not relate directly to the factors that are responsible for initiating corruption. The consequence of this may be that the connection

between perceived corruption and actual corruption is low (Dreher, Kotsogiannis & McCorriston, 2007).

The publication of the first CPI in 1995 has paved the way for a wider assessment of the extent of corruption in a growing cross-section of African countries. Corruption in Africa is measured significantly, by Transparency International whose Global Corruption Barometer also provides understandings into how willing and ready people are to act towards stopping corruption. Importantly, however, the people surveyed around the world as a part of the Global Corruption Barometer do not view themselves as helpless victims of corruption (Global Corruption Barometer, 2013). In most SADC Countries today, association with the state, holding a government position and accumulation of wealth cannot escape accusations of corruption by the citizenry. However, one wonders on whose basis is corruption in the SADC countries measured. The researcher hopes that this paper will help dispel this misconception about corruption in Africa from a SADC perspective and encourage democratic, civic and social engagement amongst African communities and other researchers to research more on the above topic (Aboa-Bradwell, 2011).

Though there is impartially a general agreement that corruption is a trans-systemic phenomenon widespread to all societies, regimes, and countries, and salient in different periods of the history of mankind, the study of corruption reveals a weaker agreement as to its meaning, measurement, and clarification. Empirical studies constantly are faced with three major issues that may hamper further comparative understanding of the phenomenon. First, corruption lacks an accurate definition or agreement upon its meaning. Like many other concepts in social sciences, corruption is volatile and subject to historical, social, and cultural associations. Second, corruption is prone to variations across time and space. Its measurement, both in terms of volume as well as the standards qualifying that form of behaviour, prior to any attempt at explaining how the phenomenon expands, grow and mutates contextually. Third, without clearing the first two methodological steps, the empirical testing of a subsequent hypothesis is bound to show rather limited or disputed results (SA). At the Davos World Economic Forum sessions on “de-risking Africa, President Zuma rightly discharged the basic assumptions that Africa was corrupt and risky as an erroneous exaggerated because some of the practices considered as corruption for Africa are acceptable business practices elsewhere (Tsheola, Nembambula & Mtsweni, 2013).

A new agreement of, “corruption” is inimical to first world economic development, is sending a nervous West back into Africa with patterns of engagement strikingly evocative of the bad days of colonial rule. This consensus has a fascinating grip on international aid choices and accounts for billions of heavily tagged anti-“corruption” dollars now flowing annually from the West to Africa in a massive yet grievously uncoordinated public administration mission to rid the continent of “corruption”. The West is conducting this mission on its specific positions and in its own style (Osabu-Kle, 2000). The result is a rapidly growing anti-corruption movement, or

industry, spreading under close western observation across Africa. Accompanying donor dollars to Africa is a very narrow and very western definition of "corruption", which in turn pivots the equally narrow methods employed to measure it. Influential definitions of corruption are the definitions of the powerful nations and in the history worn unequal encounters between Africa and the West the latter's international business-centric view of "corruption" prevails. Despite a daring counter-insurgency from African scholars (Wiredu, 1996; Abdi, 1999; Osabu-Kle, 2000; Adekson, 2004; Mushanga, 2004; Prempeh, 2004) the indigenous prerogative to make the final call on what constitutes "corruption", and by extension how to measure and control it, has been suppressed under a semantic and methodological tsunami that is flooding in from the West.

Zaman & Rahim (2009) argue that the CPI is widely misunderstood to measure "corruption" *per se*, it does not do this. Rather, it measures perception-based epiphenomenal choices of it. This raises two issues. First, are the measures of "corruption" proxies as good as measures of the material of "corruption"? Second, who is doing the perceiving? There is no evidence that CPI results influence "corrupt" countries to alter their governance styles. And why should it when all the CPI calculates is a representation version of the real thing. None of the nine survey sources used by TI to construct the annual CPI measure the phenomenon of "corruption" directly. Rather these sources measure what they distinctly consider to be epiphenomenal occurrences that in their opinion point to the existence of "corruption". In this kind of indirect reasoning, a conclusion that "corruption" exists is compelled by, or reached from, these previously known epiphenomenal facts. De Maria (2008) further point out that there was no one point at which colonialism formally ceased, the colonial condition and its formal structures of domination did not suddenly disappear after the end of formal direct-rule. The effects of colonialism continue to reverberate in reflective cultural and material ways, mainly when colonialism is understood as the modern global system of hegemonic economic power under late capitalism. De Maria (2007) argues that corruption is not uniform, nor is it constant. Rather it is ephemeral and socially-shaped. The reality of cultural differences requires the essence of corruption to remain permanently the subject of debate about moral standards that should apply to the holders of public trust and duty. At the very least this position authorises non-westernised African voices in the discourses about corruption and targets the West's self-elected directive to regulate the limitations of this discourse and infiltrate African public policy.

## 6. Discussion

As seen from the above discussion, one can argue that there is need to come up with a universal definition of corruption that captures understanding of the many variances in political and legal cultures of different countries. The definition of corruption that seeks to be pluriversal would remain useless because of the different cultures, values and historical backgrounds that exist in different nations. The all-encompassing definition of corruption as the misuse of public

office with the purpose of making private gain, which has hoped to incorporate the idea of wrongly acquiring an advantage, pecuniary or otherwise, in violation of official duty and rights of others is slippery and opens abuse across societies, particularly the former colonies (Tsheola et al., 2013). The current universally accepted definition of corruption does not meet the requirements of pluriversalism because it is deeply informed by the Western ideas of economy, public sector, law and politics. From the above findings, many Africans have jumped on the bandwagon to say African countries are generally corrupt without taking into account on who measures corruption and what constitutes corruption and the fact that it is measured using perceptions.

The social location of a place cannot be a determinant of corruption and it is inadequate to suggest that African countries are highly corrupt because of the stark social inequalities. There is a distinct probability that perception of corruption may be heightened under the stark societal disparities in a weak state because rich people may find the governing regime to be too powerful to the degree that corruption could be perceived as recognised practice for preserving societal privilege where corrupt actions are unpunished and society glorifies lifestyles associated with benefits thereof (Tsheola *et al*, 2013). To say TI produces measures of corruption is simply wrong. TI does not measure corruption, and to label the measures produced by TI as measures of corruption is highly misleading. We could more accurately label TI measures as averages of perceptions of businessmen regarding corruption in various countries (Zaman & Rahim, 2009).

Corruption is a multidimensional concept and no one form of measurement can measure it adequately. It could be argued that it is true that the relationship between individuals, institutions and the state have worsened significantly, and the perceptions of economic corruption may appear to be bearing the most devastating consequences as evidenced by the wide spread culture of distrust and the many violent protests. This paper acknowledged a strong interface between African “ethics” and African “corruption”. Both must be understood within the continuing context of African culture (De Maria, 2008) and this makes one argue that Africa must come up with their own definition and measurement of what constitutes corruption in order for Africans to understand the concept of corruption. The article has further found out that according to the Western definition of corruption most African countries seems to be corrupt but further articulates for a better understanding of how this epistemology could be interpreted. The African countries today are apprehended within a discourse of power whereby foreign institutions and agencies map out its future. In this new configuration, it is the World Bank, the IMF and a multitude of non-government organizations which regulate and dictate fundamental policies. They are in numerous respects, the new colonial administrators. The inability of the African state to deliver “development” has been aligned to the belief that Africa is corrupt. This has made Western countries to manipulate African countries and that Africa is no longer allowed to engage in activities which a normal state would perform as it would be viewed as corruption in Africa.

## 7. Conclusion

Most African governments tackle corruption as if it were the cause of democratic and development difficulties rather than a symptom or consequence of them. This leads to the failure to address the deeper political and class forces which drive the politics of clientelism and corruption. Cibane (2013) acknowledges that it is difficult to conclude a topic of corruption. The institutional structures and ideologies Africans use to mobilize against corruption are unlikely to take root because the concept corruption is not an African one and hence understanding its meaning, and causes is problematic in Africa and it does not take into consideration the values and history of the continent. Corruption, formerly the concern of moralists, is now confronted by a politics inspired by expansionist economic and political interests. The CPI's results that always show African states as being corrupt must be questioned by Africans as it is completely based on perceptions. Current measures of corruption need to be examined carefully to evaluate exactly what it is that they are determining.

However, there are numerous dimensions to corruption, and by shifting the focus and definitions suitably, it would be easy to establish that richer countries are actually more corrupt. It is the powerful who decide which dimensions should be considered in constructing a measure of corruption and governance. If, instead of the number of corrupt dealings, the measurement focuses on volume and impact it is likely that the correlation between income and corruption would be reversed. The reality of cultural variance requires "corruption" to remain permanently the subject of disputation about moral standards that should apply to the bearers of public and private office. Within that post-colonial framework a central purpose arose to expose the business bias in the CPI and identify serious epistemological weakness in its procedure De Maria (2007). The primacy of the western value of measurement wearing the apparel of science in African corruption discourse was targeted. The researcher further calls for other African scholars to scrutinise the concept of corruption based on Africa's beliefs, values and history in the search to come up with Africa's measurements of corruption.

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## POLITICAL PATRONAGE AND STATE PERFORMANCE IN AFRICA: EVIDENCE FROM SOUTH AFRICA

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### Abstract

Political patronage through state jobs is a global phenomenon dispensed by governing political parties. But in Africa, it is a leading reasons for poor institutional performance of states. This paper uses empirical data from roundtable meetings organized by the Public Service Commission in South Africa in order to explore the existing theories of political patronage. In South Africa, political patronage has sometimes led to irregular appointments and high turnover of staff in state institutions, as revealed often by the audit process. It has further led to difficulties in ensuring effective retention strategies and high suspension rates by state institutions. Also, the paper finds that the state has, at the local government level, enacted a law that promotes meritocratic recruitment patterns in order to professionalize local state institutions. The paper concludes that although meritocracy is desirable to professionalize the state, it will not obliterate patronage politics by itself.

**Keywords:** State; Patronage; Public Service Commission; South Africa

### 1. Introduction

In the 1980s and 1990s many African states adopted a multiparty democracy based on two distinct systems of governance. Countries such as Mozambique, Gabon, Ghana, among others, adopted a presidential system of governance based on the US philosophy while countries such as South Africa, Zimbabwe, Malawi, etc., adopted a parliamentary system based on the Westminster governance tradition. Other states such as Senegal, Cape Verde and Namibia adopted a combination of the two systems of governance (Nijzink et al., 2006; Kopecky, 2011). Political parties seen as liberation movements brought about this political change. However, soon after this democratization process, many African states were bedevilled by many problems such as poor institutional quality or performance, unconstitutional change of government, political violence and so forth. Poor quality or performance of the state, which is the main focus of this paper, is blamed on political patronage, among others. The ensuing debate in the public administration or political science scholarship is whether political patronage promotes or hinders institutional performance or quality.

Therefore, the main research questions become: does political patronage via state jobs improve or hinder the quality or performance of the state institutions? Is it possible for political parties to do away with political patronage in the state institutions? Rival theoretical explanations are advanced by different scholars on the relationship between political patronage and state performance. Exploring these theories and also using empirical primary dataset from the Public Service Commission's roundtable discussions in South Africa, this paper attempts to answer these research questions to understand why the governing political party or parties dispense political patronage via state jobs during its or their political term in government. The empirical

data from the roundtable meetings by the Public Service Commission was drawn largely from all the nine provinces including from the centre. Approximately, a total of three hundred and thirteen senior officials from national and provincial state institutions attended the roundtable meetings. Most of these senior state officials were drawn largely from human resources management and labour relations directorates. These roundtable discussions took place between October and November 2013 at different venues and dates (PSC Report, 2013). It is worth noting that political party structures undoubtedly can either limit or enhance the powers and operations of the state institutions including the legislature.

## **2. Defining Political Patronage**

It is not surprising that much of the writings about political patronage in the political science or public administration literature focused more on developing nations, Africa in particular. This is because many post-colonial African states were castigated as predatory, patrimonial, choiceless democracies, kleptocracy, rent-seeking and so on. As a result, political patronage, which is associated with names like political appointment system or cadre deployment in South African context is seen as immoral and a democratic pathology, which is associated with malfunctioning of the governance systems especially in African continent. Therefore, political patronage is conceptualised as an exchange relationship in which a variety of goods and services are traded between the principal and the agent. Usually these varieties of goods and services are not traded within the confines of the law and or regulations. This simply means that there is often non-compliance with recruitment or rather human resource management laws and regulations. Many scholars (for example, Kopecky, 2011) agree with the conceptualization of patronage.

From a principal-agent perspective or what Max Weber (1948: 196) calls “super” and “subordinate” relationship in a political setting, the principal simply refers to a politician as an elected public representative who is not purely a administrative figure, whereas the agent refers to the state official who is appointed presumably on the basis of qualifications to occupy specialised office either on contractual basis or permanent basis. The principle of “super-subordinate” relations in the institutions means there is a regulated supervision of the lower office by the higher ones and this principle is found in all institutional structures of the economy. Politics is about power relations between the principal and the agent. The agent is hired and rewarded to implement policy preference of the principal. The political principal, on the other hand, has the leverage to offer legislation, access to state structures and or job opportunities in exchange for various benefits such as electoral support, campaign contributions, party loyalty, exclusive information and expertise available from the agent.

## **3. Coalition Theory**

This theory focuses on government formation which simply means on how political party or parties enter and construct and consolidate their own government identity (Furlong, 1989; Brehn & Scott, 1997; Wood, 1998). According to this theory, one way to do exactly that is through dispensing patronage politics via state jobs whereby political principals distribute and manage state institutions' jobs in order to bargain over policy output. Proponents of this school of thought see political patronage or rather political appointment system as an 'inherent' feature of all governing political parties in government worldwide and there is no problem in dispensing the system at all. It is argued that all governing political parties widely apply this political tool to tame, control and regulate the behaviour of the state agents as they may not be entirely trusted, especially as they deal daily with public monies and other state resources.

In similar tone, Du Gay (2000: 115) argues that political principals dispense political patronage via state jobs to tame the power of agency officials and to enhance their (politicians) own positions within government. According to this theory, political patronage via state jobs is not only about controlling but also about ensuring that the state agents achieve the principals' policy objectives particularly given the danger of the opposition political parties' agents to derail and sabotage the governing political party's policy vision and objectives. That said, political patronage is therefore necessary, according to this theory at least formally, to be widely used in state institutions for the following reasons:

- The system provides the governing political party or parties' leaders with the incentives to maintain party organisations by distributing selective incentives to party activists and elites in exchange for organisational loyalty.
- The system helps political parties to develop "clientelistic" networks to maintain party electoral support. This claim is corroborated by other studies that political patronage helps to buy support from party activists thus mitigating the risk of intra-party rebellion in the face of electoral defeat or unpopular decisions made by the governing political party or parties in government.
- Patronage appointees serve as an eye and ear of the political principals always monitoring the level of support for the principal's policy goal within the state institutions.
- Patronage politics provides synergy between political principals and state agents.

However, using data from the Public Service Commission's roundtable meetings held throughout South Africa (PSC Report, 2013), the study argues that patronage politics practically creates bureaucratic frustrations pertaining to recruitment practices in state institutions in South Africa. It further leads to tension between political principals and the state agents as they sometimes fight about who should be hired or not hired at the institutional level. State agents are often subjected to victimisation and possible suspensions if they fail to comply with the principal's directives on human resources related matters pertaining to recruitments and appointments. This argument suggests that there is often political meddling in the administrative functions of the agent. There

was a general consensus during the roundtable meetings that political meddling in administrative recruitment process is a common practice in public civil service, which always lead to inappropriate or irregular appointments of state agents. The delegates agree that political meddling is due to lack of trust, suspicion and abuse of power by the political principals, executive authorities in particular (PSC Report, 2013: 12). This finding is consistent with media reports that executive authorities often do not trust public servants, especially more senior state officials like heads of departments who came before them (*Mail & Guardian*, 2014: 5). Empirical evidence shows that irregular or inappropriate appointments in South African civil service are often revealed by the Auditor-General during the audit process. Irregular appointments means that certain human resources regulations are not always followed when the appointment was made. It simply signifies non-compliance with recruitment laws and regulations in order to favour certain individuals.

Undoubtedly, recruitment and promotion processes are the core competencies of the state agents but it was acknowledged that there are few exceptions. For instance, high political principals like the state Presidents have powers of appointing state agents such as judges to the bench of the high Court's (that is, Constitutional Court and Supreme Court of Appeals) and this is a practice worldwide. However, the appointment of judicial officials by the President is often based upon the Judicial Service Commission's recommendations. As noted by Max Weber (1948: 201), "the superior qualification and integrity of federal judges in the United States appointed by the state President is well known, although these judicial officials have been selected primarily in terms of party considerations". The political meddling onto the functions of the agents or rather the administration badly affects the retention strategies of the state institutions. Since the retention strategies in South African civil service are limited to the "counter offer system", it was argued that state institutions are restricted to find other viable options to retain competent agents. It was mentioned that many state agents are not always keen to accept the counter offers since the salary grading system only addresses the grading of higher salary notches as a means to retain state agents and excludes the movement between post levels (PSC Report, 2013: 12). One respondent during the meeting acclaimed "how do you retain an employee whom, you know very well as a manager that, does not add value to the institution?" (PSC, 30 October 2012). This question suggests that there is a problem with state agents appointed primarily on patronage politics without the required and generally prescribed and special examinations, which are prerequisite for employment in modern state institutions. This is because they often lack the capacity to optimally perform the required specialised job since the official activity demands the full working capacity of the expert official. Another respondent had this to say about political patronage in the administrative activities;

"As a newly appointed Head of Department, you find this person occupying this senior position within the department and you do not even know who and how this person was

appointed. You are stuck with this person for ever and you cannot just fire” (Roundtable Meeting, 30 October 2012).

The study further reveals that South African public service is characterised by too many “on-going acting roles”, especially at the senior management echelon due to high turnover of staff and suspension of some key state agents. The increased on-going acting roles simply suggest that there is administratively leadership instability in the civil service. The absence of sustained administrative leadership in state institutions threatens the built-up of institutional memory. As noted by *Mail & Guardian* (2014: 4), government departments such as Public Works, Basic Education and Local Government at the centre often borne the brunt of the administrative instability at the leadership level. High staff turnover, particular at more senior management level like heads of departments and other senior state agents, is blamed on lack of trust and suspicion by the political principals. This finding is in consistent with media reports that approximately twenty eight heads of departments at the centre between 2009 and 2014 did not complete their full employment terms of five years. Public Service Commission Report (2013) correctly argues that stability at the top of state institutions is vital for the effective functioning and performance of the South African civil service.

#### 4. Party System Theory

The party system theory indicates that the conduct of political parties influences the performance of the state institutions including the legislature since government is constructed by political parties. They can either limit or enhance the powers and operations of the state institutions. According to this theory, certain party systems are able to limit the extent or level of political principals or political parties dispensing political patronage. This theory distinguishes between “unstable party system” and “competitive party system”. One basic difference is on the level of competitiveness, meaning the likelihood that the incumbent governing political party or parties can be defeated. GrzymanA-Busse (2003) argued that lack of robust competition between programmatic political parties in the state results into ineffective and inefficient state institutions thus allowing a governing party or parties to dispense political patronage via state jobs. This in turn leads to corruption and poor governance, which are used widely as indices for measuring the quality or performance of the state institutions worldwide. In such situation where the state is inefficient due to poor governance systems and or corruption, the governing political party or parties legitimises itself or themselves based on their ability to reward supporters through selective incentives rather than their ability to generate the kinds of public goods necessary for human and economic development as well as growth. Empirical studies show that the African continent depicts both stable and fragile political party systems.

As noted by O'Dwyer (2006 cited in Kopecky, 2011: 715), patronage politics or behaviour should be expected in fragmented political party systems. In a fragmented or fragile political party



system, normally a single political party dominates either the Executive branch or the Legislative branch of government or both. Although, this does not suggest that post-apartheid South Africa has a fragile party system, the reality in post-apartheid South African politics is that the governing African National Congress (ANC) has dominated both the Executive and the Legislature both at the centre and the periphery. This dominance by a single political party has practically led to politicisation of the public service in South Africa. Johnson (cited in *Mail & Guardian*, 2014: 5) said “the reality is that the public service is politicised at least three or four layers down and often further.” A single dominant party normally monopolises access to the state resources, which often results into corruption by both the political principals and the state agents. In addition, Anne Pitcher argues that fragile political party system may be competitive owing to the increased number of opposition parties, which frequently rise and decline or merge (Pitcher, 2012: 80). South Africa is considered to be characterised by competitive party system, which suggests that there is political stability, but there may not be less exploitation of state resources and less application of political patronage. Proponents of party system theory argue that competitive party systems, as in South Africa and Ghana, constrain political principals from exploiting state resources and also dispensing patronage via state jobs. These scholars argue that party competition assists to moderate the behaviour of not only agency officials but also the behaviour of the governing political party or parties that fear punishment from voters in the next elections and from strong opposition party or parties.

There is no doubt that political competition persuades the incumbent governing party or parties to establish institutions of regulations and oversight that would limit and penalise any activities of corruption and other forms of state resource exploitation. These institutions of regulations and oversight are the national and sub-national legislatures, which deserve a little debate here. Anticipating electoral defeat under the conditions of fierce political competition, the incumbent governing party or parties create “independent institutions” of regulations and oversight such as the legislatures as an insurance against permanent exclusion when they may find itself or themselves in the opposition in the future (Kopecky, 2011: 714). Nevertheless and regarding the institutional capacity of these regulatory institutions, several studies have found huge variations in terms of the independence and institutional capacity or quality of many African legislatures. Many African legislatures, for example, with few exceptions of Uganda, Nigeria, Kenya, South Africa, and Ghana have been found to be characterised by very weak and vulnerable national legislatures and fragile party politics (Barkan, 2009; Barkan, Mattes, Mozaffar & Smiddy, 2010; Johnson, 2011). But these exceptional institutions of regulations and oversight have not been practically able to curb exploitation of state resources by either the state agents or political principals. More so, they have not been able to deal decisively with political patronage via state jobs in any country.

In South African context, for example, other institutions of oversight that support democracy and also enhance the work of the legislatures include the Office of the Auditor-General, Office of the Public Protector and Office of the Public Service Commission. These institutions often produce oversight reports that reveal the level of financial waste (irregular expenditure, unauthorised expenditure, fruitless and wasteful expenditure) and level of non-compliance with laws and regulations. They further reveal the level of corruption and impropriety in the civil service as well as the level of irregular appointments, among others. It is worth noting that several studies on the performance of African legislatures had focused on national level. But our analysis backed up by practical experience reveals that there are both commonalities and variations between the legislatures at the centre and the periphery in terms of institutional performance or quality and this also varies between political terms of incumbent political party or parties. As said earlier, the liberal South Africa is considered as having the “least” competitive party system as compared to its democratic African counterpart-Ghana. Ghana’s political party system is considered one of the best examples of “highly” competitive two party systems in sub-Saharan Africa (Morrison, 2004; Morrison & Hong, 2006). It is true that competitive politics increase the incentives for the opposition parties to uncover and expose political corrupt behaviour of the governing party or parties. But is not true that, as argued by party system theory, fearing the opposition party or parties and the voters, the governing political party or parties are more likely to abstain from exploiting the state and its resources as well as controlling executive political corruption (GrzymanA-Busse, 2003; 2007; Della Porta, 2004; Carbone, 2007; Kopecky, 2011). The media in South Africa, Uganda, Zimbabwe and Nigeria have in the past reported about many examples of political patronage and political corruption. The resultant outcome has been poor institutional performance or quality of the state in relations to economic growth and state financial management, as evident in growing spike of community service delivery related protests and high rates of unsatisfactory audit outcomes.

Our analysis however shows that despite being considered the best liberal nation and having competitive party systems in Africa, patronage politics via state jobs to party loyalists and supporters were common practices in both South Africa and Ghana. For instance, Kopecky (2011) found that there is a very small area in the state on Ghana and South Africa that is not reached by governing political party or parties at all but certain policy areas are given more prominence than others when the political principals consider dispensing patronage politics and exploiting state resources. According to Kopecky (2011: 725), Mbeki’s presidency was marked by far more aggressive and overtly political patterns of political patronage via state jobs and appointments. That said and despite having least competitive party system, the governing political party (ANC) in South Africa faces relatively weak and fragmented opposition parties both at the centre and at the sub-national levels. This finding suggests that there is very little difference in the depth and level of patronage politics in developing countries whereby party systems are

considered either fragile or stable. Our claim is consistent with the claim made by other scholars (for example, GrzymanA-Busse, 2003; Carbone, 2007; Kopecky, 2011; Pitcher, 2012). As said that patronage politics and or corruption is a global phenomenon GrzymanA-Busse (2007) gives an example of East Europe. GrzymanA-Busse (2007) observes examples of massive and rampant political corruption despite well-established institutions of regulations and oversight such as the legislatures. Similarly in Africa, Reinikka & Svensson (2004) show how the bulk of the education grant meant for the schools in Uganda was "captured" by the local state officials and politicians. Political corruption is defined as embezzlement of state resources by high-level political principals mainly in the Executive such as the state Presidents and Ministers and in extreme case it may also involve even the entire political class in the Legislature (Chang & Golden, 2001).

Therefore, it could be argued that although competitive party system encourages effective monitoring and an oversight of the governing party by the opposition parties and other relevant stakeholders (for example, civil society, the legislature, business sector, the judiciary), in practice it does not inhibit the abuse or exploitation of the state resources by political parties, political principals and state agents. However, existence of political patronage or corruption by high-level politicians in the Executive branch of government does not necessarily and always mean that there is inadequate and ineffective oversight by independent legislatures. Instead, it does simply show where the political power in practice at a particular time in point lie between the Executive and the Legislature since power is not static as it works like a pendulum. For instance, several studies of African politics have since suggested that the Executive branch of government is more powerful than the legislative branch. Regarding the "executive-legislative" relationship, which works like a pendulum, Johnson (2011), for example, gives an example of a magnet in his analysis of the triangle. Johnson (2011) argues that the magnet rests in each corner of the triangle and varies in size. The larger the magnet, the greater its pull effects on the metal ball thus its influence over the decision (Johnson, 2011: 18-19). He further suggests that the corner of the triangle exercising the greater influence has the strongest magnet and is able to pull the metal ball further in its direction. Johnson's (2011) analysis is practically applicable to the power relations between the Executive and the Legislature in South Africa in the sense that political power does not always rest in one place but decisions emanating from the Legislature, for instance, had to be negotiated. That is because the legislature at the centre is considered a strong and powerful institution of regulation and oversight but this varies between the political terms of the current governing political party. In addition, what is unknown at the local level is the capacity of this institution at the sub-national level since South Africa has nine sub-national legislatures. Therefore, further research is needed to comparatively analyse the performance and independence of sub-national legislatures in South Africa.

For example, the legislature at the centre generally during Mbeki's era, for example, was perceived to a bid weak and vulnerable. This is because members of the national legislature often behaved in a conformist manner in order to retain their favour with high-level politicians in the executive such as the President. According to Malesky *et al.* (2012: 767) and Johnson (2011: 86), conformist behaviour means that individual members of the legislature often do not ask any question(s) that might criticise or embarrass the high-level politicians in the executive or even in the political party. Holden (2012) observed members of the Standing Committee on Public Accounts in South Africa then buckling up under intense political pressure from the executive as well as the governing political party during the Arms Deal scandal hearings. "Who do you think you are, questioning the integrity of the... Ministers and the President" (Holden, 2012: 117). Elsewhere in Africa, empirical evidence suggests that the conduct of political parties directly influence executive-legislative relationship, apparently in favour of the executive. In such situations, the legislature becomes incapable to limit the powers of the executive to dispense political patronage and exploitation of state resources. Therefore, it can be inferred that competitive party system neither limit political patronage nor enhance the quality or performance of the state institutions.

## 5. Meritocratic Theory

This theory literally rejects political patronage via state jobs as enhancing the performance or quality of state institutions. Proponents of this theory (for example, Weber, 1948, 1968; Ritzer, 1975; Andreski, 1983; Johnson & Libecap, 1994; Evans & Rauch, 1999; Miller, 2000; Henderson et al., 2007; Dahlstrom, Lapuente & Teorell, 2011) argue that political patronage leads to politicisation rather than professionalization of state institutions. Politicisation of the state institutions eventually culminates into poor institutional capacity and lack of accountability on public goods provision as the system is immoral and a democratic pathology. Dahlstrom et al. (2012: 656) give an example of the mayor of Spain between 2001 and 2003 who replaced "merit-recruited" state agents with political appointees. According to these scholars, the Spanish mayor was able to coordinate his corruption intensions with appointees he had himself selected based on political patronage. Conspicuously, the theory of meritocracy argues that poor performance by state agents appointed on political patronage is often blamed on others or covered up by their political principals. Empirical evidence indicates that officials appointed based on political patronage may be recalled at any time once they have lost favour with their political principals. As noted by Kanyane (2006: 117), with a culture of patronage politics an atmosphere of playing safe is often created, which is not conducive for responsible and accountable bureaucratic institutions. Similarly, Ramphela (2012) agrees that South Africa has not instituted true meritocratic culture that promotes excellence and equality in the entire civil service. Proponents of this theory strongly maintain that people in the state should be appointed on merit because

such officials see office holding as a vocation. For this theory, office holding is not considered a source to be exploited for rents or emoluments nor is considered a usual exchange of services for equivalents (Weber, 1948: 198-199).

In the study of bureaucracy, Max Weber, for example, advocated for “career personnel” with specialised training and expertise, among others, as the prerequisite for employment in any bureaucratic institutions. Of course, Weber’s work on bureaucracy has a profound impact on our theoretical understanding of how principal-agent relationship within institutions plays out and how the bureaucratic institution developed. Therefore, the theory of meritocracy has intellectual roots from the Max Weber’s study of a bureaucracy. Moreover, Woodrow Wilsons (1887 cited in Rosenbloom, 2008: 57) in his study of administration also argued for administration apparatus that is devoid of politics and meddling after he was concerned about the bureaucratic system in America that operated as a bastion for political patronage (see Nelson, 1982; Skowronek, 1982). Proponents of this theory suggest that democratic states all over the world should shun away from political patronage via state jobs and embrace a culture of meritocratic recruitment and promotion. They argue that access to institutions of government as an employee should be conditioned on the bases of possession of relevant knowledge, skills and qualification credentials, what Max Weber (1968) refers to as “*expert-officialdom*”. This is due to the fact that partly qualified officials in terms of specialised training and examination always enter the state as employees with an understanding that office holding is a vocation. The executive office is separated from the households much as business assets are separated from private fortunes. Proponents of this school of thought give examples of some countries such as Australia, Brazil, China, Japan, UK, etc., that have also introduced a system of tough public civil service examination to select the best potential candidates for the state institutions as agents. It is argued that the civil service examination system in China has a created a unique class of “*scholar-bureaucrats*” irrespective of family or party pedigree (Fukai & Fukui, 1992; Chang, 2008).

We did not observe any single African country in public administration literature that has introduced a similar system to select best candidates. However, practical observation reveals that rather than introducing and applying this public service examination system to select best candidates for the state, the democratic South African state has however introduced a unique system whereby potential job candidates are made to write psychometric tests to assess their level of competence. The limitation with this system of psychometric tests is that it is not applied across all state institutions in all the three spheres of government. It is only handful of state institutions that sometimes apply the system. Notwithstanding the test, the theory of meritocracy argues that state agents need to be hired and promoted based on technical competence/merit rather than political connection and activism. Once this is done, competent state agents will eventually enhance the administrative capacity of the state institutions to provide quality public goods and services as well as efficiently managing the public monies. A study by the United

Nations University and also the World Bank conclude that state institutions perform better on public goods provision, become more responsive to societal needs and less corrupt if the people whom the state employ are recruited on merit, comparatively well paid and have internal promotion not distorted by political patronage (World Bank, 1997).

Furthermore, the theory argues that meritocracy is the necessary, though not sufficient, condition for the state to be developmental since certain Africa countries (for example, South Africa) aspires to follow on the footsteps of “Asian Tigers” (that is, Japan, Taiwan, South Korea, Singapore, China) in the 1980s and 1990s in terms of achieving phenomenal economic growth. It is undeniable that since the early 2000 under Mbeki’s presidency, the rhetoric in South Africa has been of constructing a democratic “developmental stat”. Nevertheless, the theory of meritocracy is based on the foundation that meritocracy promises equal opportunities to all job candidates both in the private business and the public sector irrespective of political affiliation and political activism, race, gender, class, etc. In similar vein, Weber (1968) argues that meritocracy ensures that a middle class or peasant educated persons have the same opportunity of entry into bureaucratic organisation employment as an upper class or wealthy person. Regarding recruitment patterns, our analysis indicates that South Africa is characterised by “mixed” recruitment patterns. Some state institutions dispense political patronage via state jobs while others promote the notion of meritocracy in order not only to enhance the quality of the state but also to professionalise the state. It could be argued that often the state agents who are appointed on political patronage rather than qualification often fail to differentiate between administrative activities of the institution and party activities. The reason may be that South Africa does not have a law, which prohibit state officials from engaging in party politics or activity while on official duty and using the state resources. Research shows that the US, for example, introduced a law (for example, The Hatch Act of 1939) which prohibit “political appointees” from engaging in political activity while on official state duty and at the federal workplaces.

In addition, the analysis suggests that meritocratic recruitment and promotion practices tend to be promoted at lower and middle management levels of the state institutions rather than at the apex (e.g. positions of power and control) of institutional structures. The appointment of those state agents on political patronage rather than merit (for example, Head of Departments, Chief Financial Officers and other senior managers) at the apex of institutional structures has created problems of poor strategic planning output and capacity deficit in many state institutions in South Africa pertaining to fiscal management and public goods provision. Furthermore, it has also created institutional instability as evident in increased number of prolonged acting roles as a result of suspensions of more senior state agents by their executive authorities and high staff turnover. As a consequence, many state institutions are finding it difficult to get “clean audit outcomes” or least unqualified audits with no findings. As the Auditor-General (2012) generally



points out, the performance of many state institutions in the country is increasingly regressing than improving since there are no consequences for poor performance.

It is undeniable that the theory of meritocracy provides the most compelling case for any nation that seeks to professionalise its state institutions and becoming developmental. The claim about meritocracy is corroborated by many several studies that there is direct causal relationship between meritocracy and institutional quality or performance as well as a country's economic growth (Evans & Rauch, 1999). Yet in 2011 an attempt was made in South African local government system level to depoliticise municipalities by amending the Municipal Systems Act of 2000. The amendment in the Municipal Systems Act was aimed professionalising municipalities by providing that professional qualifications and experience become the criteria for governing the recruitment and appointment processes, especially for senior state officials. The Act further provides that senior political principals at any level of the political party or parties' structures are not to be appointed to the apex of the institutional structure of local government as agents. However, the Act made an exemption for state officials, especially political principals, who were already in the state institutions as agents in the sense that the provision did not apply to them when the Act took effect. Despite this, the Act harshly disciplines the state agents at the local level who are deemed corrupt by declaring that re-employment of any dismissed state agent, especially on cases of financial misconduct, is unlawful for a period of ten years. This provision simply suggests that once an agent is dismissed from work on cases of financial misconduct, such a person will not be employed in the state at any sphere for a period of ten years.

At least formally, this was an appropriate step by South Africa at the local government level where patronage politics seems to be wide spread to limit its application. Unfortunately, this Act's application (*Municipal Systems Amendment Act, 2011*) does not extend to the two other spheres of government (national and provincial). This is because section 41(1)(g) of the *Constitution of the Republic of South Africa (Act No. 108 of 1996)* provides that all spheres of government must "exercise their powers and perform their functions in a manner that does not encroach on the geographic, functional or institutional integrity of government in another sphere" (RSA, 1996: 25). Although, individual state institutions in South Africa may have their own internal policies that promote meritocratic recruitment and appointment practices, South Africa needs a policy from the centre that will aim at professionalising all state institutions at all level. This should not be left to individual spheres of government such as the local government to do. This is because the state at the centre is responsible for setting up a national developmental vision for the country. It is further responsible for supporting through funding and overseeing provincial and local governments in implementing national policy vision, thus needs the competencies to steer up implementation through legislated norms and standards. Another problem in South Africa, despite existence of good policies and competitive party systems, is the practical application of



the policies in terms of implementation by the state agents due to, *inter alia*, lack of capacity and budget constraints.

## 6. Conclusion

While South Africa has a huge pool of “expertly” trained and qualified labour force to draw from, this paper argued that there should not be political meddling in recruitment and promotion process in the state administration by political principals and or political parties. Political meddling in administrative recruitment process has in many cases led to inappropriate or irregular appointments, high turnover of state agents, and thus resulting into too many prolonged acting roles due to high suspension rates in state institutions. Empirically, the paper found that state officials in South Africa, especially those who deal with recruitment processes, want less political meddling in administration pertaining to recruitment and promotion processes. It suggests that where the governing political parties or the political principals see a need to dispense patronage via state jobs, considerations should be given to the political deployee’s qualification credentials and integrity. Furthermore, the paper has established that retention strategies of the state institutions are badly affected by political patronage since people get appointed based on political grounds than merit. As a consequence, the state institutions find it difficult to retain officials who do not add value to the state pertaining to public goods provision due to lack of appropriate training or capacity. The paper asserts that the theory of meritocracy presenting the most compelling argument for the state to professionalize itself and to become developmental. It supports other existing studies that professional institutions are the key explanatory variables for why some countries become wealthier in terms of socio-economic outcomes than others. The paper concludes that stronger and more powerful institutions of regulations and oversight like legislatures are needed to enforce the true meritocratic culture that promotes excellence in the civil service.

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## THE NEXUS OF CORRUPTION AND SOCIAL PATHOLOGIES: COMPLEXITY OF INTERDEPENDENCE WITH CANCER/HIV/AIDS AND ORGANISED CRIME

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### Abstract

This paper attempts to provide insight into the complexity of changing patterns of corruption to demonstrate that, like the subcultures of organised criminal institutions, it is in a state of continuous flux that is similar to the mutations in cancer. Metaphors are useful in explaining complex phenomena. Pandemics such as cancer and HIV/AIDS have come to be accepted metaphors for corruption because they characterize the slow but sure decline of a body, organisation or country occasioned by the breakdown of systems. Commonly, organised crime and HIV/AIDS are characterised as social pathologies. HIV/AIDS breaks down the immune system, making a patient vulnerable to various opportunistic infections, thereby providing useful analogy for organised crime. On its part, organised crime is a manifestation of corruption in network structures that can be both national and transnational. This paper argues that the nexus of systemic corruption, transnational organised crime and HIV/AIDS demonstrates not only interconnectedness, but also interdependence that underlines the complex mutations.

**Keywords:** Corruption; Cancer; HIV/AIDS; Organised Crime

### 1. Introduction

Over the last two decades the debates around corruption have acquired a new intensity and concentrated focus. Corruption rose to the top of the global development agenda. The destructive effect of corruption on development is also directly related to transnational crime. This issue has already contributed to concerns about “failed states” and even “criminal states”. It must be accepted that organised crime and corruption in its systemic manifestation are alternative forms of governance compared to what is perceived as governance in democratic states. The current discourse on the nature and impact of corruption focuses very strongly on its systemic nature. This is evident in the metaphors of cancer and the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) adopted in the discourse on corruption. References to these metaphors are explained by Klitgaard (2010: 15): “Like disease, corruption comes in many forms, some cancerous, some mild. Like disease, corruption can be widespread like a pandemic or occasional like the mumps”; while Bitarabeho (2003: 1), for example, has stated that “corruption is a cancer that eats the social, political and economic fabric of development and requires the involvement of every citizen to combat it”. Metaphors can be useful to explain complex phenomena with relative simplicity. However, before applying these two disease metaphors here, it is necessary to focus on what the phenomenon of corruption entails.

### 2. Corruption as the Problem Situation(s)

The World Bank (WB) defined corruption as the use of “public office for private gain” (World Bank, 2007: 9). This is one of the most commonly used definitions of corruption within the

public domain. In the 2007 publication the WB still maintains the definition of the 1997 publication, but when read in context the definition acknowledges the complex nature of the phenomenon. The expanded definition of the WB distinguishes between “isolated” and “systemic” corruption (World Bank, 1997: 9-10). Isolated (or accidental) corruption is described as “rare, consisting of a few acts, it is straightforward (though seldom easy) to detect and punish”. In this case, non-corrupt behaviour is the norm, and public and private sector institutions exercise integrity. Both formal and informal systems are strong enough to return the system to a “non-corrupt equilibrium”. On the Corruption Perceptions Index (CPI), Transparency International (2011) Norway is ranked 9<sup>th</sup> out of 183 countries and scores 9 out of 10 (with 10 being a perfect score for good governance). Norway is an example of instances of isolated corruption. Systemic corruption, on the other hand, is pervasive, or entrenched, and corruption is routine between and within the public sector, companies or individuals. Formal and informal rules are at odds with one another. Corruption may be illegal, but in this case it is routine in transactions with government or business. Equilibrium exists (also called a “systemic corruption trap”) where incentives for corruption are very attractive for companies, individuals and public servants – attractive enough to be purposefully exploited rather than resisted, because of a high likelihood of success in an environment supportive of corruption. Based on the CPI, Transparency International (2011) Kenya is ranked 154<sup>th</sup> out of 183 countries and scores 2.2 out of 10. Kenya is an example of a country with systemic corruption.

The WB adjusted its definition slightly to replace “public office” with “trusted office”. By implication the role of the private sector is also acknowledged by this modification. However, the WB's adjusted definition still fails to acknowledge the general nature of corruption as being systemic – a concept that suggests interdependence on deviant behaviour between public and/or private sector institutions. From a systemic perspective, the WB's definition does not capture the essence of corruption and is inadequate for managing corruption. Corruption is a function of dishonesty, a lack of integrity and the abuse of private and/or public office for personal gain. However, it occurs most frequently and pervasively when there is a “culture” of corruption, when the risk of exposure is lower than reward for corrupt behaviour. This is because of the mutual acceptance of and mutual interdependence on, corrupt behaviours between corrupters (initiators) and corruptees (participants) within an institution.

Corruption represents a breakdown in integrity. According to Rose-Ackerman (1996: 2), integrity implies “honesty, probity, uprightness, moral soundness, moral stature, principle, character, virtue, purity”. Antonyms of integrity are “deceit, venality, corruption” (Shepherd, 2006: 447). Latin for “integrity” is *in-teger*, meaning “what is not touched, taken away from, or interfered with” (*Stanford Encyclopedia of Philosophy*, 2010a). *In-teger* can therefore be interpreted as “wholeness”. Therefore, “integrity” should be a central (albeit opposing) concept in any root definition of corruption, because it represents consistency in “actions, values, methods,

measures, principles, expectations and outcome” (Stanford Encyclopedia of Philosophy, 2010a; Stanford Encyclopedia of Philosophy, 2010b). The Oxford Advanced Learner’s Dictionary (2005: 714) defines “holistic” as follows: “considering a whole thing or being to be more than a collection of parts”, and in relation to medicine: “treating the whole person rather than just the symptoms”. This definition corresponds with the definition in the *Verklarende Handwoordeboek van die Afrikaanse Taal (HAT)* (Odendal, 1985: 401), which emphasises that holism is a philosophical statement “*wat berus op die beginsel dat die geheel meer as die som van die dele is*” [based on the principle that the whole is more than the sum of its parts]. The HAT definition emphasises the inherent characteristic of holism, namely the whole is of greater significance than the sum total of the individual independent parts. This seems to be a most appropriate insight for the purposes of this study. Holism is also prevalent in the most precise and the most appropriate core definition of a system is probably the one by Ackoff (2009: 6), who described a system as: “...a whole defined by one or more functions, that consists of two or more essential parts”, that satisfy the following conditions:

- “Each of these parts can affect the behaviour or properties of the whole;
- None of these parts has an independent effect on the whole;
- The way an essential part affects the whole depends on what other parts are doing; and
- Every possible subset of the essential parts can affect the behaviour or properties of the whole but none can do so independently of the others”.

Corruption can therefore be defined as “an impairment of integrity, virtue or moral principle; depravity, decay, and/or an inducement to wrong by improper or unlawful means, a departure from the original or from what is pure or correct, and/or an agency or influence that corrupts” (Merriam-Webster Dictionary, 2010). A scholar may argue about “what is pure or correct”, but the essence of the definition is clear. Equipped with a better understanding of corruption as a systemic phenomenon, it is now appropriate to apply the two disease metaphors to crystallise an understanding of the destructive effects of corruption on a holistic system.

### 3. Research Objectives and Literature Review

Following from the problem that corruption is so difficult to define and to describe, the objectives of this article are:

- To use the metaphors of cancer/HIV/AIDS to explain the corruption phenomenon.
- To describe the nexus of corruption with organised crime.
- To provide an increased understanding of the systemic nature of corruption.

To investigate the systemic nature of the corruption phenomenon, it was required to consult sources with a preference to provide a better understanding of its systemic nature. Due to the research methodology applied, a relatively wide range of literature were consulted.



#### 4. Research Methodology

The research methodology as applied in this article is based on systems thinking methodologies and specifically the soft systems approach. The meta-assumptions associated with this methodology are based on the following: The context is that of an open system; interactions follow a network structure of interdependent relations between numerous components. Systems theory was chosen as the framework for design of the article. In order to understand the researcher's choice and motivation of the framework for research, it is necessary to focus briefly on the historical development of systems theory and the evolution of soft systems.

**Systems theory** can be dated back to the Greek philosophers, such as Plato. More recently, Smuts (1926) in his book "Holism and Evolution" introduced the concept of holism that contrasted the idea of a "*geheelgryp*" in scientific thoughts with analytical or reductionistic thoughts. Since the 1930s, authors such as Koehler, Weiner and Von Neumann, Bartalanffy, Katz, Kahn, Simon and Building have written about the differences between open and closed systems and self-regulation. During the 1970s, system simulation formed the methodological basis for the first Club of Rome report, "Limits to Growth". During this time, a distinction was introduced between "hard systems" that can be described with clarity and for which clearly defined solutions can be found through linear and scientific investigation; and, "soft systems" that cannot be described with clarity and for which no easily defined solutions can be found. Examples of hard systems are machines and the human body; and people in organisations are examples of soft systems. The management of soft systems is different from the management of hard systems. The social sciences study area of complexity developed from the natural sciences studies in cybernetics in the 1990s and chaos theory of the 1980s. During the 1970s the study of soft systems already anticipated the current complexity arguments, such as corruption.

The term "**soft systems approach**" was coined by Checkland but earlier conceptual contributions by authors such as Ackoff, Gharajedaghi and Churchman provided a strong intellectual foundation to this approach. Churchman (1982), Ackoff (1981) and Gharajedaghi's (1999) contributions to soft systems studies were that they provided conceptual clarity about articulating and defining key concepts in addressing systemic problem situations. Soft systems mode of enquiry is largely conceptual in nature and most suitable for "messy/knotted" and ill-structured problem situations where interdependent elements occur that cannot be analysed independently (Jackson, 2008: 183). Soft systems focuses specifically on the social and human application of problem situations such as corruption. The soft systems approach does not require clear objectives before the problem solving process can start, as is the case in the complex problem situations of corruption and development. Root definitions and conceptual models assist soft systems for analysing problem situations from different perspectives.

In addition to systems thinking methodologies and the soft systems approach, the methodologies that follow were blended and applied. Conceptual analysis, that focuses on the

meaning of words or concepts through clarification and elaboration of definitions of key concepts and their interpretation. The conceptual framework facilitated the systematic presentation of material and logical consistency. Hermeneutics, which entails interpretation, reinterpretation and reflection of texts on corruption where texts get a relative meaning in terms of its bigger and/or smaller context. A requirement for applying hermeneutics is that the author has had to consult an appropriate wide body of relevant literature, because all texts and their interpretations have to be "tested" within their contexts. Thus, the necessity for distinguishing between primary and secondary sources seems irrelevant for the purpose of this paper. The focus shifts now to the discussion and findings of the paper.

## **5. Corruption as a Cancer/HIV/AIDS**

The Eritrean Ministry of Information used the metaphor of cancer to explain the impact of corruption as "a dangerous cancer that will destroy a healthy culture, pollute the moral and accepted values of the society, undermine the rule of law, decimate the social and economic rights of the majority and retard the production capacity of the people and government. It is the greatest threat to national security" (Klitgaard, 2008: 1). Such cancer is also destructive of development initiatives. The similarities between cancer and corruption are perhaps best illustrated by means of the HIV/AIDS metaphor. The main contributors to cancer have their roots in socio-economic factors or lifestyle (for example, stomach cancer) and genetics (for example, bone cancer). HIV/AIDS has an ethical and moral dimension that cancer does not have. HIV/AIDS tends to have a higher prevalence rate and impact at the lower end of the socio-economic continuum than on the affluent. For example, some women from poor households without formal occupational skills take to prostitution as a means to survive, increasing their risk of contracting HIV/AIDS. Poor people are vulnerable to the impact of corruption, for example, the poor in Zimbabwe who survive on food donations cannot afford delays in distribution because of corrupt officials, who can make a difference between life and death. The affluent are also vulnerable if their comfortable lifestyles are based on greed; if greed is combined with lucrative but illegal opportunities, it contributes to corruption. The affluent also become involved in situations where they could contract HIV/AIDS, such as multiple sexual partners, medical treatment and sport, if the probability of being infected with the disease is perceived as being low. As is the case with HIV/AIDS, the affluent are better informed than the poor about the implications of corruption if they are caught, such as scandals, being convicted and loss of social status, and are thus in a position to take better precautions and to manage the risks better than the poor.

HIV/AIDS breaks down the immune system of a patient, making him/her vulnerable to various other opportunistic infections, such as colds and pneumonia. These diseases are just symptoms of the "real" or "second-order disease", corruption. Treating only these "first-order diseases" such as HIV/AIDS will relieve the symptoms temporarily, but will not contribute to

curing or preventing HIV/AIDS, which reduces life expectancy as a whole. Corruption also breaks down the immune system of a social system, an institution, because it creates the atmosphere or climate for other diseases to flourish, for example, conflicts of interests. These “symptoms” are just manifestations or multiple faces of the second-order disease called corruption. The best treatment can extend the life expectancy of HIV/AIDS patients by several years, given the financial ability to afford the best antiretroviral treatment. With corruption, institutional life expectancy can also be extended, either with more regulation and monitoring, or with an increase in the abuse of political power to protect corrupt and/or politically connected individuals. As more systems are subverted by HIV/AIDS and corruption, the disease becomes more severe, for example, liquidity problems, and institutions eventually “die”, like patients whose whole immune systems have been fatally compromised. Indicators of (social) death are illegitimate institutions with very limited trust and very limited social capital, where individuals operate in self-serving cliques that protect their corrupt members from exposure and prosecution. Organised crime is also connected with HIV/AIDS and these “diseases” have some symptoms in common, that is, a high prevalence of drug abuse, women and child trafficking, and prostitution. Criminal groups and HIV/AIDS are both social pathologies that represent deeper underlying problems in a society or country. Pathology is a biological term that refers to a condition of illness – a deviation from what is regarded as normal vigour. A societal pathology refers to a shortage in terms of the desire or ability (in terms of development) of rulers and managers to remove a persistent development obstruction (Spies, 2003: 7). In penetrated states and countries with a high HIV/AIDS prevalence, people become tolerant of corruption or HIV/AIDS. An indicator of such tolerance and resistance to “treatment” is when people justify their HIV/AIDS status or corrupt behaviour because the culture is one where “everybody does it”. When such a culture prevails, members lose hope of a better and shared future, because the corrupted culture is so entrenched and so unjust that members cannot see how a change is possible.

To provide a long-term cure for corruption and HIV/AIDS, it is necessary to create legalised and “hard” institutional structures, that is, measures to regulate, monitor and penalise people engaging in corruption and associated practices such as prostitution; as well as to implement “softer” measures, that is, improving knowledge, morality and social accountability. “Patients” need institutional and legal protection, financial assistance, social safety networks, expert knowledge and counselling to deal with the antagonism associated with both diseases. The earlier the symptoms (of corruption/disease) can be identified, the better (social/individual) patients respond to treatment. For this reason, health workers and anti-corruption agents and/or fighters need to have expert knowledge and skills as well as commitment to diagnose these diseases as early as possible. For example, if cancer can be identified before the aggressive duplication of cancer cells, chemotherapy is not necessarily needed. When the state of health of institutions can be monitored regularly, the lucrative opportunities for abuse of power and other

manifestations of corruption such as unsupervised responsibilities, excessively wide discretion and limited accountability can be eliminated. Indicators can be developed to profile corruption-stricken institutions. "New patients" receive inspiration from patients who are responding positively to treatment and living sustainable and fulfilling lives. For this reason, best practices can be used to develop strategies to "fight" these diseases systemically. Since HIV/AIDS and systemic corruption have commonalities with organised crime, a further exploration of the connection between systemic corruption and organised crime is needed.

## **6. The Connection Between Systemic Corruption and Organised Crime**

Protection of, and by, powerful politicians and institutional elites in a culture where there is tolerance of corruption can extend such protection to include organised criminal groups in return for financial and non-financial favours. For example, Jackie Selebi, the former National Commissioner of the South African Police Service and Chief of Interpol, protected Glen Agliotti, a drug boss, insisting that Agliotti was his friend. When such a "corrupt relationship" exists between formal and legitimate institutional leaders and organised crime bosses, organised crime penetrates the political power of the state (state capture) and creates what is called "a penetrated state", even threatening national security (Klitgaard, 2008: 1). In some cases the state is not only penetrated by organised crime; political leaders take control of organised crime, transforming a penetrated state into a criminal and/or failed state, as happened in Somalia. Such a state is doomed for "death", with the presence of terrorism, revolutions and military coups. Penetrated and criminal states with a high level of organised crime suffer symptoms of severe or systemic corruption. The symptoms of organised crime and its impact extend to high levels of smuggling of contraband, theft, violence and murder, making a penetrated state extremely difficult to rule in the absence of legitimate state institutions. International criminal groups such as the Italian, Indian, Israeli, Russian and Triad (Chinese) mafias are attracted to the protective climate or culture of systemic corruption. Contraband includes "Prohibited articles, illegal imports, illegal exports, smuggled goods, unlicensed goods" (Shepherd, 2006: 188). A penetrated state provides protection, a "safe haven" for these mafias to operate with political and police protection (Sipho, 2009: 123-175).

There is a connection between systemic corruption, local organised crime, transnational organised crime and globalisation. Transnational criminal organisations (TCOs) are highly proficient, dynamic, mobile and have an entrepreneurial flair that enables them to operate across borders with only minor inconvenience. TCOs are transnational organisations par excellence. The Cali syndicate is perceived by some as the most successful transnational criminal organisation in the world (Williams, 1994: 96-113). Cali, a cocaine-based Latin American syndicate, expanded its product range to include heroin, which has a much higher profit margin than cocaine and other types of drugs, opening additional markets in Western Europe through

Spain and Portugal, an indication of its innovativeness and entrepreneurial flair (Williams, 1994: 96-113). TCOs have many advantages over public sector institutions, such as being very flexible and 'fluid' network structures rather than having fixed bureaucratic structures; excellent intelligence and technology as opposed to uncoordinated intelligence and inadequate technology; not democratically accountable for their behaviour compared to increased global and local expectations of accountability; centrally coordinated syndicates rather than multiple departments that are semi-autonomous; and one objective of maximising profit as opposed to multiple objectives, constituencies and agendas (Williams, 1994: 96-113; Buscaglia & Ratliff, 2005: 10). The "fluid" network structures of TCOs enable "webs of influence", which are far more effective than any formal structure in allowing criminals to exploit opportunities. Such networks are loose and temporary arrangements. The key to understanding criminal organisations is the "network" concept. All networks have social value, that is, networks in the labour market to get employment are as important as applicants' competencies, and neighbourhood networks can provide security and other social benefits of cooperation (Putnam, 2007: 137-138). Criminal networks are at the same time "pervasive and intangible, ubiquitous and invisible, everywhere and nowhere" (Williams, 2001: 64-65). Such networks cut through divisions of specialisation, rank, ethnicity, culture and wealth. These networks of social organisation enable illegal markets to be more efficient, reducing transaction costs and increasing opportunities for both buyers and sellers, upstream and downstream (for example, drug trafficking). The (secret) network structure of TCOs enables them to neutralise law enforcement initiatives, and also to be sensitive to threats and opportunities (Williams, 2001: 74-75). The success of local criminal organisations and TCOs lies in their social organisation, the networks or webs of highly flexible and cross-cutting relations that can maximise opportunities and reduce risks. Social networks enable participants (including criminals) to achieve goals they could never achieve without such networks. Networks of social organisation create social capital. Al Qaeda is an excellent example of an organisation with a high level of social capital (Putnam, 2007: 138).

The integration of economies through trade (globalization), the growth of global financial networks, technology and faster means of travel (air) and communication (e.g. the internet) are enabling transnational organized crime in, for example, its trade in drugs, wildlife, human organs, and women and children, as well as in money laundering, cyber-crime and terrorism. Williams (1994: 96-113) stated that "globalization of international financial networks has facilitated the emergence of what is, in effect, a single global market for both licit and illicit commodities". Money made in the production and selling of drugs needs to be "legalized" in order to enter the "formal economy". Such money is legalized through the buying of property and creating "ghost companies" (money laundering). Some emerging economies become "safe havens" for "washing" the money of organised syndicates (for example, Mexico). Once a state is perceived as "penetrated", organised criminal groups deliberately attempt to undermine the functioning of

the state. Organised crime becomes the institutional culture with its own values, such as routine deception, and the rules of violence and ruthlessness. TCOs operate outside the formal and legal rules of states. They circumvent state policies.

In such a culture, where the institutions and the systems of the state are weakened, organised syndicates deliberately infiltrate strategic components, such as customs and excise (contraband), police (for example, the Agliotti-Selebi case) and the procurement sectors. The procurement of armaments with the protection provided by the secrecy of defence tenders and large capital-intensive projects is a favourite area of lucrative benefits for individuals active in organised crime. As mentioned by Buscaglia and Ratliff (2005: 10), these strategic institutions are important, because the levels of organised crime and public sector corruption are determined by the quality of what they called "central state institutions". Organised syndicates form "alliances" to infiltrate and facilitate illegal production where costs are low and allow the advantage of local knowledge, as well as to cooperate rather than to compete with one another. Examples of such alliances between transnational syndicates include: the Sicilian and Italian mafia (cocaine and heroin), Nigeria and the Japanese *yakuza* (heroin), the Turkish and Danish mafia, and the Dutch and Turkish mafia. Such alliances are threats to national and international security, because they undermine the effective functioning of legitimate states. Alliances challenge state monopoly on controlling organised violence and can be more destabilising than terrorist groups (Williams, 1994: 96-113).

As a result of the devastating effect of organised crime in weakening states, the following question arises: Can citizens' involvement in such activities be profiled? Some indicators or symptoms of citizens' involvement in organised crime are as follows. First, the citizens' living standards are far beyond their formal and legal occupations. Secondly, members do not want to take leave from the office, because they constantly have to "guard" the intricate network of relations in their syndicates and keep "tabs" or control over their competitors, who continuously change the rules of the game to outsmart each other in order to secure a monopoly. Thirdly, illegal organised businesses are taking over legal businesses with police protection. Fourthly, members act immorally and/or illegally but with impunity, because they either control the drivers of the system and/or they are protected by other members in the network in whose mutual interest it is to provide protection. These features do not only provide an indication of citizens' possible involvement in organised crime, but they can also be an indicator that a state is in transition towards becoming a "criminal state". Once organised crime monopolies are established, no competition is tolerated, creating uncertainty not only for potential competitors, but also scaring investors away from such an insecure business climate. Such insecurity creates a negative cycle or recurring loop in that it attracts more TCOs.

An example to demonstrate the close and secret link between corruption and organised crime is the so-called Travelgate scandal in which the South African Police seized R1 billion of

contraband, 83 members of parliament (MPs) pleaded guilty, 1 891 arrests were made and 1 305 investigations were finalised, making this one of the biggest, if not the biggest, corruption scandal in South African history (Sipho, 2009: 123-175). The scandal cost the taxpayer R26 million. Most MPs were from the ruling party, the African National Congress (ANC). Under President Zuma's leadership the ANC decided to halt the parliamentary investigation (Sipho, 2009: 213-214). This scandal caused unhappiness in the leadership of the ANC, because many MPs benefited from their connection with the contraband syndicates. The scandals of corruption and organised crime are not limited to contraband. International criminal groups such as the Italian, Indian, Israeli, Russian and Triad (Chinese) mafia are attracted to the protective climate or culture of systemic corruption. South Africa provides a "safe haven" for these mafias to operate with political and police protection. South Africa is perceived as a penetrated state (Sipho, 2009: 123-175).

The nexus of systemic corruption, local organised crime, transnational organised crime and globalisation entails not only interconnectedness, but also interrelatedness and an interdependence. TCOs operational in drugs, prostitution and human trafficking are also contributing to the spread of HIV/AIDS. These syndicates, especially those that operate in states that have been penetrated and where systemic corruption is pervasive, entice poor and/or vulnerable women and children with very limited hope of a better future into prostitution and drugs. Such syndicates exploit the powerlessness of such women and children to make them dependent on these unsustainable and illegal activities that contribute to the spread of HIV/AIDS. The next section provides conclusions and recommendations of the corruption metaphors and the nexus between system corruption and organised crime.

## **7. Conclusions and Recommendations**

This paper has argued that systemic corruption is dynamic, innovative, flexible and ever mutating. It asserted that systemic corruption and organised crime are interrelated, interdependent and interconnected, and that they are mutually beneficial and reinforcing. If political leaders are connected with organised crime, they might even take control of organized crime. Penetrated states attract organized crime syndicates to operate with government and police protection, intimidating legal businesses with devastating socio-economic costs. However, the use of metaphors such as cancer/HIV/AIDS should be interpreted with caution, because of the possibility of over-simplifying the nature and effects of corruption. This paper attempted to provide insight into corruption, which is elusive and difficult to define or describe. It is recommended that institutions use the metaphors of cancer and HIV/AIDS to create awareness and understanding of the phenomenon of corruption. An increased awareness and understanding of corruption can contribute towards civic initiatives which demand action from politicians to reduce the scourge.



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## THE POLITICAL-ECONOMY OF CORRUPTION IN THE POST-APARTHEID SOUTH AFRICA

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### **Abstract**

Despite efforts taken to combat corruption in every sphere of government, corruption remains one of the biggest challenges the South African government is faced with. It is with no doubt that the problem of corruption has captured the interest of the media and the public in general. The purpose of this paper was an attempt to extend discussion and deepen the knowledge of the meaning and nature of corruption and its effects in the post-apartheid South Africa. From the information and evidence gathered, the author of this paper maintains the fact corruption should be regarded as a threat to any nation as it delays the process of sustainable development. The government should therefore introduce radical policies to eradicate corruption in all sectors of the economy and since corruption is a relationship of "give and take", both the giver and the receiver must be prosecuted. However, the struggle against corruption requires collective efforts and a broader commitment from communities, business sectors and the public in general to fight corruption. Once this commitment is achieved, there is no doubt that the battle against corruption can be won.

**Keywords:** Political-economy; Corruption; Post-apartheid; South Africa

### **1. Introduction**

Commitment to good and clean governance, and thus anti-corruption is still one of the main priorities of the democratic South Africa and its governance since 1994. The Council for the Advancement of the South African Constitution (CASAC, 2011) reported that despite progress made, corruption remains one of the biggest challenges the South African government is faced with. Reports of corruption in almost every sphere of government are increasing drastically, (Corruption Perception Index, 2012). Since the dawn of democracy in South Africa, some people within the public, started to view corruption as a new crisis that began to torment South Africa only since 1994, some even think that the ruling party (the ANC) led the country to the most shocking corrupt state. However, to assume and think that the ANC has corrupted a once "corrupt free state" is wrong and misleading. It is important to acknowledge that before 1994, much of the foundation of the South African state was ethically and legally corrupt. Apartheid itself was declared a crime against humanity by the United Nations. This implies that corruption existed both in colonial and post-colonial South Africa and therefore should not be regarded as a new phenomenon. Lodge, (2001) acknowledged that to recognise the role of the South African history in understanding current forms of corruption is not to accept defeat but it helps to deepen our understanding of the nature of the problem the country is faced with. It then goes without a say that corruption must be dealt with, in a holistic manner, as a matter of urgency.

Although this is an area that needs further research, it is important to acknowledge that corruption does have negative effects on the economy and the way the public see and interact with the government and this may in turn lead to a loss of confidence by general public to state. Due its secretive nature, it has become more difficult than ever before to deal with corruption in South Africa or elsewhere in the world. According to Kaufmann (2004), what makes it more difficult to reduce corruption is that corrupt people are not homogenous and the policy of eradicating corruption might fail if it fails to take into account the differences within the ranks of the corrupt people. All these issues are difficult enough for any government to come with the best policy to solve the issue of corruption. It is however important to note that the purpose of the paper is not an attempt to undermine collective efforts taken by the government to reduce corruption. It is rather an attempt to extend discussion and debate around the issues of corruption in South Africa. To this end, the paper is therefore an attempt to raise awareness and understanding on the problem of corruption. More importantly, it is a step towards securing transparency and accountability on part of public functionaries. The paper seeks to shed some light on the issues of corruption in South Africa and by so doing, the paper seeks to address the following questions: what is the nature of corruption in South Africa? What are the costs of corruption in a democratic society? Answers to these questions will provide a clear view to fully understand corruption and its consequences on the post- apartheid South Africa.

## 2. Conceptualisation of Corruption

Though the concept of corruption is difficult to define and to measure, what makes it to deliver a clear sense of what corruption means is because it is committed many forms that differs from one country to another. However, there is a general agreement that corruption includes the following manifestations:

**Bribery:** Is the most familiar among corrupt processes: it consists of payments by individuals or firms to public officials in order to influence administrative decisions under their responsibility. Bribery covers a wide range of administrative decisions, determined by the scope of government regulations and activity. It frequently overlaps with the other two corruption categories through the collusion of briber and bribe (The Public Service Anti-corruption Strategy of 2002). Camerer (2001) defined bribery as the payment of a fixed sum, a certain percentage of a contract, or any other favour in money paid to the state official in charge of making contracts on behalf of the state. He noted that to pay or receive bribery is corruption per se, and should be understood as the essence of both extractive and redistributive corruption.

**Fraud:** This involves actions or behaviours by a public servant, other person or entity that fool others into providing a benefit that would not normally accrue to the public servant, other persons or entity. Example: A public servant that registers a fictitious employee in order to collect the salary of that fictitious employee (The Public Service Anti-corruption Strategy of 2002).

**Abuse of power:** This involves a public servant using his/her vested authority to improperly benefit another public servant, person or entity (or using the vested authority to improperly discriminate against another public servant, person or entity). Example: During a tender process but before actual selection of a successful contractor, the head of department expresses his/her wish to see the contract awarded to a specific person (The Public Service Anti-corruption Strategy of 2002).

**Conflict of interest:** This involves a public servant acting or failing to act on a matter where the public servant has an interest or another person or entity that stands in a relationship with the public servant has an interest. Example: A public servant considers tenders for a contract and awards the tender to a company of which his/her partner is a director (The Public Service Anti-corruption Strategy of 2002).

**Favouritism:** This involves the provision of services or resources according to personal affiliations of a public servant. For example, a regional manager in a particular Province ensures that only persons from the same tribe are successful in tenders for the supply of foods in to the manager's geographic area of responsibility (The Public Service Anti-corruption Strategy of 2002). Akindele (2005) on the other hand defined favouritism simply as the normal human tendency to favour friends, family and anybody close and trusted. He argued that in the political sphere, favouritism is the desire of state officials and politicians, who have access to state resources and the power to decide upon the distribution of these, to give preferential treatment to certain people when distributing resources. In addition to these types of corruption, other authors also offered definitions of what corruption is. For instance, Cloete (1996: 28) indicated that the word corruption refers to a dishonest, bribable, fraudulent or dishonourable action by a political office-bearer, public official or other person. He argued that corrupt action will be an unaccountable action. Thus it is obvious that an accountable government and public administration will have to be uncorrupted. Kaufmann (2004: 19) defined political corruption as perversion or destruction of integrity in the discharge of public duties by bribery or favour; the use or existence of corrupt practices, especially bribery or fraud, in a state, public corporation. Embedded in Kaufmann, corruption involves the unlawful use of state resources for personal use and political legitimation. He stated that the abuse of entrusted power by political leaders for private gain with the objective of increasing power or wealth. In conclusion, understanding these types and definitions helps to understand what and what is not corruption as it sometimes wrongfully described as maladministration, incapacity and inefficiency, especially in some public institutions.

### 3. Economic Costs of Corruption

With an attempt to draw a theoretical understanding of the consequences of corruption in a democratic state, the author of this paper review previous studies in order to get a sense of

the extent of the kind of effects corruption have or had on economy. The World Bank (1997) describe corruption as one of the greatest obstacles to economic and social development, because it undermines development by distorting the rule of law and weakening the institutional foundation on which economic growth depends on. Gupta (2002) studied the impact of corruption on income growth and inequality. He found that corruption has a significant negative impact of corruption on income inequality and income growth for the poorest 20% of a country. In addition, the World Bank (2005) estimated that each year US\$ 20 to US\$ 40 billion, corresponding to 20% to 40% of official development assistance, is stolen through high-level corruption from public budgets in developing countries. Bakare (2011) in his study argues that corruption undermines economic development by creating inefficiencies that significantly reduce a country's welfare. He argued that the impact of corruption on the nation is not limited to the economy as it also hinders against social, environmental and political development. In addition, a study by Ades & Di Tella (1999: 24) also found a strong negative relationship between economic development proxy by GDP per capita and level of corruption. Akindele (2005) discovered a strong significant negative relationship between corruption and development. He undertook an empirical investigation of the effects of corruption in Nigeria. He estimated a modified production function which included labour, capital and political instability, corruption index is negative implying that it is consistent with the hypothesis that corruption retards growth. He argued that corruption in whatever form is hazardous to the development of any society. In addition, Rock & Bonnett (2004) tested for the robustness of corruption on growth and investment using four different corruption measures. They found that corruption slows growth and/or reduces investment in most developing countries.

Meon & Sekkat (2005) equally found a significant negative impact of corruption on growth. They argued that this impact is not only independent from corruption's effect on investment but also tends to worsen as the quality of governance deteriorates. According to Tanzi (1997: 142) an important channel through which corruption affects economic performance is by impacting both the volume and the composition of government expenditures and revenues, subject to existing tax legislation and incomes. He noted that the net effect of corruption is almost surely to increase the fiscal deficit while at the same time reducing the efficiency of public spending and of the tax system. In addition, Mendez & Sepulveda (2006) studied the effects of corruption on long-run growth by incorporating measures of political freedom as a key determinant of the relationship. They argued that the effect of corruption on growth is robust only in the sample of countries that have achieved a high degree of political freedom. It is however important note that the literature remains inconclusive about the impact of corruption on economic development of the country. Some authors argued that corruption has the potential to improve efficiency and growth. Leff (1964), for example, viewed corruption as the necessary "grease" to lubricate the stiff wheels of rigid government administration. In his study, Lui (1985)

explained how bribes can minimize the costs associated with queuing in government services. He argued that corruption can consequently enhance the efficiency in public services. Surprisingly, Myrdal (1968) stated that instead of speeding up procedures, corrupt officials actually have an incentive to cause greater administrative delays in order to attract more bribes. In view of the above arguments, it is clear that there are two opposing views with regard to corruption and its economic costs. However, from the literature reviewed, one would argue the costs of corruption outweigh the benefits. Therefore, despite these contrary views and findings from previous studies, the author maintains that corruption should be considered as threat to the progress of any democratic society.

#### **4. Corruption from a South African Perspective**

For the two past decades, the South African government has been serious about combating corruption and has focused attention on it. The reasons for the government's attention are not only that corruption undermines service delivery and hampers economic development but also threatens democracy by undermining good governance. According to Camerer (2001: 55) corruption in South Africa has long been a characteristic of public service. He stated that since the dispensation of democracy in 1994, there is increase in the widespread perception of corruption and that corruption is perceived as a problem at all spheres of government and at all occupational levels in South Africa. Caremer (2001) emphasised that poor systems and inadequate internal controls tend to provide opportunities for corruption to thrive. Additionally, Lodge (2001: 161) stated that there are new sources of stimulation regarded as the causes of corrupt behaviour in post-apartheid South Africa. According to Lodge, non-merit processes of bureaucratic recruitment and nepotism which arises from political solidarity are the main sources of corruption in a democratic South Africa. In 2004, the department of public service established the National Anti-Corruption Hotline (NACH) and by March 2008, 4202 cases of alleged corruption had been reported to the Public Service Commission. The NACH reported that R86 million was recovered through successful investigation and disciplinary procedures. The Council for the Advancement of the South African Constitution (CASAC, 2011), stated that the source of corruption in South Africa is rooted in the country's bureaucratic traditions, political development, and social history.

The Transparency International Corruption Perception Index released in 2012, shows that the perceived levels of corruption in South Africa increased from 1996 to 2000. The survey found that 11% of participants had been expected to bribe a government or public official to receive a job or basic service. According to the survey, the perceptions of government effectiveness in the handling of corruption was as follows: more than 68% of respondents believed that government is doing enough in combating corruption by maintaining transparency and accountability, while 26% disagreed and a mere 5% strongly disagreed and 5% were uncertain. However, the



challenge with perception-based measures is that they may not measure corruption accurately as they only measure the perceived corruption. In view of the above views and reports, it is clear that South Africa perceived as a corrupt state. The reasons for such a perception are justified by the amount of corruption that has actually been exposed. However, it is important to also acknowledge efforts taken by the South Africa to fight corruption. The government introduced various institutions and policies to combat corruption in all spheres of government. These policies are outlined as follows:

- The Corruption Act, of 1992
- The SAPS Anti-Corruption Unit
- The Public Protector
- The Public Service Anti-Corruption Strategy of 2002
- The Prevention of Corruption Bill of 2002
- The Office of the Auditor General (OAG)
- National Anti-Corruption Hotline (NAHC)

There are many other institutions which were introduced by the government to combat corruption in South Africa. Though, corruption it remains difficult to fully reduce corruption in the country, these institutions did achieve much in terms of awareness and reports to expose corruption within all functionaries of the government. This calls for a review of these policies and institutions to ensure that they are properly implanted and they remain effective and relevant in fighting corruption in all spheres of government.

## 5. Conclusion

This paper argued that corruption should be regarded as a threat to society because it could derail the process of development. An educated and active civil society is crucial to ensuring accountable government and administration. This area remains largely neglected by the South African government. There can be no doubt that the struggle against corruption will only be won if there is a broad and committed partnership between political parties, government, businesses, communities and other organs of civil society to seek effective ways to eradicate corruption. There should be a collective desire by all participants in the economy and the public in general to eradicate corruption. Perhaps, corruption should be declared “a crime against the poor”.

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## PROPORTIONAL REPRESENTATIVE SYSTEM FOR LOCAL GOVERNMENT: EROSION OR ENHANCEMENT OF THE CULTURE OF ACCOUNTABILITY AND TRUST?

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### Abstract

South Africa's democracy is premised on liberal and representative principles. It holds democratic elections as an ideal every five years. Representative democracy was inaugurated through proportional representation system (PRS) whereby the electorate elect their representatives to govern on their behalf. This paper interrogates the essence of proportional representation (PR), as an electoral system and mechanism institutionalized in South Africa for citizens to elect their representatives. The PR is institutionalized and entrenched in the Municipal Electoral Act of 2000 where it regulates a proportional representation vote. This system dictates that all parties' candidate lists and lists of ward candidates are to be submitted for the purposes of contesting the elections. The paper argues that the employment of PR does not only distance the citizens as the primacy decision makers in governance-related issues but it is also brutal in eroding accountability while at the same time entrenching the mistrust and a culture of dependency. If local government is the "government of the people by the people and for the people", it should therefore belong to the people. Though PR citizens delegate and entrusted political representatives to govern on their behalf, political representatives however pursue their own interests and not those of the citizens. The mixed proportional representation and constituency electoral system could encourage leaders to be accountable to the people. The paper concludes that through PR, the elected representatives tend to become more answerable to their parties than to the citizens and, as such, accountability rests solely in the hands of the representatives.

**Keywords:** Local Government; Proportional Representatives System; Accountability; Culture; Trust

### 1. Introduction

South Africa has been subjected through the protracted processes and systems of colonialism and imperialism and later Apartheid which resulted into societal fragmentation and divisions aggravated further by racial, gender and ethnic discriminatory policies (Mashele & Qobo, 2014). According to Gumede (2014: 15), apartheid and colonialism left black South Africans with massive "existential insecurity" which Norris & Inglehart describe as "a persistent, generalized sense of threat and unease". This existential insecurity has contributed towards systematically threatening people at every level, personal, familial, communal, cultural and national. In addition, this existential insecurity has generated what Gumede (2014) calls "illiberal attitudes" in the wider citizenry in the form of violent crime, a low level of tolerance for differences, xenophobia, social conservatism thus giving rise to broken society and broken individuals. At the social level, people were divided into "first" and "second" citizens and the race and ethnic score card was used for apartheid divide and rule tactics (West, 1988). Politically, blacks were not only denied their full citizenship within the Republic of South Africa but were also further partition into ethnic groupings and legislations were enacted relegating them to the homelands or reserves. For the UNDP (2000: 76), apartheid has been instrumental in introducing and consolidating "divide-and rule race-based politics". Mhone & Edigheji (2003: 1) argue that given South Africa's history and

enduring socio-economic legacy of inequalities with respect to wealth and income distribution, and access to employment and income generating opportunities, social services and economic infrastructure, whereby the majority Blacks and predominately the Africans population has been disadvantaged while the White population has been privileged minority.

Considering these unfortunate scenarios which transpired over the decades, it is not surprising that the first democratic government inaugurated in 1994 was tasked not only to design inclusive and developmental policies and programmes but also to ensure all South Africans especially those who were previously excluded and marginalized are part of the mainstream society. Thus transformation at both national and local government level was geared towards the creation of people-centred and people-driven society capable of transcending top-down and bureaucratized public institutions into inclusive and democratic public service capable of serving the interests of the public. In the context, UNDP (2000) argues that transformation is expressed as the process through which institutions of the apartheid government are transformed into accessible, open and inclusive institutions of a democratic state. According to the UNDP (2000: 76) transformation in the South African context include the provision of channels of access, patterns of inclusion, and resources for action and norms about decision-making that conform to the promotion of active citizenship. It is against this background that this paper interrogates the essence of proportional representation (PR), as an electoral system and mechanism institutionalized in South Africa for citizens to elect their representatives. On one hand, is electoral system which is deliberated within its context of its potential to widen political party representation while on the other hand it can be instrumental in alienating citizens from governing themselves.

## **2. Theoretical Underpinnings of Liberal-Representative Democracy**

Democracy is a political system which is associated to the “government of the people” (Van Niekerk, 2001: 302). The notion of democracy is derived from two Greek words, “demos” and “kratos” which mean the “rule” (kratos) by “the common people” (demos). In differentiating democracy from other forms of governance, Van Der Waldt (2005: 25) argues that democracy is about inclusiveness, representations and participation. Saward (2003: vii) defines democracy as a powerful political weapon upon which wars are fought and justified in its name. Similar articulation was advanced by Giddens (2010: 68) who alludes that democracy is the “most powerful energizing idea of the twentieth century”. The notion of democracy and its popularity has its conceptual roots in the city-states of ancient Greece, known in the contemporary societies as “direct democracy” (De Villiers, 2001: 19). McNaughton (2002: 42) argues that classical Greece was not one single state, but had a series of city states, each of which developed its own political system, ranging from despotic monarch to extremely open forms of direct popular rule. Compared to other form of political governance systems, democracy is easily identified and is still considered as one of the preferred system of governance world-wide. Saward (2003: 15-16) provided some definitions relevant for this paper such as:

- Democracy by the people that form of government in which the sovereign power resides in the people as a whole and is exercised directly by them.

- A political system of which it can be said that the whole people, positively or negatively, make and are entitled to make, the basic determining decisions on important matters of public policy.
- Democracy means etymologically – rule by the demos, the people: the people themselves make the decisions.
- Basically democracy is government by discussion as opposed to government by force, and by discussion between the people or their chosen representatives as opposed to a hereditary clique.
- A democratic regime is taken to mean first and foremost a set of procedural rules for arriving at collective decisions in a way which accommodates and facilitates the fullest possible participation of interested parties.

The common denominator to all these definitions are that democracy is the system of governance where the will of the people is fundamental in determining how power could be exercised for the benefit of all the people. According to Ferrante (2008: 315), democracy hinges on a system of government in which power is vested in the citizens and in the citizenry participation directly or indirectly in making decisions.

There is an intricate relationship between liberal democracy and representative democracy. One of the fundamental commonality is that both types are installed through democratic elections which are periodic in nature. In the modern and contemporary societies, Saward (2003: 148) associates liberal democracy which focus on constitutional guarantees of individual freedom and rights, among them, rights to equality of voting power on one hand while on the other hand, representative democracy characterizes any version of democracy which highlights decision-making by the elected representatives of the people. Ferrante (2008; 315) argues that the size of the citizen population is a determining factor especially making direct participation (im)possible. Usually decision making often takes place indirectly through elected representatives which give rise to indirect form of governance known as representative democracy. Democracy in its current form was popularized by Abraham Lincoln, the former President of the United States of America who during his Gettysburg Address of November 1863 spoke of 'government of the people, by the people, for the people (in van der Waldt, 2005: 25).

Democracy in the context of South Africa was regarded as a motivational foundation for people to enter into the struggle for political liberation. Taylor (1997: 187) alludes to the reality that in the context of the struggle in South Africa, democracy meant more than having the right to vote (political) ... but it was also about the openness of societal structures to ensure the effective participation of all people. In this regard, RDP (1994: 121) argues that:

“democracy for ordinary people must not end with formal rights and periodic one-person, one-vote elections. Without undermining the authority and responsibilities of elected representative bodies, the democratic order envisaged should foster a wide range of institutions of participatory democracy in partnership with civil society on the basis of informed and empowered citizens”.

The above statement asserts that democracy should go beyond the enclivity and rhetoric of representative democracy to embrace participatory and deliberative forms of democracy. According to the RDP (1994: 120), democracy requires that all South Africans have access to

power and the right to exercise their power and ensure that all people are able to participate in the process of reconstructing their country. 20<sup>th</sup> years of democracy and freedom is celebrated amidst the failure to create an equal society and a people centered society, a better life for all. Shapiro (2014: 8) captures the situation as:

“Twenty years on, though, we are still battling to achieve a better life for all. Our public hospitals are in despair and our education system is sub-standard. Communities frequently protest against poor municipal services delivery, a third of our population subsists on social grants and more than half our youth are jobless. High-level of corruption, crime and cryism undermine business confidence”.

This scenario has partly contributed to “democratic deficit” with local people being overwhelmed by the feeling of disempowerment and disillusionment. Seepe (2012: 1) posits that the central message is that democracy is fundamentally about people and he further indicates that institutions and instruments of democracy exist to serve people and not vice versa. Wheeler (2009: 348) shares similar sentiment by arguing that a healthy democracy is an important element of sustainable communities in that it can enable informed decision making, meet the needs of diverse constituencies and fulfill ideals of fairness and equity.

### **3. Research Methods**

Qualitative approach was used to comprehend and deliberate on the essence and challenges of proportional representative electrical system within the context of liberal representative democracy at local government level. The paper used local government and its 2011 general elections as a case study to document the advantages and limitations of proportional representative system. This paper is based on the data obtained mainly from relevant secondary sources such as books, accredited journals and magazines. Importantly, secondary data was augmented by primary sources from selected interviews with local government officials and politicians as well as ordinary citizens and community activists. The data for this paper was guided by the following questions:

- What is the importance of elections in a country like South Africa?
- Who is eligible to vote and for what purpose?
- In the elections, should we vote for individual candidate or for the party and why?
- What are the advantages of using PR-system in South African local government?
- What do you think are the limitations of this system?
- In your opinion, what could be the limitations and strengths of using both the PR and Constituency systems in South Africa?

These questions were instrumental in assisting the author to wrestle with fundamental issues and challenges pertaining to “democratic deficit” and the extent to which proportional representation electoral system has contributed towards entrenching disillusionment and disgruntlement among the citizens as valuable electorates.

### **4. Identification and Analysis of Electoral Systems in South Africa**

Representative system of governance is underpinned by indirect decision-making where the method through which representatives are elected matter (Heywood, 2000). Various electoral



systems do exist and are adopted for various political reasons and common to all is the process of selecting suitable candidates to hold office (Amtaik, 2013). There are various electoral systems that exist and each nation is guided by its national vision to choose which one is application. Despite their variety of ways, Heywood (2000: 199) opines that voters may be advised to choose between candidates or between parties; they may either select a single candidate or vote preferentially, ranking the candidates they wish to support in order; the electorate may or may not be grounded into electoral units or constituencies; constituencies may return a single members or a number of members. However, Heywood (2000: 199) argues that the most common way of distinguishing between electoral systems is on the basis of how they convert voters into seats. Laver (1988: 181) alludes to the fact the process of selection has two main stages. The first stage has to do with the selection of candidates while the second stage a choice is made from among candidates, of representatives. Elections may nevertheless be either democratic or non-democratic. On one hand, democratic elections adhere to the principles such as universal adult suffrage; one person one vote, the secret ballot and electoral choice offered by completion between both candidates and political parties. While on the other hand, non-democratic elections are said to exhibit features such as the right to vote and restricted on grounds like property ownership, education, gender or ethnic origin; voters are subject to pressure or intimidation or only a single candidate or single party can contest the election (Heywood, 2000: 199).

In South Africa, the choice of electoral system(s) is determined by South Africans and their quest to create a non-racist, non-sexist and democratic society as enshrined in the *Constitution* (1996). There is also a 'dual electoral system' the Proportional Representation (PR) Electoral System and what is known as the Simple Plural Majority System. A PR system is also known as the closed party-list system and party representation is guaranteed. According to Heywood (2000: 201), party representation is favored because it is reliably linked to electoral support and ensures that government has a broader and majority support amongst the electorates. Arguments in favor of PR depend to a large extent upon 'fairness' and by implication, upon efficiency. In this regard, Mangcu (2011: 1153) opines that:

"While elections give people a sense that they have some measure of influence over authorities, a heightened degree of political efficacy in turn leads to higher level of electoral participation".

Mangcu (2011) further highlights that this reciprocal relations manifest itself in four ways, the first having to do political mobilization to enhance interaction, secondly, as the act of voting it pushes people to get involved in the political process, thirdly, quality of candidates including the campaigns has an impact on how people feel about the political process and finally the author adds that the elections themselves can be an important ritual that has the potential of increasing the levels of social solidarity

In the first place, proportionality is seen by Laver (1988: 184) as a good in itself, because it is equated with democracy. In the second place, PR systems are more effective at representing national, as opposed to regional or local interests. The second important electoral system is Simple Majority System also known as "First-Past-The-Post System" or Majoritarian System' based on simple-member constituencies (Laver, 1988; Heywood, 2000; Amtaika, 2013). Unlike the



PR system whereby the representatives are voted into office, in a Simple Majority System, citizens vote directly for their representatives and are able to hold them accountable for their actions. Amtaika (2013) argues that government officials meet citizens directly and as such true democracy is practiced. Through "First-Past-The-Post System" the candidate who gains more votes is the winner. The proponents of this system claim that it is more important to vote for the candidate than for the party. Laver (1988: 184) highlighted that single-member constituencies prevent representatives from passing the buck when the problems arise hence encouraging government responsiveness. The advantage of this system according to Heywood (2000: 200) is that it allows government to be formed that have a clear mandate from the electorates and have the capability of increasing the likelihood of strong and effective government.

## 5. Findings: Elections as the Bedrock for Democracy

### *5.1. Opportunities and Limitations of Proportional Representatives System (PRS)*

#### *5.1.1. Elections in Liberal-representative Democracy*

Liberal theorists are renowned for focusing on procedural aspects of democracy as a means to afford citizens the opportunity to elect people who can govern on their behalf. The importance of elections as the mechanism for liberal representative democracy is highlighted by Mangcu (2011: 1156) who argues that liberal theorists focus on procedural aspects of democracy such as elections, fairness, and tolerance and individual rights. Importantly, Saward (2003: 28) equates democracy to be about people voting and he further highlighted the problem associated with voting as such a mechanism display flaws which at the same the flaws of democracy itself. Thus Saward (2003) regards the deficiencies of democracy as the deficiencies of the people. For Ferrante (2008: 315) representative democracy is famous for holding free elections which in turn gives every citizen the right to vote. In this regard, elections are the hallmark of democracy whereby people are not only provided with democratic right to elect their representatives but also ensure that are replaced when not performing. It is unfortunate that through proportional representation distance the citizens from governing resulting in democratic ideals such as accountability and transparency being compromise. Runji (2013: 84) argues that the failure to apply accountability and transparency mechanism in government makes a mockery of the trust that citizens' place on elected representatives to guard their interests. Through elections, the local populace is afforded a golden opportunity to participation more particularly in electing their representatives into office. In this context, Davids (2005: 11) argues that participation should not end with the elections but should also be a process that structurally incorporates the voices of communities. Within the context of liberal representative democracy, representation and participation form part of the fundamental pillars within which democratic right to vote is exercised by citizens. Within a constitutional dispensation, Cooray (2002 cited in Minnaar & Bekker, 2005: 59) considers elections as one of the core elements whereby such democratic right is exercised by citizens based on universal adult franchise. In political science, the political process and elections are regarded as the main avenues for democratic accountability. Brinkerhoff (2001: 303) designates elections as a decisive element within democratic regimes in the sense that a government's continuation in office is subject to the 'will of the people' as

manifest at the ballot box. The importance of elections is further illustrated by the following comments:

“For me elections are the only avenue through which I can make my voice heard. It does not mean that elections by themselves are an end in themselves but a powerful tool in the hands of the citizens whereby informed people could elect their leaders and also demand accountability and transparency as well as sound and fair representation in the municipal councils or parliament” (Ward Councilor, 2014).

Considering that democracy is not just about electing government, Mangcu (2011: 1153) posits that while elections are a crucial means of democratic accountability, much more is needed to achieve a democratic political culture. Elections either at national and provincial as well as local government level should be understood as one of the mechanism for citizen participation. Van der Waldt (2005: 35) makes it obvious by arguing that citizen participation in a democracy is by voting in elections. According to one of the community activists:

“Elections are very important for both the rich and the poor, although hosted every five years, they give citizens the power to vote out the parties which are under-performing and turn the deaf ear to the demands and needs of the people”.

A young person who has just voted for the first time in the 2011 local government elections expressed the need to vote by saying that:

“It was for the first time to vote, I am excited to vote because I want my vote to be accounted. Considering that young people in South Africa are faced with daunting challenges such as poverty, scourge of HIV/AIDS and more particularly the rising youth unemployment amongst the unskilled, semi-skilled and graduates”.

In a democratic society the right to vote – and consequently the right to select and remove government is according to Jones et al. (2004: 137) perhaps the most fundamental right of the citizen. On one hand, electoral theorist such as Mesfin (2008) and Huntington (1993) support the above assertion by associating elections as the prerequisites of democracy while on the other hand, Struwig (2013: 1122) grounds elections as the primary channel through which citizens choose and remove their political leaders, granting them authority while at the same time keeping them accountable.

#### *5.1.1.1. Equal Opportunity for Political Parties*

The chosen electoral system in democratic South Africa is fundamentally influenced by the society which is envisaged by all citizens as non-racist, non-sexist and a democratic (*Constitution*, 1996). It is therefore not surprising that the South African constitution is a distinctive product of the transition process with inclusive structures of various public commissions, boards, councils and virtually every public institution reflecting these attempts to be as inclusive and representative as possible. In this regard, Maphai (2004: 14) highlighted that:

“The electoral system of proportional representation was designed to ensure that minority parties were not voiceless and that parliament was widely representative”.

Through proportional representative system, periodically citizens elect their own representatives who in turn are obliged to act on people's mandate and behavior in a manner that do not compromise the ideals of democracy. In support of the PR system, Zybrands (2006) indicates

that the strength of the PR system is its inclusiveness as the proportion of parties which indirectly reflects the vote, and the closed list system enhances the representation of smaller parties and constituencies such as ethnic minorities and women. One of the political activists said that:

“South Africa is a diverse and heterogeneous society with different races, agenda, religious affiliation, ethnic groupings, cultural backgrounds, etc. and the suitability of the PR system is based on its capacity to accommodate diverse political parties whom would have no chances to be part of the electoral democracy if other electoral methods were to be used”.

Mangcu (2013: 1160) argues that the proportional representation system does not only provide parties with equal opportunity to compete but it also fosters a culture of obeisance to the party leadership.

#### *5.1.1.2. Mandated Role of Elected Representatives*

Through electoral democracy, the elected representatives carry the socio-economic and political mandate of the people who elect them into power. The representative democratic arrangement by design becomes a reciprocal process in which the citizens exercise their democratic right to vote the preferred candidates. Political scientists and public administration scholars are often pessimistic that electoral democracy does not only provide golden opportunity for citizens to have a choice or representatives to govern on their behalf but also accord the political processes to elect such leaders as part of empowering the electorates. Van der Walldt (2005: 35) highlighted the importance of elections and the process of electing representatives by asserting that:

“There is general agreement that one of the important building blocks for local democracy is representative and accountable local government ...the way in which municipal councilors are elected is crucial, as this will determine whether ordinary citizens feel that they have a stake in their councils, and that councilors take their concerns seriously”.

Such processes entail voter education undertaken by private and independent bodies, thus conscientizing people about the importance of voting as the fundamental right as well as the political campaigning conducted by various political parties and the actual voting. With the dominance of political party at the centre of electoral democracy, it became apparent that the elected representatives have a clue of the mandate to be fulfilled once they are elevated into power. Elected officials or representatives are seen to play an important role especially in debating, implementing and transferring policies at local level. Rose (1993: 52) argues that as policy transfer, elected representatives together with their values give direction to public policy and their endorsement is needed to legitimate the adoption of programmes. The municipal councilor had this to say:

“First and foremost, we are elected officials by the people and as such we are equally obliged by the Constitution to serve the needs and demands of the people. The reality is that in order to serve the public, proper interpretation and understanding of all national policies and municipal by-laws is imperative” (Interview, Ward Councilor, 2014).

In addition, elected officials occupy a central and decisive position in the local polity because they are strategically positioned to set the boundaries of acceptable policies during their administration.

## ***5.2. Limitations of Proportional Representatives System (PRS)***

### *5.2.1. "Democratic Deficit" in the PR System*

Compared to forms of political electoral systems, it could be said that proportional representative system (PRS) without elected representatives being held accountable has the potential to lead to democratic deficit as espoused by scholars such as Goss (2001) and Mouffe (2000). In this regard, Mouffe (2000: 4) defines "democratic deficit" as growing lack of identification with democratic norms in liberal democracies. Goss (2001: 120) however argues that democratic deficit is due to the failure in the mechanisms of legitimacy and accountability. The deepening of democratic deficit has also contributed to the situation where citizens lose trust in their elected representatives and political parties. Consequently, while some people have the guts to demand political accountability through embarking on strikes and demonstrations, others have decided to withhold their votes by boycotting the elections.

In the context of local government, elected representative through PRS such as councilors are either ward or PR caught in the vortex of serving two masters namely the electorates who voted them into power and the political parties who nominated them to be on the candidate lists. Since the dawn of the democratic dispensation, local government was not only inaugurated as the sphere of government but was also given democratic and developmental functions. The White Paper on Local Government (1998) mandates local government to play a pivotal role especially in promoting the growth of the local economy, increase the job opportunities within its jurisdictional area, and utilize local resources wisely so as to improve the quality of life for all its inhabitants. This developmental mandate distance itself from which Hilliard (1997: 33) warns against as mistakes committed by other African nations who treated local authorities as administrative lackeys of the central government. It is therefore in this context that Koster (1997: 102) argues that local authorities in South Africa should not only administer and exercise control but should also perform additional developmental roles or tasks.

### *5.2.2. Erosion of Accountability and Imposition of Serving Two Masters*

Through proportional representative electoral system, eligible citizens are privileged to vote for political parties and in turn appoint representatives based on their respective party list. Amtaika (2014) highlights the dilemma embedded within the PR System by saying that:

"On one hand, the irony of this system is that political parties wield excessive power and influence that the people who voted them into power while on the other hand, the elected representative have no real power hence the ultimate power to make decisions lies in the hands of the political leaders" (interview, 15 March 2014).

This system does not only make it impossible for people to hold the politicians and their respective parties accountable but also allow politicians a free reign whereby they disregard fulfilling the people's mandate. Political accountability is an anchor to the legitimacy of both the potential candidates and political parties contesting the elections. In the past elections, concern

relating to the ability of elections to hold government accountable in which Schulz-Herzenberg (2009: 23) points out that when parties cease to 'fear the ballot box' they are likely to become unresponsive and ideologically entrenched. Thus Hamill (2004: 702) advances this debate by saying that an extended and uncontested period in power can engender complacency, arrogance and corruption in the incumbent party.

### 5.2.3 *Distancing People from the Act of Governing*

Democracy by its very nature is the government by the people for the people. This statement underlies the process of democratizing democracy in favor of the governed. Proportional electoral system has the potential of alienating and distancing the electorates once the elections are over. Through this system, people have no upper hand in electing candidates whom they know and can trust but are systematically subjected to the political party who are to compile a candidate list. More often, the system reduces people to be electioneering stooges who are conditioned to partake actively during the electoral campaigns and the actual elections. Once the elections are over, people for various reasons are treated as subjects whose intelligence is not adequate enough to direct the local government affairs. Despite all election promises, the post-election period is characterized by lack of transparency and accountability especially to those elected into office. The myth that the elected will act on people behalf rapidly disappears and the state of "lulla moment" is accompanied by the culture of entitlement and corruption. This situation is also attributed by people's compliance and over-trusting their elected representatives without demanding transparency and accountability. Goss (2001: 57) highlighted this dilemma by stating that:

"People inside local government and other public agencies have often done their best to meet local needs, but have been imprisoned within ways of looking at and understanding the world that seal them off from the experiences, understanding and perceptions of the people they serve".

In the case of South Africa, it could be argued that the adoption of this electoral has in one way failed the people and render them a peripheral status. Various institutions have been established since 1994 such as the Public Protector, the Human Rights Commission, the Commission for Gender Equality, etc. (de Villiers, 2001: 65-66). These institutions have a common purpose of defending democracy and protect the rights of citizens; unfortunately such structures have failed the poor and the economically less privileged. Consequently, ordinary people have decided to utilize "informal oversight structures" primarily for the purposes of ensuring social justice prevail and democracy is defended. The term 'informal oversight structures' is used here to refer to the numerous and varied community structures that spontaneously spring up to address a perceived problem in the handling of public services and the distribution of public resources. Mubangizi & Tshishonga (2013: 310) argue that in South Africa, these "informal oversight structures" manifest themselves in what has come to be called "public service delivery protests". They come under many names including concerned youth groups, concerned citizens' groups and shack dwellers associations, to mention but a few. While these spontaneous groups may have varied reasons for formation, Alexander (2010: 30) cites poor services (such as inadequate roads, dirty water supply, and insufficient sports facilities) and pitiable local

government (including nepotism, lack of transparency and indifferent, incompetent, and contemptuous officials) as the primary points of concern. What is clear is that service delivery protests are principally about the lack of basic services and inadequate local administration, and that communities see these protests as a means of gaining the attention of the media, the politicians and the bureaucrats. They are able to attract attention because they deploy such tactics as the use of stay-always and barricades with flaming tyres, destruction of private and public property and the intimidation of non-sympathetic community members Mubangizi & Tshishonga (2013). While informal and often (unfortunately) violent, such processes act as a form of oversight since they generally succeed in spurring officials and politicians alike into action and induce them to act with caution in future.

#### *5.2.4. Creating Dependent Citizens*

Central to free and fair elections within the representative democracy is the activation of active and responsible citizenship. South Africa has just emerged from the regime which was decisive in partitioning people into first and second citizens. Various policies were introduced during the colonial and apartheid eras and central to all was to relegate blacks (including Africans, Indians and Coloreds) as second citizens while their white counterparts enjoy the privileges of being the first citizens of the Republic of South Africa. With the introduction of the Homeland System, black people were forced to relinquish the South African citizenship and take the homeland citizenship which was based on race and ethnic categorization. In the new Homeland arrangement, ethnic grouping such as Vendas, Shangaans, Pedis, Xhosas, Zulus, Ndebeles, Southern and Northern Sothos saw themselves being degraded to assume their new identity according to their respective ethnic inclinations (Tapscott, 1997). The negative implications for this arrangement were it saw divisions among different ethnic groupings and both race and ethnic groupings became the vehicle through which resources were allocated. Even in the democratic dispensation, the unequal and skewed field created by apartheid still haunts the new regime and its bureaucrats as to how to democratic South Africa so that all its people could enjoy equal rights irrespective of race, gender and ethnic affiliation. The adoption of proportional representation did not only create dependency on the local state for goods and services but also contributed to the dependent and irresponsible citizenship. Mthombothi (2014: 21) alludes to the fact that:

“Voters came to see voting not as a civic duty, but as quid pro quo. They vote to get something in return, be it a social grant or a ‘free’ house. And so, when the party fails to keep its part of the bargain, the response is often a refusal to vote. It does not occur to the voter that perhaps the more effective way of punishing the guilty party is not to abstain, but to vote for another party”.

At local government level, the dependency syndrome is a result from the emerging culture of entitlement which is also perpetuated by the occupation of political office through cadre deployment policy of the ANC. UNDP (2000: 80) poses that if those who have been historically excluded are to claim the benefits of citizenship and meet their responsibilities, much more public education and capacity building of the poorest will be needed.



### 5.2.5 *Engendering Mistrust to Local Government*

Fundamental to the well-functioning of local government is the trust established between the citizens and this local sphere of polity. In politic trust is a reciprocal process that is underpinned by social contract binding to both the local state and citizens. Fox & Meyer (1996: 120) defines social contract theory as a theory of government that states that the justification and origin of the state is based upon a contractual agreement amongst members of a society. For Selbourne (1994) social contract is a glue that holds societies together. Knight, et al. (2002: 1) designates social contract as:

“A tacit agreement under which citizens contribute their thinking to the government’s decisions and take some responsibility for those decisions once they are made,, the social contract has underpinned the development of democracy”.

At local government level, such a contract is entered into for the purpose of promoting the common good especially for the needy and downtrodden. In the South African local government context, social contract is based on the interface of governance and citizenship. On one hand, governance is understood in this paper as engaging processes that transcend beyond government machinery to embrace private sector and organs of civil society. Broadly, Heywood (2000: 19) associates governance with various ways through which social life is coordinated ...and be taken to include any mechanisms through which ordered rule is maintained, its central features being the ability to make collective decisions and the capacity to enforce them. In governance framework, local government is only one actor among a network of agencies. According to Rhodes (1997: 15) governance is often carried out through “self-organizing, inter-organizational networks”. Importantly, local governance is understood by Goss (2001: 11) to describe the way these interact at local level. In governance framework, local government is only one actor among a network of agencies. The following comments from citizens are symbolic of the breakdown of communication and relationship.

“Local government through various municipalities are unable to deliver on its promises which render citizens to go on rampant in demand for basic services such as water and sanitation, housing, health facilities” (female citizen).

One of the citizens indicated that:

“Where services are delivered they often extended to those who card carrying members of the ruling party in exclusion of those who belong to other parties or have no political affiliation. In our community this preference has created tensions” (male citizen).

The social contract is broken in most municipalities. Some of the attributing reasons are due to the fact that councilors are far removed from their constituencies while others prefer to migrate to urban areas as their residential areas. Local government is equated to social space in which Thompson and McHugh (1995: 93) argue is an arena of struggle, constituted and divided by opposing interest rather than a centralized and unified political actor. The betrayal of people’s trust to local government has been costly in the sense that it contributed to violent protests coupled by property vandalism and the loss of citizens’ life of people such as Andrew Tatane. In a democratic society the issue of trust plays an important role more particularly in consolidating social contract between the elected representatives and the electorates. Holding regular elections is viewed as the essential and pillar towards the consolidation, solidation and



affirmation of democracy (Struwig, et al., 2013: 1122). However, scholars such as Mozafar (2002) argue that it is the electoral integrity and credibility rather than the actual running of the elections that contribute towards the achievement of representative and accountable institutions. Fundamental to healthy democracy is trust which Atkeson & Saunders (2007: 656) describes as centered on building public trust in the validity of elections and also has the potential to translate into greater confidence in the political system as a whole. Although mistrust and diminishing voter participation is a world-wide phenomenon, in South Africa, the declining trust in public institutions, public discontent and hostility especially towards the local sphere of government has multiplied.

#### *5.2.6 Closing the Us-Them Dichotomy*

By their very nature elections are capable of creating US-Them dichotomy whereby those elected into the position of power regard themselves as US while the electorates are considered as Them in this political equation. The Us-Them dichotomy has detrimental effects as it has the tendency of undermining the social contract entered into between the elected representatives and the citizenry. On the ground, the phrase Us and Them is often expressed through assertions such as:

“We have voted them into power and now they have deserted us and go live in the suburbs. The frustrations with electoral democracy are that there are times that we enjoy the presence of politicians in our respective communities and homes. That is the time that they are campaigning for our votes, desperate to win our votes for their own benefit, so sweet with cunning tongue but once that is done, the alienation swiftly crops which serves as dividing wall between Us as citizens and Them as our elected representatives” (male community activist, 2014).

A middle aged female citizen stormed into the community hall where ward committee members were being elected and commented that:

“Elections are a waste of time, because immediately you assume power instead of looking after our needs, you take care of your families and relatives. Power makes politicians drunk to an extent that they forget their own people and the failure to adequately represent our needs has contributed to the loss of trust on them and the parties which they represent”.

Through this dichotomy, desperate citizens have blamed politicians to have political amnesia who once in position of power deliberately forget to serve their constituencies and therefore neglect their duties to be of service to the needs and aspiration of their electorates. This situation has far reaching consequences for the local politicians such as the ward councilors whom without meeting the needs and demands of the communities have been seen being chased from their homes and their houses being burnt down.

## **6. Towards Local Democracy: Mixture of PR and Constituency Systems**

Piper (2012: 34) highlighted that the theory of electoral systems often affirms the accountability dividends of constituency based systems over PR systems, a closed list systems

which is favored in South Africa. Considering the fraught emanating from the application of proportional representation as an electoral system, local government scholars are beginning to warm up to the idea that converge PR and Constituency systems. In this regard, Ranji (2013: 94) argues that a mixed system could retain the aspiration for representation and inclusiveness whilst incorporating the necessity of accountability, which should together; ultimately strengthen the imperative towards good governance across all levels of government. Both PR and Constituency systems have their own merits and demerits hence Heywood (2000: 200) argues that elections have, since they have neither simply mechanism of public accountability nor a means of ensuring political control. Positively, the PR system as indicated earlier democratizes the party representation while the Simple Majority or Constituency system focuses on individual candidates as potential leaders and its qualifying element is that electorates are able to hold them accountable and strengthen the government in return (Piper, 2012; Amtaika, 2013). Importantly, De Visser (2005: 270) indicates that Ward or Constituency-based representation provides a more direct link between voters and their representatives, thereby enhancing the accountability of local politicians. On one hand, the disadvantage of employing the PR system which Piper (2012: 35) point out as a tendency of distancing the electorates from holding the politicians accountable as politicians are accountable directly to parties and their party leaders. According to De Visser (2005: 270), the PR system ensures inclusivity and affords smaller parties the opportunity to participate in decision-making. The Constituency system on the other hand, is criticized by political scientists such as Piper (2012) and Amtaika (2013) for its exclusionary character to produce two-party system that is prone to marginalize smaller parties including the minority constituencies they often represent (see Duverger, 1972; Golder, 2005). In addition, De Visser (2005: 89) recognizes disenfranchisement and exclusion especially of the minority parties as some of the disadvantages of constituency elections.

At local government level, the combination of both proportional and constituency system is also supported by the Municipal Structures Act (1998). In addition, the Municipal Electoral Act (Act 27 of 2000) lays the foundation for the electoral system for local government. According to De Visser (2005: 76), the convergence of both electoral systems where 50% of councilors are elected from the party lists and 50% of the elected as ward representatives. The paper argues that the adoption of a two stream system balances the electoral chosen by institutionalizing political parties on one hand and on the on other hand does not allow a free reign of parties without electorates' power to hold them accountable. This rests on the autonomy of local government in which De Visser (2005: 87) opines that local decision-making is done by locally elected representatives who are accountable primarily to the local citizenry. It could be said that votes for party lists and ward candidates are not strictly separated hence Section 157(3) of the Municipal Structures Act (1998) indicated that the votes for party-aligned ward candidates are used to determine the number of proportional seats that can be filled from the party's list on the other 50% (in De Visser, 2005: 92). Beyond the interface between the proportional and constituency (ward) system, the author advocates that instead of using a closed list system, wards in the municipalities respective should make use of the open list system to allow local citizenry to have a direct say on who govern them. De Visser (2005: 270) is positive that an electoral system derived from the mixture of proportional representation with ward

representation provides the best democratic basis for local government councils. On the question regarding how to hold the elected accountable, authors such as Maharaj (2013: 6) join other scholars in advocating for a mixed of constituency and proportional representation electoral system in order to force leaders to be accountable to the people rather than compete for positions on political slates. Considering the widening gap between the governed and the government, Khumla (2012: 8) blamed the PR electoral system which does not link public representative to communities or constituencies.

## 7. Concluding Remarks

South Africa is a society in transition and since 1994 it has undergone a major transformation from authoritarianism to democracy, from exclusive to inclusive socio-political system based on democratic ideals and principles of freedom, equality and freedom of speech and expression as enshrined in the *Constitution* (1996) and the Bill of Rights. Liberal and representative democracy including the elections and electoral systems have been the anchor of this paper more particularly in deliberating on issues pertinent to the potential and challenges of proportional representation. It has become crystal clear that proportional representation (PR) is electoral political system which is debated within its context of its potential to widen political party representation while on the other hand it can be instrumental in alienating citizens from governing. South Africa's democracy is premised on liberal and representative democracy. It holds democratic elections which is an ideal of democracy every five years. Thus representative democracy was inaugurated through proportional representation system (PRS) whereby the people elect their representatives to govern on their behalf. This paper interrogated the essence of proportional representation (PR), as an electoral system and mechanism institutionalized in South Africa for citizens to elect their representative. The PR is institutionalized and entrenched in the Municipal Electoral Act of 2000 where it regulates a proportional representation vote. This system dictates that all party candidate list and list of ward candidates are to be submitted for parties contesting the elections. For people to transcend being consumers of politics and responsibly assuming their status as partners in developmental politics, the author has explored the mixing of both proportional and constituency electoral systems. The adoption of the mixed system is based on the rationale that even though the party may have its chosen candidate lists, ordinary people would be able to have an upper hand in holding the elected representatives accountable and ensure that politicians prioritize serving the interests of the people.

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## GOVERNANCE AS A CONCEPTUAL PARADIGM FOR INSTITUTIONAL REFORM AND TRANSFORMATION

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### Abstract

This paper argues that organised crime can potentially penetrate political power and capture the state, establishing the so-called “penetrated state” that would ultimately threaten “national security”. South Africa’s democratisation came with numerous major corruption scandals, which the ruling party has sought to explain as a function of exposure rather than sheer increase in the phenomenon. Over the past few years, South Africa has come to terms with the excessiveness of the costs of corruption. The so-called Travelgate scandal is atypical example wherein the South African Police seized R1 billion illegal imports and exports, 83 members of parliament (MPs) pleaded guilty, 1 891 arrests made and 1 305 investigations finalised. Beyond this scandal resulting in direct costs of R26 million to the taxpayer, it demonstrated vividly that there exists a web of dependency where organised criminal groups formed mutually beneficial relationships with parliamentarians. Besides contraband, evidence suggests that international criminal organisations such as the Italian, Indian, Israeli, Russian and Triad (Chinese) mafias are infiltrating the South African market, which is considered as protective of the culture of corruption. The dominant view has been that South Africa provides a “safe haven” for these mafias to operate with political and police protection. The paper demonstrates that the impact of organised crime extends to high levels of contraband, theft, violence and murder, making a penetrated state extremely difficult to rule because of the absence of the rule of law. It argues that perceptions of corruption matter more than the reality of its occurrence in society because the former can inculcate a culture that is devoid of trust, integrity and morality, thereby formalising cliques and/or pacts that create their own subcultures of self-justification. That is, the paper asserts that the culture of corruption is self-regulating and self-endorsing; and, the “fight against corruption” should be focused on governance that establishes appropriate culture through reform and transformation.

**Keywords:** Corruption; Culture; Governance; Travelgate Scandal; South Africa

### 1. Introduction

Since the democratisation of South Africa numerous major corruption scandals have made headlines in the South African and international media. One example of corruption and organised crime is the so-called Travelgate scandal in which the South African Police seized R1 billion illegal imports and exports, 83 members of parliament (MPs) pleaded guilty, 1 891 arrests were made and 1 305 investigations were finalised, making this one of the biggest, if not the biggest, corruption scandals in South African history. The scandal resulted in direct costs of R26 million to the taxpayer. The ruling party decided to halt the parliamentary investigation (the Natal



Post cited in Siphos, 2009: 213-214). This scandal caused unhappiness in the leadership ranks of the ANC, because many MPs benefited from their connection with illegal imports and exports. A web of dependency is illustrated in Travelgate, where organised criminal groups formed mutually beneficial relationships with parliamentarians. Parliament was penetrated by organized criminal groups, an indicator that South Africa could be a penetrated state (Siphos, 2009: 123-175). The scandals of corruption and organised crime in South Africa are not limited to contraband. International criminal organisations such as the Italian, Indian, Israeli, Russian and Triad (Chinese) mafias are attracted to the protective climate or culture of corruption. South Africa provides a “safe haven” for these mafias to operate with political and police protection. The depth of such penetration is illustrated by the case of the former head of the South African Police Service and Chief of Interpol, Jackie Selebi, who allegedly received millions of South African rands (in kickbacks) from a drug boss, Glen Agliotti, to ignore the drug deals of his group in exchange for police protection, making organised criminal actions immune from detection and punishment. When such a “corrupt relationship” exists between organized crime leaders and formal and legitimate institutional leaders, organized crime penetrates the political power of the state (state capture) and creates what is called “a penetrated state”, threatening “national security” (Klitgaard, 2008: 1). Penetrated and criminal states with a high level of organised crime suffer symptoms of severe or systemic corruption. The symptoms of organised crime and its impact extend to high levels of contraband, theft, violence and murder, making a penetrated state extremely difficult to rule in the absence of the rule of law.

What is of importance is not whether the reported perceptions are indeed factually true, but the mere perception that corruption exists in society. Where there is no repudiation of perceptions, the problem is that, if such perceptions are not cleared fully and without any doubt, for example by the media and the courts, a culture emerges in which people doubt the integrity and morality of their leaders. Such a culture is in itself a contributor to corruption as a general (systemic) community practice. Gossip is an indication of a breakdown of the moral fibre and trust of a society. Limited trust in society encourages the formation of cliques and/or pacts that create their own subcultures of self-justification. The more people who participate in corruption, the more their experiences are shared and endorsed, and the more the perceptions of the public change negatively.

## **2. Research Objective, Methodology and Problem**

The unit of analysis is systemic corruption. The paper is a descriptive narrative that aims to integrate the Ackoff-Gharajedaghi Five-Dimensional Design of institutional development with the normative principles of good governance as a paradigm for changing systemically corrupt institutions to promote integrity-driven performance. The research methodology applied is systems thinking and specifically the soft systems approach, which is most suitable for complex

problem situations that do not have single root causes and where a linear approach to problem solving is counterproductive. Corruption is an elusive phenomenon that is difficult to define as a discrete (self-contained) concept. Corruption can be a manifestation such as a conflict of interests, or a condition such as a social pathology, or an impact such as its effects on poverty, or an obstruction to development and a co-producer that changes its environment – a culture of corruption generates further corruption. Corruption co-produces governance failures.

Corruption and its impact are major challenges in developing, and specifically Southern African, institutions. The World Bank (WB) defines corruption as “the abuse of public office for private gain” (World Bank, 1997). This is one of the most commonly used definitions of corruption in the public domain. In the 2007 publication the WB still maintains the definition of the 1997 publication, but when read in context the definition recognises the complex nature of the phenomenon (World Bank, 2007: 434). The expanded definition of the WB distinguishes between “isolated” and “systemic” corruption (World Bank, 1997: 9-10). Isolated (or accidental) corruption is described as “rare, consisting of a few acts, it is straightforward (though seldom easy) to detect and punish”. In this case, non-corrupt behaviour is the norm, and public and private sector institutions display integrity. Both formal and informal systems are strong enough to return the system to a “non-corrupt equilibrium”. On the Corruption Perceptions Index (CPI) of Transparency International (2011) Norway is ranked 9<sup>th</sup> out of 183 countries and scores 9 out of 10 (with 10 being a perfect score for good governance). Norway is an example of a country with instances of isolated corruption. Systemic corruption, on the other hand, is pervasive, or entrenched, and corruption is routine between and within the public sector, companies and individuals. Formal and informal rules are at odds with one another. Corruption may be illegal, but in this case it is routine in transactions with government or businesses. This occurs especially where incentives for corruption are very attractive and perceived as more beneficial or profitable than any risk, even after calculating and/or accounting for all the risks, such as the risk of exposure, scandal and punishment. Based on the Corruption Perception Index (CPI) of Transparency International (2011), Kenya is ranked 154<sup>th</sup> out of 183 countries and scores 2.2 out of 10. Kenya is an example of a country with systemic corruption.

The WB adjusted its definition of corruption slightly to replace “public office” with “trusted office” and distinguishes between “isolated” and “systemic” corruption (World Bank Report, 1997: 9-10). By implication the role of the private sector is also acknowledged by this modification. However, the WB’s adjusted definition still fails to acknowledge the general nature of corruption as being systemic – a concept that suggests interdependence between public and/or private sector institutions in deviant behaviour. From a systemic perspective, the WB’s definition does not capture the essence of corruption and is inadequate for managing corruption. Corruption is a function of dishonesty, a lack of integrity and the abuse of private and/or public office for personal gain. However, it occurs most frequently and pervasively when there is a ‘culture’ of

corruption, when the risk of exposure is lower than the reward for corrupt behaviour. This is because of the mutual acceptance, and mutual interdependence, of corrupt behaviours between corrupters (initiators) and corruptees (participants) within an institution. Corruption represents a breakdown in integrity. According to Rose-Ackerman (1996: 2), integrity implies “honesty, probity, uprightness, moral soundness, moral stature, principle, character, virtue, purity”. Antonyms of integrity are “deceit, venality, corruption” (Shepherd, 2006: 447). The Latin for “integrity” is *in-teger*, meaning “what is not touched, taken away from, or interfered with” (*Stanford Encyclopaedia of Philosophy*, 2010a). *In-teger* can therefore be interpreted as “wholeness”. Consequently, “integrity” should be a central concept in any root definition of corruption, because it represents consistency in “actions, values, methods, measures, principles, expectations and outcome” (Stanford Encyclopaedia of Philosophy, 2010a, 2010b).

Since integrity means “wholeness”, it is appropriate to link integrity with “holism”, because “holism” also relates to “wholeness”, as Hornby (2005: 714) defines “holistic” as follows: “considering a whole thing or being to be more than a collection of parts”, and in relation to medicine: “treating the whole person rather than just the symptoms”. This definition corresponds with the definition in the *Verklarende Handwoordeboek van die Afrikaanse Taal (HAT)* (Odendal, 1985: 401), which emphasises that holism is a philosophical approach “*wat berus op die beginsel dat die geheel meer as die som van die dele is*” [based on the principle that the whole is more than the sum of its parts]. The HAT definition emphasises the inherent characteristic of holism, namely that the whole is of greater significance and importance than the sum total of the individual independent parts. This seems to be a most appropriate insight for the purposes of this research. Holism is also prevalent in the most precise and most appropriate and systemic definition of a system known to the author, which is probably the one by Ackoff (2009a: 6), who described a system as “a whole defined by one or more functions, that consists of two or more essential parts”.

Corruption can be defined as “an impairment of integrity, virtue or moral principle; depravity, decay, and/or an inducement to wrong by improper or unlawful means, a departure from the original or from what is pure or correct, and/or an agency or influence that corrupts” (Merriam-Webster Dictionary, 2010: n.p.). A scholar may argue about “what is pure or correct”, but the essence of the definition is clear. Equipped with a better understanding of corruption as a systemic phenomenon, it is now appropriate to focus on the co-producers contributing towards corruption and its complexity. Corruption is deviant human behaviour (a sub-system) that functions in contradiction to its design within a social system. It displays systemic characteristics that are generally obstructions to the development of society and organisations. Ackoff (cited in Gharajedaghi, 1982: 6-11) argued that, because the parts of a social system are interdependent. When these parts are solely driven to perform independently as efficiently as possible, without considering their impact on the whole system (‘selfishly’, as in corrupt behaviour), the system will not perform as efficiently as it could perform as a whole if all parts are harmonised towards

achieving the integrated efficiency of all the parts. Both concepts “corruption” and “development” are multi-dimensional. According to Gharajedaghi (1982: 68), corruption is not “just a malfunctioning of the value system” (moral), but a second-order obstruction of a social system, meaning a complex problem situation that cannot be solved linearly. Table 1 illustrates the Ackoff-Gharajedaghi Five Dimensional Design, where the first-order obstructions to development consist of 15 categories of possible known obstructions (no category is exhaustive). At the second level there are three possible categories of obstructions – alienation, polarisation and second-order obstructions – including xenophobia, organised criminality, terrorism.

Within the sphere of socio-economic studies, the concept of ‘development’ is normally associated with any improvement which enhances the capacity (ability) of an entity to perform its functions. The learning and creative process “by which a social system increases its ability and desire to serve its systems view of development is more specific. It defines the development of a social system as “a learning and creative process by which a social system increases its ability and desire to serve its members and its environment by the constant pursuit of truth, plenty, good, beauty and liberty” (Ackoff, as cited by Gharajedaghi, 1982: 54). The underlying systemic logic in this definition should be clear, namely that for effective and efficient behaviour, any system (human and otherwise) should have efficient elements or functions as well as effective interactions between these elements or functions – the contribution of each element to the whole must be according to the design of the whole, in order to create meaningfulness, wholeness and in effect development.

To understand systemic obstructions to development, the expected outputs of a system as a whole have to be established. Gharajedaghi (1982: 57) identified five dimensions or subsystems of social systems that contain obstructions to development, as illustrated in Table 1. In their quest to develop themselves, all humans have the following aspirations:

- Generating and distributing wealth through producing goods and services (economics);
- Generating and distributing information and knowledge to create understanding and insight (knowledge, skills and technology);
- Creating beauty, meaning, hope and identification (aesthetics). Aesthetics is a “branch of philosophy that studies the principles of beauty, especially in art” (Hornby, 2005: 24);
- Creating and maintaining peace, conflict resolution, harmony. The challenge of appreciating different value systems, empathy, love, respect, harmony and a strive towards the good and what is right (ethics/ morality); and,
- Generating and distributing power, influence, authority and responsibility (politics/governance).

Given the discussion on the concepts of development and corruption, corruption's systemic nature, its negative impact and how obstructions to development act as co-producers of corruption, the focus now shifts towards the human aspiration for influence, participation and power in decision making.

### **3. Governance**

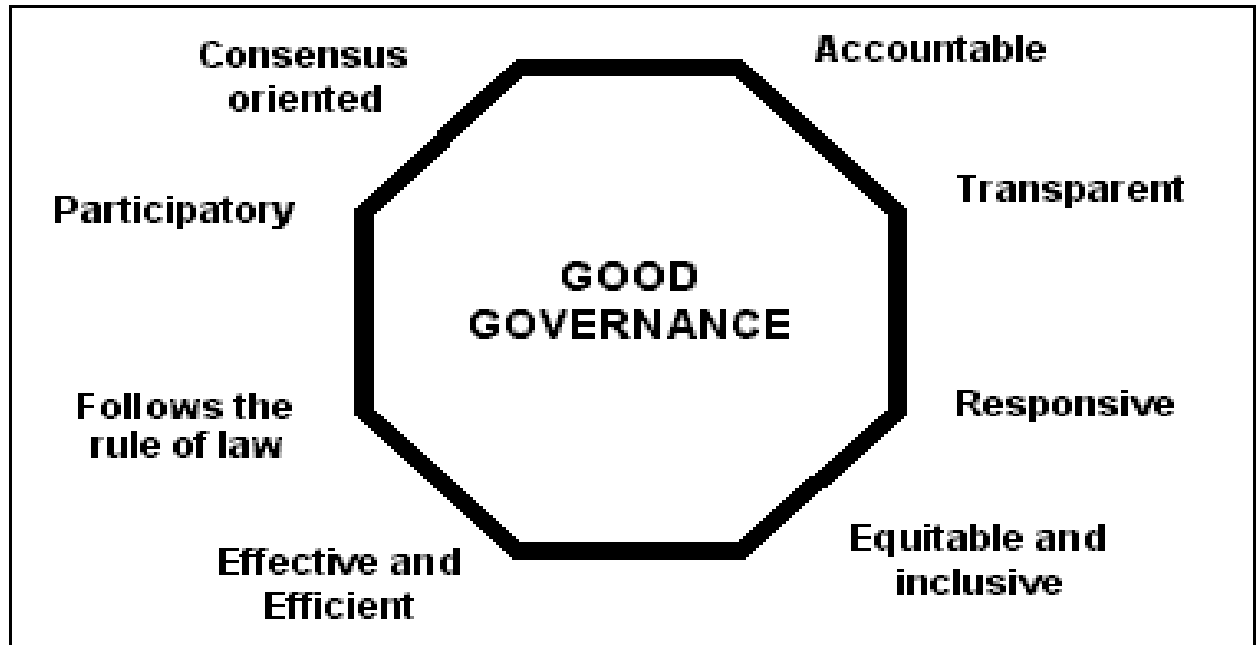
During the last two decades governance has risen to the top of the anti-corruption agenda. The question that needs to be answered is: What is governance? Governance is “the manner of directing and controlling the actions and affairs of an entity” (King, 2006: 1), which “involves fairness, accountability, responsibility and transparency on a foundation of intellectual honesty” (King, 2006: 15). The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP, 2009: 1) states that governance is “the process of decision-making and the process by which decisions are implemented (or not implemented)”. In essence, governance is about decision-making, how decisions are made and how they are implemented or not. Governance will be good “when government attains its ultimate goal of creating conditions for a good and satisfactory quality of life for all citizens” (Gildenhuis & Knipe, 2000: 91). This definition of governance is a universal and systemic definition that includes global governance within the context of the global quality of life. Good governance can be illustrated in Figure1 in terms of eight principles (UNESCAP, 2009: 1-3). This type of governance can be described as follows: participatory, consensus oriented to accommodate as many alternative views as possible, accountable (answerable regarding the positive and negative implications of decisions and their implementation), transparent (openness about decisions taken, how they are taken, how they are implemented or not, and declaration of interests in these decisions), responsive to questioning and criticism, effective and efficient, providing equitable opportunities and services, inclusive of all role players, and following the rule of law. Good governance ensures that corruption is minimised, the views of minorities are taken into account and the voices of the most vulnerable – such as the abjectly poor, street children and orphans – are heard. Good governance is also focused on the long term, durable and sustainable.

UNESCAP's view on good governance corresponds with that of Gildenhuis & Knipe (2000: 111- 121), who say that good governance principles include:

- political principles, namely direct participation, participation through representation, responsibility and accountability of political representatives, government close to the people (decentralisation), an open systems approach, and global politics;
- economic principles, namely economic freedom, private property ownership, a free production process, privatisation, deregulation and small business, deregulation and international economics;

- social principles, namely non-racism and non-sexism, nationalism, inclusiveness, civic pride, civic responsibility and civic obedience (adherence to law and order).

Figure 1: Good Governance



Source: UNESCAP (2009: 1-3)

From the above discussion it is possible to say that good governance is a multi-disciplinary concept, is of a systemic nature and requires good citizens. Good governance is imperative for enabling the human striving for development, namely: wealth creation, knowledge and understanding, participation and influence, social harmony and peace, as well as meaningfulness and identity. The sections that follow focus on the manifestations of governance and its principles. Public management principles (public sector governance) that will be discussed include: choice of public services; economy, efficiency and effectiveness; flexibility and management of change; sustainability and consistency; accountability, responsibility and transparency; and adhering to *batho pele* principles (Gildenhuis & Knipe, 2000: 111-121, 123-133). *Batho pele* is a Sotho term meaning "people first". It includes creating a framework for the delivery of public services that treats citizens as customers and enables them to hold public officials accountable for the delivery and the quality of public services (Gildenhuis & Knipe, 2000: 130-133). The concept *ubuntu* also needs to be included in the concept of good governance: "I am because of you". *Ubuntu* empowers all to be valued, to reach their full potential. An *ubuntu* style of governance means a "humane" style of governance based on collective solidarity and communality (Gildenhuis & Knipe, 2000: 271). Corporate governance is generally the governance of incorporated entities such as public and private companies. The principles of quality

governance apply to all incorporated entities (King, 2006: 1). Good governance is about the ability to govern an enterprise with integrity. Quality governance implies that steadfast quality called “intellectual honesty” (King cited in Bisoux, 2004: 35). Good corporate governance is about the ability to govern an enterprise with integrity- driven performance (quality governance) by applying systems and processes to protect the interests of its diverse stakeholders. King’s reference to ‘integrity-driven performance’ does have in common the earlier reference to corruption as the antithesis of integrity. Firstly, it is possible to deduce that good governance is aimed at increasing integrity and trust in institutions and reducing corruption, and secondly that quality governance also applies to public sector governance. Principles of quality corporate governance include the following: sound economic, social and environmental practices; the triple bottom line (profit, environment and community) performance; effective financial accounting and management; integrated risk-management processes; systems and processes for effective decision making; organisational integrity; effective monitoring and controls; independent auditing and verification; accounting and responsibility; and adequate sustainability and transparency (Khoza & Adam, 2005: 32). Good corporate governance does not entail a mindless compliance with a quantitative checklist. The King Committee on Corporate Governance (cited in Khoza & Adam, 2005: 32) said that good corporate governance includes the following: discipline, independence, and social responsibility. From the discussion it is possible to say that good corporate governance does have a broad framework of decision-making activities that are guided by values and policies driven by integrity.

Good governance cannot be defined fully without including moral governance, because in order to govern well, moral and transformational leadership is required to inspire people to make sacrifices for the common good of society. The term ‘moral’ is used here “to cover those practices and activities that are considered importantly right and wrong; the rules that govern those activities; and the values that are embedded, fostered, or pursued by those activities and practices” (De George, 1999: 19). Morality is a precondition for ethics, because moral people can judge right from wrong and act in accordance with the norms accepted by them and society. Without a concept of morality no stable society would function within which public and private institutions could deliver services and products efficiently and effectively. Moral governance involves directing and controlling the actions of an institution that are based on practices and principles that enable a distinction between right and wrong, as well as on the values that underpin those practices and activities that involve fairness, accountability, responsibility and transparency based on intellectual honesty. It may therefore be deduced that the concept of governance is in essence about institutional decision-making that impacts on all dimensions of human development and that it implies to govern an institution with integrity. Good governance includes public sector governance, corporate governance, quality governance, moral governance and global governance. For decisions to be “good”, such decisions should:



- Allow as many people as possible to participate;
- Allow as many participants as possible to reach a common understanding and agreement (consensus orientated);
- Inform all role players about the decision-making process, their business and financial interests in decisions and the actual decisions taken (transparency); and,
- Enable responsive behaviour and sustainable actions.

Those that make the decisions should be responsible, accountable, and liable for their decisions, comply with the legal framework, and take minorities and the voices of the most vulnerable in society into account. Such decisions should enable decision makers to pursue the right direction (be effective) and remain within budget. Decisions should draw on the optimum resources, follow the shortest procedures, and be executed in the planned time (be efficient). Good governance enhances flexibility, tolerance of alternative views, and social bonding across such polarised divisions such as racial, cultural, ethnic, religious and language groups. The focus now shifts towards the application of good governance.

#### **4. Implications of the Absence of Good Governance**

The next section focuses on whether the absence of good governance on a strategic level of an institution can provide an indication whether such an institution is systemically corrupt or not. The focus will be on good governance principles in general, public management principles, *batho pele* principles, corporate governance principles and the fiduciary powers of directors. The simultaneous absence of the following good governance principles in general can provide an indication that a public and/or private institution can be systemically corrupt: social integration and participation of all stakeholders and their ideas; deregulation of excessive and unnecessary processes that cause bottlenecks, delays and inefficiency; respect for and obedience to the law; and public management principles. The following section focuses on responsibility and accountability. Acceptance of responsibility and accountability is essential for all members – managers, leaders, stakeholders and shareholders. Accountability means answerability for all decisions and actions, including collective answerability (institutional and individual). Private institutions are not publicly accountable to taxpayers in the same way. However, private institutions should have social and environmental accountability. The limited application of accountability (or lack thereof) can be a valid indicator that an institution may be corrupt. Shareholder accountability means reporting on wealth created for the shareholders. This narrow perception of accountability is not conducive to institutional governance, because it focuses too much on the profit motive. Stakeholder accountability emphasises the development of robust and inclusive institutional governance structures, stability, long-term orientation, a sense of shared destiny, legacy and vision (Mbigi, 2005: 193-195). The simultaneous absence of the

following public management principles can assist in providing an indication that a public institution can be systemically corrupt:

- Economy, efficiency (i.e. minimum use of resources to achieve an objective) and effectiveness;
- Sustainability, consistency and innovation in pursuing a long-term and durable direction;
- Flexibility and management of change;
- Transparency through disclosure of information about decisions taken, declaration of financial and business interests in decision making and management of conflict of interest;
- *Batho Pele* principles.

The simultaneous absence of the following *batho pele* principles can assist in providing an indication that a public institution could be systemically corrupt:

- Consulting all relevant role players with the emphasis on broadening inclusion and participation;
- Creating cross-cutting standards based upon systems and people and their performance measured in terms of quantity and quality, output and outcome, e.g. time taken to connect a residential stand to water and electricity with less than a five percent come-back on all such connections;
- Providing timely information using multi-media applications, for example, posters, flyers, websites and videos to inform customers about what standards to expect;
- Creating access to services. The more accessible services are, the less scarcity and less motivation there is for corruption;
- Courtesy and respect for all customers, irrespective of political affiliation, economic status, education or religion;
- Correcting mistakes and redressing failures, e.g. by providing apologies and creating complaint procedures, redressing mechanisms and providing rebates. A rebate is "An amount of money that is paid back to you because you have paid too much" (Hornby, 2005: 1212). In the context of the study, the amount is 'too much' in relation to the quality of services or goods received.

The simultaneous absence of the following corporate governance principles can provide an indication that both a public and/or private institution can be systemically corrupt:

- Sound economic, social and environmental performance; this includes ecology (sustainable impact on the environment), economy (profit) and equality (social responsibility);
- Effective financial accounting and management, e.g. maintaining a sustainable growth rate, a healthy cash flow and economic value added (EVA) principles;

- Integrated risk-management processes to adapt to changes and to mitigate the impact of high-risk activities
- Developing systems, processes and controls for effective decision making, monitoring, evaluation and changing unsuccessful strategies;
- Integrity, for example, accepting liability for institutional negligence;
- Independent auditing and verification of financial statements.

The concurrent absence of the proper exercising of the following fiduciary powers of directors of companies can provide an indication that private institutions are systemically corrupt:

- **Good faith.** a director must apply his/her mind and always act in the best interests of the company, ensuring that there is no conflict between his/her interests and those of the company. Good faith suggests reliance, trust, integrity and acting in an 'unfettered manner', meaning being given the moral responsibility to act without "undue supervisory regulation" (Hornby, 2005: 1610);
- **Care.** a director must ensure that the company uses its assets as if they are the assets of his/her own family. Care entails dealing with institutional challenges seriously, stewardship, "transparent communication" and protecting the company's reputation. Stewardship is "the act of taking care of or managing something" (Hornby, 2005: 1450). Garrat (2003: 1-128) elaborates further on stewardship;
- **Skill.** every director must use his/her abilities in the interests of the company he/she represents, e.g. the way a director evaluates information submitted to the board, and the honest application of his/her mind;
- **Diligence.** a director must do his/her homework, and study information about the industry and the company's relationships with stakeholders and ensure that he/she understands it (King, 2006: 29-30, 52-53).

The impact of not fulfilling fiduciary powers manifests in various ways, such as conflict of interests, lack of accountability, incompetence, negligence, and abuse of power and influence. The author of this article has identified more than 40 manifestations of corruption. Understanding these manifestations of corruption can provide insight into systemic corruption. It has been illustrated that the absence of the indicators of governance on a strategic level can provide an indication whether an institution is systemically corrupt or not. These indicators can also be used as pointers to reform and transform a systemically corrupt institution to an institution with integrity-driven performance (good governance). It is now appropriate to focus on the construct of development and the way it can be integrated with the construct of governance for good decision-making.

## 5. Nexus of Governance and Development

Within the context of the five aspirations for human development (also called dimensions or subsystems needed for developing a social system) the construct of governance can be integrated with the Ackoff-Gharajedaghi Five Dimensional Design of institutional development as follows:

- **Economics:** corporate governance, i.e. the triple bottom line, meaning profit, environmental and societal or communal benefits; *batho pele* principles, e.g. creating access to services; and public management principles, e.g. economy, efficiency and deregulation to reduce delays in providing products and services. Within the context of the five aspirations for human development (also called dimensions or subsystems needed for developing a social system) the construct of governance can be integrated with the Ackoff-Gharajedaghi Five Dimensional Design of institutional development as follows
- **Scientific/knowledge:** corporate governance, that is, fiduciary powers of directors and specific skill and diligence, risk management processes to adapt to changes and to mitigate the impact of high-risk activities; and *batho pele* principles, e.g. providing timely information (transparency) to role players and customers using multi-media applications.
- **Politics:** *batho pele* principles, i.e. courtesy and respect for all customers, irrespective of political affiliation, economic status, education or religion, and consultation with role players to increase participation in decision making, recognition of and increasing influence of vulnerable groups and minorities to decide on their own interests.
- **Ethics/morality/spirituality:** moral governance, i.e. values that are underpinning those activities and practices that involve fairness, accountability, responsibility and transparency based on intellectual honesty; and corporate governance, e.g. equality that entails social responsibility and social bonding to create a more just and fair society.
- **Aesthetics:** innovative and creative solutions are needed in all institutions (to respond to the ever faster changing world and the increasing need for corporate and global governance) to create a unique identity, self-worth and meaningfulness for all role players, employees and customers in such institutions.

From the discussion it can be deduced that governance principles can and need to be integrated with the dimensions of human development for changing systemically corrupt institutions. Such integration can overcome obstructions to development that function as co-producers of corruption. The next section focuses on effective leadership as the most influential driver in the change and development process. Scientific/knowledge: corporate governance, i.e. fiduciary powers of directors and specific skill and diligence, risk management processes to adapt to

changes and to mitigate the impact of high-risk activities; and *batho pele* principles, e.g. providing timely information (transparency) to role players and customers using multi-media applications.

## 6. The Role of Visionary, Moral and Transformational Leadership in the Change Process

Systemic corruption (where moral and strategic leadership fail) is an inevitable outcome of vacuums of power and destabilisation during transformation towards independence and democratisation, because neither liberation struggles nor colonialism (including apartheid in South Africa and Namibia) has prepared developing countries for good governance. In order to direct and institutionalise good governance during the change process, a key driver is commitment from the top. A systemic definition of a transformational leader is “one who can produce, or encourage and facilitate the production of, a mobilizing vision of a transformed system” (Ackoff, 2009: 11). Such a leader must be able to inspire people for the voluntary achievement of a vision, and to mobilise and coordinate, not command and control. In order to inspire people and to unleash energy to transform a systemically corrupt institution, leaders must be credible, respected and committed. Credibility means that such leaders “can be believed or trusted” (Hornby, 2005: 345). Role models of moral and transformational leadership, such as Mahatma Gandhi (spiritual leader who united oppressed Indians in India and South Africa), Nelson Mandela (political leader who united South Africa after apartheid) and the Dalai Lama (spiritual leader and unacknowledged head of the state of Tibet), can play an inspiring role in uniting people to transform a society. Other examples of leadership in community work include Mother Theresa, Florence Nightingale and Princess Diana, business/entrepreneurial leaders such as Richard Branson and Bill Gates, moral leaders against apartheid in South Africa such as Desmond Tutu and Beyers Naude, and education leaders such as Jonathan Jansen (Rector of the University of the Free State). During times of uncertainty and change, e.g. the transitioning of developing countries from liberation struggles and civil war towards democratisation and uniting people to transform a society, people need identification with role models, because such role models can provide moral and strategic direction.

Transformational leaders can inspire people and such inspiration has strategic implications for changing a systemically corrupt institution, namely developing people and systems, and creating opportunities for development. The interactions of people (structure) should be managed to develop institutional/social capital and trust. A learning institution should be created with a “learning-adaptation support system” (Ackoff, 2009: 12) that enables second-order learning (qualitative learning, e.g. insight into understanding systems) and second-order change (change of attitudes, behaviour and culture to adapt to the environment successfully). For changing a corrupt institution it is imperative to understand such a system, its assumptions and the implications associated with transformation towards achieving the vision. Maximising stakeholder participation is needed to increase ownership of transformation. Educational

institutions headed by transformational leaders, such as Jonathan Jansen, can play an instrumental role in bridging the divide in race, ethnicity, religion and class to develop a national consciousness about the value of integration in a divided society.

Role models of transformational leadership in business, education, spiritual matters and community affairs are extremely important to the hopeless and vulnerable, who can be misled by populist demagogues and fill the power vacuum with radical, intolerant and immoral leadership that can destabilise a developing country. Role models should be visionary and moral to provide hope and to be respected. However, not only moral leaders are required for transformation, but also committed ones who have the political will to transform corrupt and unjust systems towards achieving good governance. Because politicians in a corrupt country are seldom moral, they must experience the political benefits of taking the risk of changing systems that will impact on their power base (voters' support) in order to secure their commitment and to create political will. Political will for reducing systemic corruption is needed for influencing changes in the five developmental dimensions of the Ackoff-Gharajedaghi design. These benefits and support are needed to create what Meadows (2009: 1-13) called "positive recurring loops" for second-order change and development. Moral and transformational leaders and competent people will be inspired by the benefits of a culture of openness, accessibility and accountability (principles of good governance). Role models of transformational and moral leadership can provide a strong message for changing perceptions of hopelessness, which are associated with systemic corruption. Moral and transformational leaders are of key importance for securing political commitment for durable change.

## **7. Conclusion and Recommendations**

The significance of this paper lies in its integration of the constructs of development and good governance, within the context of reform and transformation of corrupt institutions. Corruption is a social pathology, the purpose of which that impairs the integrity of social systems. The paper asserted that good governance can provide a vision of strategic, operational and technical direction necessary for transforming institutions. The nexus between good governance and development can provide direction for good decision-making and transformation of corrupt institutions. The most important driver for transforming a corrupt system is the role of visionary, moral and transformational leadership to inspire, provide hope and implement innovative alternatives (to polarized groups) to enable identification with a common direction and vision during the painful change process. Governance is an open systems and inclusive approach with various manifestations. The aspiration to obtain influence and power in decision-making is one the critical human dimensions that to a very large extent determines distribution of wealth creation, social cohesion and harmony, knowledge creation, and meaningfulness and identity. Good governance promotes integrity and has the potential to guide policies, strategies and values to

overcome other institutional obstructions to development. Good governance can be considered as a valid conceptual paradigm for reform and transformation of systemically corrupt institutions, which need to be transformed into institutions characterized by integrity-driven performance.

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## THE DEMOCRATIC STATE AND POLICY IMPLICATIONS FOR PREVENTION AND COMBATING OF PUBLIC SECTOR CORRUPTION IN SOUTH AFRICA

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### Abstract

This paper assesses the impact of the Prevention and Combating of Corrupt Activities Act 12 of 2004 in the South African public sector. The paper evaluates the extent to which the implementation of this legislation achieved stated objectives as an anti-corruption strategy. It examines the conceptual framework on the alteration to the democratic state. The paper argues that public sector corruption is not unique to South Africa. Globally, people are likely to participate in corrupt behavior or turn a blind eye in order to fit into or belong to the institution. Corrupt activities have become a culture in the public sector even under democratic dispensations; and, post-apartheid South Africa typifies such state disorder, if not order. Whereas the South African government adopted legislative measures to prevent and combat public sector corruption, this aspiration has remained a pipedream, clouded with implementation challenges. Headlines of service delivery failures, civil unrest, financial mismanagement, maladministration, poor audit outcomes, skills shortages, inadequate infrastructure planning, political fighting, corruption and abuse of power about South Africa's public sector are abundant.

**Keywords:** Corruption; Democracy; Public Sector; South Africa

### 1. Introduction and Background

Corruption is one of the major international concerns of the past decade particularly the 21<sup>st</sup> century. It is an issue that affects all countries, rich and poor, in different ways and to different degrees (Tabish & Jha, 2012). Now there is a far greater appreciation than in the past that corruption is not only morally wrong, it extorts a heavy toll on a nation's prosperity (Siddiquee, 2010). The concerns about corruption in South Africa have intensified in recent years and it is likely to appear on every observers list of factors that obstruct South Africa's path towards sustainable development (Pillay, 2004). The effects of corruption in South Africa have seriously constrained development of the national economy and have significantly inhibited good governance in the country. However the government of South Africa has attempted to combat and prevent corrupt activities through the emergence of the Prevention and Combating of Corrupt Activities Act 12 of 2004 which came into force in 27 April 2004. Therefore the aim of this study is to evaluate whether or not the extent of the implementation of this legislation has effectively achieved its objectives as an anti-corruption strategy in South Africa.

Corruption has become so popular in the public sector partly because of the changing economic and political environment around the globe and partly because of the growing consensus in both academic and policy circles of the negative impacts of corruption on socio-

economic development (Siddiquee, 2010). Public sector operates in an environment of increasingly intense corruption driven by greediness and serving individual instead of the constituents. Corruption in one form or another has been around human societies for a very long period of time. While virtually all civilizations throughout history have encountered corruption, it has not had constant impact on each one of them (Mbaku, 2010: 11). The persistence of corruption throughout the ages has forced some scholars and policy makers to view it as an unavoidable part of human evolution. As a result of personal experience, as well as academic argument, the problem of corruption has captured the minds of all South Africans that are committed to good governance (Pillay, 2004). Yet many civilizations throughout history are known to have successfully employed various public policy measures to minimize corruption and its deleterious effects on their economic, political and social systems. The South African public sector faces challenges in the dispensation of democracy, particularly in the implementation of PACCA merely because the headlines of South African public sector are dominated by issues of service delivery failures, civil unrest, mismanagement, financial management, poor audit outcomes, skills shortages, inadequate infrastructure planning, political fighting, corruption and abuse which can be traced back to the failure of the implementation of the act.

## **2. Conceptualizing Corruption**

Corruption is not a new phenomenon, lately it has become a topic of interest all over the world (Siddiquee, 2010). In a contemporary society one can have different definitions of corruption depending on the causes and the harm it exposed to the society (Voskanyan, 2000). However Burke & Cooper (2009), Transparency International (2012) and Voster (2012) define corruption as the illegitimate use of one's position or power for calculated and observed personal or collective gain at the expense of other people. Corruption in one way or the other is closely connected with greediness of resources of people more especially elites who are trusted with power within the public sector. The implication of corruption makes it not to be separated with crime (Chitkara, 1998) because it accepts the behavior which deviates from the normal duties of a public role because of private-regarding, pecuniary or status gains or violates rules against the exercise of certain types of private-regarding gain (Heindenheimer & Johnson, 2011). Corruption diverts the public resources for personal gains by the elites to enrich few at the cost of many. In a contemporary state such as South Africa which embarked on the road to curb the consequences imposed by the apartheid regime, by the dispensation of the Constitution of the Republic of South Africa of 1996 which offers equal social services to all.

However corruption prevents the state from fulfilling its constitutional commitments erodes the legitimacy of our democratic government and sabotages the rule of law which mostly results in service delivery protests (Pityana, 2010: 1). It is through greediness that the manifestation throughput rate of corruption is escalating in an apartheid free country's public sector.

It was through greediness of resources and power that apartheid manifested in an intense degree. It is deduced that corruption and corrupt activities are stealing democracy to many. Therefore for the purpose of this paper corruption is defined as any conduct or behavior in relation to person entrusted with responsibilities in the public offices which violates their duties as public officials aimed at obtaining undue gratifications of any kind. In this regard in order to develop an anti-corruption strategy which is efficient, it is important to first understand the various forms in which corruption manifest itself in the public service and elsewhere in the society. The following examples illustrate the various manifestations of corruption.

### ***2.1. Political Corruption***

Political corruption is associated with the behavior political elites, which violates and undermines the norms of the systems of public order which deemed indispensable for the maintenance of political democracy (Mbaku, 2010: 11). The general public around the world has taken note of the manifestation of political corruption. Political corruption involves a wide range of misconducts and illegal acts committed by political leaders before, during and after leaving office (Hodess, 2004: 11). Political corruption is a severe challenge in the South African public sector since the media is overcrowded with political corruption scandals by the country's elites. However Grubisa (2010) argues that political corruption means the decay and corrosion of political authority and political power itself. Political corruption usually involves top-levels officials with exchange of a perceived favor, which mostly can cause serious falsifications in the way in which government and society operates (Rose-Ackerman, 1999: 38).

### ***2.2. Bureaucratic Corruption***

According to Transparency International (2012) bureaucratic corruption has to do with the illicit use of the public office for private gain. For example police officers accept a cash payment in order to make a docket disappear or not to report a criminal case. Mbaku (1996: 100) argued that bureaucrats participate in corruption after discovering that they can earn more income from providing services to groups seeking state favors from regular (public) jobs they. Most of the bureaucratic corruption usually does not have a political dimension it is designed primarily to secure additional income. The revelation of bureaucratic corruption sends shockwaves through a society in that it may look smaller but have a huge impact on the related policy and accountability. Corrupt bureaucrats turn their offices into a business locomotive at the expense of the public's trust and resources.

### ***2.3. Financial Corruption***

Financial corruption can have serious ramifications for the long-term sustainability of an organization as well as adverse effects on its employees and investors and on the economy as

a whole (Abbasi, Albrecht & Hansen, 2012). The involvement of top executive leadership in scandals in recent years has significantly contributed to corruption. Those who were supposed to be custodians of public money were found to be involved in financial irregularities and all kinds of unethical practices. The cost of financial corruption is felt by the public since it is their tax money that feeds public services.

### **3. Perceptions of Corruption in South Africa**

Corruption and corruption perception can be considered as cultural phenomena because they depend on how people understands the rules and what constitutes a deviation however it does not depend only on societies but also on personal values and moral vies (Melgar, Rosie & Smith, 2009: 1). Information is a strong tool in curbing corruption (Stapenhurst, Johnson & Pelizzo, 2006). According to Ionescu (2013), corruption is heavily influenced by the media reports and representative elites cannot be separated from corruption in South Africa (Hassan, Megistu & Teklu, 2013). The government recorded 548 incidents and allegations by the end of March this year, compared with 300 by March last year' (Ndenze, 2014). As the results of the academic argument the problem of corruption has captured the minds of all the people who are committed to good governance and it is important to note that corruption is not limited to the actions and attitudes of politician or public servant. Rather, the problem is wide spread. According to Pillay (2004: 586), as the concern about corruption has intensified in recent years, the calls for better public administration, including greater efficiency, transparency and integrity in public institutions are driven by the fact that corruption threatens democracy which is the basic premises of good public administration. South Africa's public sector has a hierarchical structure in which it is channeled by representative government (Gildenhuys, 1997).

According to Ionescu (2013), most citizens believe virtually all public institutions are substantially corrupt. However in the South African public sector it is viewed as culture since the representatives are more concerned about their financial security which leads the corrupter to get away with corruption without being scrutinized (Gray & Kaufmann, 1998; Melgar, Rosie & Smith, 2009). To be able to successfully curb corruption it is significant to look at the mechanisms that drive corruption. Melgar, Rosie & Smith (2009: 02) have find that the level of education has a pertinent role in determining corruption perception. People who have completed, at least, secondary schooling are more likely to perceive a lower level of corruption. However it is much lower with people who have completed their tertiary. This implies that more educated people have more information about the current level of corruption and better capabilities to process the information. Moreover, corruption perception decreases with socioeconomic status, the better-off people are materially and the higher their social standing, the more likely they are to view the world and other people in a favorable light.

#### 4. Is the Fight Against Corruption Ideal or Pragmatic?

Despite extensive efforts, corruption in public sector has reached epidemic proportions and has become one of the major challenges for management. Because corrupt practices mostly occur under wraps, the task of combating corruption becomes even more difficult (Pillay, 2004; Tabish & Jha, 2012). *The Prevention and Combating of Corrupt Activities Act 12 of 2004* came into effect on the 27<sup>th</sup> of April of 2004 in the endeavor to achieve local government that move progressively towards the social and economic development upliftment of local communities, and ensure universal access to essential services that are affordable all without corrupt hindrance. The Act aims to provide for investigative measures in respect of corruption and related corrupt activities. However Ndenze (2014: 1) argues that the number of cases involving serious allegations of corruption in the government has almost doubled since last year, according to figures released by the interministerial committee on information and publicity. Scholars such as Pillay (2004) argues that corruption has proliferated in all segments of the South African National Public Service (SANPS), making it the common cold of South African social misfortunes. The smooth movement from policy to practice will always remain a challenge (Brynard, 2007).

There have been extensive efforts by government, non-governmental and international organizations to combat corruption and establish specific guidelines to prevent bribery and unethical practices in international business (Getz & Volkema, 2001). However problems with policies often lie in the implementation thereof, thus forming a policy gap. Fighting corruption is very difficult because it is a multifaceted social phenomenon that penetrates horizontally and vertically through many areas of society (Brynard, 2007). Corruption is difficult to identify since it occurs, in most cases, clandestinely and away from the public eye and records. According to Tabish & Jha (2012), curbing corruption in the public sector is not an impossible dream but it can only be pragmatic where there is committed leadership for instance Liberia, Kosovo and Hong Kong. These countries have been highly successful in curbing corruption because of their government's strong commitment to fighting corruption supported by effective governance. Some scholars, government bureaucrats and elite participants seriously question the commitment and even the sincerity of the government to fighting corruption which makes the government prone to corruption (Hassan, Megistu & Teklu, 2013).

#### 5. The Anti-corruption Strategy (PACCA)

With the aim of controlling corruption and promoting good governance the South African public sector has put in place CAPP to ensure the public that their interests come before those of the people in authority (Siddiquee, 2010). South Africa has passed a number of various pieces of anti-corruption legislation however the main anti-corruption law, according to Loxton (2013), is the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PACCA). PACCA provides for the strengthening of measures to prevent and combat corruption and corrupt activities both

in the public sector and the private sector however for the purpose of this paper, the focus is on the public sector. It thus provide for:

- the offense of corruption and offences relating to corrupt activities;
- the investigative measures in respect of corruption and corrupt activities;
- extraterritorial jurisdiction in respect of the offence of corruption and offences relating to corrupt activities; and,
- the establishment and endorsement of a Register in order to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts.

The 1996 Constitution is the supreme law of the Country and any that does not abide by it is invalid. Chapter two of the Constitution of the Republic of South Africa of 1996 provide for the bill of rights as the cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom. However corruption and related corrupt activities undermine the said chapter two rights. It is deduced that PACCA has stepped as a watchdog of the chapter two rights of the 1996 Constitution. Given all the anti-corruption pieces of legislation, the question that arises is Section 34 of PACCA provides for the obligation to report corrupt transactions of any persons who holds a position or authority and who knows or ought reasonably to have known or suspected that any other persons has committed an offense of corruption or related corrupt activities. Loxton (2013: 55) argued that there are no reported cases of successful prosecutions regarding this matter from the conception of the act until 2013, and it appears to be underutilized.

## **6. The Prevention and Combating of Corrupt Activities Act 12 of 2004: Implementation Challenges**

The subject of embarking upon corruption has substantially gained interests and sustenance in scholars, public servants and politicians and the World Bank (Vienna, 1999). Consequently in the dispensation of democracy consistent effort was made to curb corruption in South Africa both economically and politically (Grubisa, 2010). Significant anti-corruption measures and instruments have been launched. Globally the standards of anti-corruption policies have been raised and protective mechanisms have been built for the reduction of corruption and an efficient prevention and curative action. With the aim of controlling corruption and promoting good governance the South African public sector has put in place an elaborate set of mechanisms. The South African corruption is a manifestation of many social tensions resulting from an environment that is in a constant state of flux (Pillay, 2004: 592; Moloj, 2012: 3). Anti-corruption policies can be enriched by understanding the role of incentives and market forces in influencing corrupt behavior (Ionescu, 2013). The availability of skilled human resource to carry out the functions of the organization is one of the key factors in the process of ensuring



that service delivery takes place. The question that arises within the bureaucrats and representative elites is: whose duty is it to fight corruption because the people who are entrusted with the power to fight corruption are the ones found to be involved in corrupt activities (Hassan, Megistu & Teklu, 2013). The mechanism that strengthens a policy is the effective coordination of the anti-corruption agencies, however that seems to be lacking.

The proliferation of corruption cases in the public sector among the public servants and public official is a sign that there is a challenge in the implementation of the act. The acknowledgement of the legislation (PACCA) in corrupt cases is rare or rather lacking. PACCA is a piece of legislation that exists in a vacuum where it cannot solve anything. This draws the argument back to what Brynard (2007) argued by saying that the existence of a legislation does not imply the implementation of the legislation. Government is the one that takes the responsibility of implementing the act. However the question that arises is who is government? Radebe reiterated that since taking office in 2009, Zuma has signed 36 proclamations authorizing the Special Investigating Unit to probe maladministration and fraud in state entities. However the President of the Republic of South Africa has 700 corruption charges against him says Hellen Zille in (Sappa, 2014: 1), which he has not yet accounted for in court. This poses threats to the legacy of democracy of South Africans.

## **7. Implications of Corruption**

South Africa is an evolving democracy and a developing country born out of political and economic struggle for freedom against apartheid regime which exploited African resources (Steyn-Kotze, 2009 cited in Kanyane, 2010). Democracy can no longer tolerate bribery, fraud and dishonesty; especially as such practices disproportionately hurt the poor (Cater, 2004: 6). Public administration has a duty of ensuring that the scarce resources meet the unlimited services of the constituents (Gildenhuys, 1997; Visser & Erasmus, 2002). However corruption is an obstacle to economic growth and development which mostly hinders the utilization of public resources (Tabish & Jha, (2011). Corruption harvests human rights violations and affects many lives that participate in development and those that look upon the public service delivery. When constituents and families have to pay bribes to access food, housing, property, education, jobs, land claims and the right to participate in the cultural life of a community, basic human right which are outlined by the Constitution of the Republic of South Africa are clearly violated (Robinson, 2004: 7). It is not under wraps that corruption fundamentally runs contrary to accountability, and the rule of law because it undermines governance, diminishes public trust in the creditability of the state and also threatens the ethics of the government and the state (Pillay, 2004). The public sector is given a mandate by the 196 Constitution to deliver basic services to the constituents of the country given the state's resources. The concept of public service delivery embraces programmes and activities in relation to powers and functions of government are

performed and service delivery is concerned with the provision of service by government and public entities (Kanyane, 2010).

Rather than diminishing, corruption has proliferated in all segments of the South African National Public Service (SANPS), making it the common colds of South African Social ills. The apartheid regime has left the constituents of South Africa in worsened proliferated poverty livelihoods. Hassan, Megistu & Teklu (2013) suggest that lack of transparency and accountability in government fiscal and monetary policies contributes to corruption and it is a significant major to degrade democracy by stealing the economic resources of the country. In this regard for a high standard of public service delivery to be achieved and sustained, the public officials are required to display honesty and transparency while according to Kanyane (2010), the corrupt practices result in non-delivery of essential public services, thus denying communities their right to a better life. According to Wessels & Pauw (1999), public officials without personal morality and the necessary sense of public duty will either themselves be prone to abuse their position. The need to improve the performance is underpinned by the government acceptance of the challenge that access to delivery of decent public service is no longer privilege to be enjoyed by few, but rather the rightful expectation of all the people.

The procurement plans and processes are the key points of manipulations and abuse by elements within the public service. Public sector corruption, as a symptom of failed governance, depends on a multitude of factors, such as the quality of public sector management, the nature of accountability relations between the government and citizens, the legal framework, and the degree to which public sector processes are accompanied by transparency and dissemination of information. According to Pillay (2004), the greater openness that democracy has brought since 1994 offers new opportunity to deal with the problem of corruption in the context of the country's constitutional values, but the more systematic corruption is and the more difficult it becomes to identify and deal with it then the more difficult to penalize it. The high level of corruption may have a significant impact on the economy. However it poses a significant proliferation of service delivery protest because it will be working against the ANC manifesto (A better life for all).

## **8. Conclusion**

The paper concludes that corrupt officials are attracted to the various forms of corruption depending on the situation and calculation of perceived. The mere existence of good policies does not automatically result in successful implementation. The implementation of CAPPA remains a hollow in the South African public sector because financial irregularities; wasteful expenditures; improper records are outstanding on a yearly basis in the audit reports. Improper record keeping is one of the major aspects that open doors for corruption in the public sector. It appears as if corruption is tolerated, regardless of the implications on society. Corruption is likely

to appreciate in the South African public sector due to the media reports and the lack of political will from the political elites. The role of curbing corruption does not lie upon the legislation but individuals' willingness to do away of with it. Curbing corruption and eventually eradicating it, children, youth, and adults must be given the power to distinguish right from wrong. It is concluded that PACCA cannot curb corruption however it can serve as a guideline to those who are willing to curb it. It is imperative for look at the countries that have successfully curbed corruption such as Hong Kong and Liberia and to follow a similar path they travelled. The perception of corruption in a particular country is significant in building a strategy to curb corruption. The Hong Kong government for instance succeeded in the struggle of corruption by demonstrating on media how the cases have been solved, usually a deterrent punishment is imposed top the corrupter. It is by deterrence punishment that whereby the perception of corruption can change. In order to prevent corruption from happening at all, South Africans should emphasize comprehensive transparency, integrity, and accountability in all their public and private transactions.

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## DOES THE OFFICE OF THE PUBLIC PROTECTOR NEED POWERS TO ENFORCE COMPLIANCE WITH REMEDIAL ACTIONS?

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### Abstract

South Africa's Chapter 9 institutions are created to serve as the pillars upon which the nascent constitutional democracy can thrive. However, these institutions do not have coercive powers to enforce compliance; and, their strength is depended on the respect they enjoy from government. The primary role of these institutions is to subject the exercise of public power to scrutiny and to deepen accountability in order to ensure good governance by, among other things, investigating maladministration and corruption. To this extent, Chapter 9 institutions support the judiciary in its endeavour to curb abuse of power and to provide a system of checks and balances, which guarantees responsiveness and accountability. But the lack of coercive powers to enforce adherence has rendered these institutions' work unproductive. This paper argues, therefore, that the Public Protector, which is one of the Chapter 9 institutions, needs a legal status that accords its remedial powers to enforce compliance with its recommendations.

**Keywords:** Democracy; Maladministration; Public Protector; Mechanisms of Power; South Africa

### 1. Introduction

The Chapter 9 institutions created by the Constitution, like the judiciary, are the pillars upon which our nascent constitutional democracy is based. Its growth and strength is depended on the respect these institutions receive from the government. Like the judiciary, the role of these institutions is to subject the exercise of public power to scrutiny and to deepen accountability. These bodies ensure good governance by investigating maladministration in state affairs (Madonsela, 2012: 1). They are aimed at supporting the judiciary in its endeavour to curb abuse of power and to ensure the system of checks and balances which guarantees that the exercise of public power is responsive and accounted for; that it is based on justification and not fiat (Govender 2013: 83-85). However, these institutions generally do not have coercive powers to ensure that the results of their investigations are followed through and adhered to.

The following are "state institutions supporting democracy" in terms of chapter 9 of the Constitution of 1996: the Public Protector; the South African Human Rights Commission; the Commission on 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. This paper will not deal with all these institutions but will focus on the Public Protector. The paper seeks to investigate whether there is a need to amend the current legislation that establishes and defines the powers and duties of the Public Protector to afford this institution coercive power to enforce the "appropriate remedial action" after it has undertaken the investigations. The rationale for this investigations stems from the widely publicised appointment

of Mr Hlaudi Motsoeneng as the Chief Operations Officer (COO) of the South African Broadcasting Corporation (SABC) despite the Public Protector's report into the functioning of the SABC had maligned Mr Motsoeneng. In order to give proper perspective to this discussion reference will be made to other investigative reports made by the Public Protector. This paper consists of this introduction; secondly a brief overview of the powers and functions of the Public Protector will be sketched out. Then the legal status of Public Protector's remedial powers will be investigated to determine whether they need to be beefed up and lastly the recommendations will be made to improve the current legal framework regarding the remedial powers of the Public Protector.

## 2. Powers and Functions of the Public Protector

The Public Protector is established in terms of s 181 of the *Constitution*. Section 182 vests to this office the powers to:

- Investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or may result in any prejudice;
- To report on that conduct; and,
- To take appropriate remedial action (section 182(1) of the *Constitution*).

These powers are supplemented by the national legislation in the form of the Public Protector Act 23 of 1994 (the Act). The preamble to the Act provides, among others, that the Office of the Public Protector is established "...to strengthen and support constitutional democracy..." Section 181(2) of the *Constitution* provides for the impartiality and independence of this institution. The public Protector is subject to the *Constitution* and the law. This is echoed by section 3(13)(a) of the Act which states that members of the office of the Public Protector must be independent and impartial and perform their functions in good faith without fear, favour, bias or prejudice. Although independent, the *Constitution* enjoins other organs of state, through legislative and other measures, to assist and protect the Public Protector. This is in order to ensure the Public Protector's independence, impartiality, dignity and effectiveness (section 181(3) of the *Constitution*). Some commentators are of the view that the name Public Protector is susceptible to being misunderstood to mean that the Public Protector is an advocate who holds a brief for the complainants instead of a body that dispassionately considers the facts and evidence before it and comes to an impartial conclusion (Brynard, 1999: 10-11). Similarly, to ensure that the Public Protector is not beholden to government that has appointed her term of office is for a non-renewable period of 7 years (section 183 of the *Constitution*). Furthermore, the Public Protector can only be removed from office by the President on the ground of misconduct, incapacity or incompetence and upon a resolution of the National Assembly supported by at least two thirds of the members of the National Assembly (section 194 of the *Constitution*).



Section 6 of the Act grants the Public Protector powers to investigate maladministration in governmental affairs on a request by a member of the public or on her own initiative. In terms of section 7 of the Act the Public Protector has wide ranging powers in the course of her investigations which include the power to determine the procedure to be followed in conducting investigations, subpoena witnesses and documents; cause witnesses to depose to affidavits or make affirmations; search buildings or premises and seize articles among others. In terms of section 8 of the Act the Public Protector may publish her findings. Section 7(2) of the Act prohibits the publication of the Public Protector's ongoing investigations. Section 181(4) provides that no person or organ of state may interfere with the functioning of the Public Protector. This provision is given teeth by section 9 of the Act which creates the offence known as "contempt of [the] Public Protector." This offence includes insulting the Public Protector or her deputy or do anything which would have amounted to contempt of court had the Public Protector's investigations been proceedings in the court of law. In terms of section 11(3) it is an offence to refuse to appear before the Public Protector, to refuse to depose to an affidavit or make an affirmation if so requested by the Public Protector, to refuse to answer questions lawfully put to the subject. These are indeed extensive powers at the disposal of the Public Protector to ensure that she undertakes credible investigations.

Given her role in uprooting maladministration in governmental affairs, it is submitted that these powers are appropriate as they are geared towards discouraging conduct or persons likely to hinder the optimal functioning of the Public Protector. Given these powers, the Public Protector has no excuse in not undertaking full and comprehensive investigations. In *Mail & Guardian versus Public Protector* (2011: 420) the Supreme Court of Appeal confirmed the court a quo's decision that the Public Protector had undertaken a perfunctory investigation and set the same aside. This, in essence meant that the Public Protector had to "re-investigate" that matter. As far as the author is aware the investigation has never been re-opened. Although the legislature has went out of its way to ensure that the Public Protector undertakes proper investigations and thus produce credible reports, the same cannot be said about the Public Protector's powers regarding the implementation of the proposed remedial actions flowing from these investigations. This is the question that we now turn to.

### **3. The Legal Status of the Public Protector's Remedial Actions**

The legal status of the powers of the Public Protector's remedial actions has been forcefully brought to the fore by the recent permanent appointment of Mr Hlaudi Motsoeneng to the position of the COO of the SABC after the Public Protector had released her investigative report "into the allegations of maladministration, systemic corporate governance deficiencies, abuse of power and irregular appointment of Mr Hlaudi Motsoeneng by the South African

Broadcast Corporation (SABC)", entitled "[w]hen governance and ethics fail" (Report No. 23 of 2013/2014).

However, this was not the first time the efficacy of the Public Protector proposed remedial action came under spotlight. Nor, it seems, it would be the last. In her report relating to the current President violation section 5 of the Executive Ethics Code promulgated in terms of the Executive Ethics Act 82 of 1998 by failing to declare timely his financial interests as required, the Public Protector recommended, among others, that this Act be amended to address the issue regarding which office or person must the Public Protector submit her report to involving the breach of ethical conduct of the President. In terms of this Act a report on alleged ethical breaches by members of the Cabinet must be submitted to the President. Cabinet member includes the President. This presented a conundrum in this case because the report related to the President himself (Report No. 1 of 2010/2011). The submission of the report to the President potentially violated the principle that no one should a judge in her own case. This has not been done as borne out by the confusion, again, as to who or which office must the Public Protector submit the final report on the upgrades at President Zuma's private residence. Although the report is not necessarily about the President, it relates to the President's private residence. Furthermore, in this latter report the Public Protector recommended, among others, that the President repay the reasonable costs of measures implemented at his private residence that did not relate to security and to report to Parliament on the actions he has taken to implement the Public Protector's findings within 14 days of the receipt of the report (Report No. 25 of 2013/2014).

The President has since purported to report to Parliament on the Public Protector report although long after fourteen days had passed as requested by the Public Protector. Startlingly, the President second-guesses the Public Protector, or at the very least suggest that someone do, on the question of the payment of reasonable costs that did not relate to security. According to the President the Minister of Police will have to decide whether or not the President has to pay or not (Zuma, 2014: 19). As a result of this report a warfare playing itself out in the media has erupted between, on the one hand, the Presidency and the African National Congress and the Public Protector on the other). It is against this background that this paper has to be understood. It is also important, as earliest as convenient, in order to avoid unnecessary and unfair imputations being made against this discussion, to state what this discussion is not about. This discussion is not about Mr Motsoeneng's suitability to hold the position of the COO of the SABC. Nor is it about the correctness or otherwise of the Public Protector's report. But this paper is about the legal status of the Public Protector's remedial action. In other words, what weight should the decision makers to whom the Public Protector's report is directed attach to the contents and the remedial action proposed therein. It is also convenient to report upfront that this paper is written from the

premise that the Public Protector's reports are correct and enforceable until they are set aside by a court of law.

The remedial actions of the Public Protector are not in law binding (Brynard, 1999: 17; Bishop & Woolman, 2005: 24A-3; Mubangizi, 2012: 312). To buttress this point the current Public Protector is quoted as having said that “[a]s an office, we don’t have coercive powers but we do have persuasive powers that encourage implementation of our recommendations” (Tabane, 2013: 2). Bishop & Woolman (2005) share the Public Protector’s view in this regard. According to these authors this “is the real measure of its strength” because change is not brought to bear through the application of coercion but through the application of reason (2005: 24A-3). Brynard (1999: 18) posits that publicity is a potent weapon in this regard as it draws attention to and engenders sympathy from the public. The publication can also shame the culprits into submission and thus implementation of the Public Protector’s remedial action (see also Bishop & Woolman, 2005: 24A-3). This is however not always potent. Advocate Madonsela is aware that: “failure by the state to cooperate [with investigations] and comply [with remedial action] impacts on our ability to deliver on our promise to provide prompt remedial action to complainants.... This may also dent our credibility in the eyes of the public” (The Public Protector, 2010: 6). It is unfortunate that many who occupy position of power do not share late President Mandela’s vision that institutions like the Public Protector were:

“never reason for irritation but rather a source of comfort when these bodies were asked to adjudicate on actions of my government and office and judged against it.... I drew reassurance that the ordinary citizens of our country would be protected against abuse, no matter from which quarter it would emanate” (Madonsela, 2013: 2).

The lack of this vision from many of our leaders has resulted in the legislature amending the Public Protector Act by inserting section 7 (11) to the Act which empowers the Public Protector to “make rules in respect of any matter ... which has a bearing on an investigation or on any matter incidental thereto...” Addressing a roundtable discussion where these draft rules were under consideration the Public Protector said that “[o]nce the rules were in force, state organs would be fully aware of what is expected of them in terms of cooperating with investigations and complying recommendations” (sic) (The Public Protector, 2010: 6). Due to the importance of the rule relating to remedial action it is only proper to reproduce it in full:

Monitoring of agreement and remedial action to be taken

48 (1) The Public Protector may, if remedial action has been taken by an organ of state, in writing request the organ of state involved to-

- (a) Indicate in writing, within the period prescribed by the Public Protector, whether or not the recommendation is accepted and will be implemented; or
- (b) Provide the Public Protector within the period determined by the Public Protector, with an action plan on how and within what timelines the recommendation will be implemented.

- (2) The Public Protector shall monitor the implementation of-
- (a) any remedial action to be taken, which was accepted in terms of subrule (1) (a) by the organ of state involved;
  - (b) an action plan that was provided in terms of subrule (1) (b); or
  - (c) an agreement that was reached between parties to resolve the complaint.
- (3) The Public Protector may if a recommendation or action plan is not implemented or the terms of an agreement to resolve the matter is not adhered to-
- (a) take the matter up with the relevant minister or member of executive council; or
  - (b) refer the matter to the National Assembly or Provincial Legislature for assistance.

The Public Protector has declared that in the main her recommendations are adhered to (see Brynard, 1999: 17). However, there are some high profile investigations that stand in contrast to the Public Protector's assertions. She has stated that those where a drop in an ocean of adherence and compliance. The paucity of such cases is however not the reason to relax. The concern about these few cases largely rests on their high public profile. Despite the high compliance rate the rules were created to ensure that in the event there is none compliance stern action be taken. Commendable the idea to promulgate the rules it may be, they fall woefully short of enforcing compliance with the Public Protector's remedial action. Of particular concern is subrule (3). In terms of subrule (3)(a) where a functionary fails to comply with the remedial action, the Public Protector's has to take the matter up with that functionary's political head or may refer the matter to national or provincial parliament. In other words the Public Protector relies on the goodwill of others for the implementation of her remedial action. This rule was not thought through. This is so because, as Bishop & Woolman (2005: 24A-7) put it:

"[t]he political nature of the Public Protector's brief means that it must be able to engage other political actors in relatively robust exchange. The sensitivity of the material handled by the Public Protector often means that its investigations and its reports, even if they have no binding authority, can ruffle feathers and bruise egos".

Adv Gary Piennar, a senior investigator in the Office of the Public Protector has bemoaned the "lack of commitment by some political leaders and officials to justice, equity and fairness, as interpreted by the Public Protector, and to fight corruption. We have encountered instances of reluctance and even failure to co-operate or to implement recommendations" (Pienaar 1999: 7). The Public Protector herself has commented:

"I am often surprised when confronted with organs of state that think my decisions are allegations or suggestions.... The common scholarly understanding confirmed by a legal opinion commissioned by and given to Parliament recently, is that the decisions of these institutions cannot be second-guessed" (Madonsela, 2013: 6).

The legal opinion the Public Protector refers to proclaims in no uncertain terms that findings of the Public Protector are not susceptible to "confirmation, ratification or approval by

any other institution or organs of state, due to the independence of the office of the Public Protector” (Ngcobokazi & Vanara, 2014: 11; see Special Investigating Unit *versus* Ngcingwana, 2011: 392). The Public Protector’s report and recommendations are supposed to be “final and ready for action” (Ngcobokazi & Vanara, 2014: 11).

However, many a time politicians do not share this view. The fracas surrounding the appointment of Mr Motsoeneng makes this plain. In the “[w]hen governance and ethics fail” report, alluded to earlier, the Public Protector has made unsavoury findings against Mr Motsoeneng. Despite this, the political head responsible for the SABC (the Minister of Communications, Ms Faith Muthambi) appointed a private law firm to second-guess the Public Protector’s investigations and findings. This ignored Froneman J *obiter dictum* in Special Investigating Unit *versus* Ngcingwana (2011: 392) that the constitutionally established Public Protector enjoyed primacy over a body established by ordinary legislation. What more about an entirely private firm not, at the very least, statutorily mandated to investigate governmental matters? According to Minister Muthambi this law firm exonerated Mr Motsoeneng. As result of this private firm’s findings the Minister endorsed the appointed Mr Motsoeneng permanently to the position of the COO of the SABC by the SABC board. The said law firm has however denied that it had advised the SABC on the appointment of Mr Motsoeneng (Shoba, Mokone & Ngalwa, 2014: 2). To put matters into perspective the Public Protector had found Mr Motsoeneng guilty on a number of allegations made against him including having lied about his qualification when he was appointed at the SABC, purging staff, increasing his salary by 63% in one year. She recommended that the SABC appoint a permanent COO. Surely, the Public Protector could not have anticipated that Mr Motsoeneng will be the preferred choice to this position after her damning findings against him. This is borne out by her response to a journalist’s question about the appointment of Mr Motsoeneng. She indicated that she was surprised by the appointment of Mr Motsoeneng (Staff Reporter, 2014: 1). The media reports that the Public Protector has subpoenaed Minister Muthambi after the latter had snubbed the Public Protector’s request for a meeting to discuss the matter of Mr Motsoeneng’s appointment (Legalbrief, 06 August 2014).

In this matter the Public Protector’s remedial actions were not heeded and she has no powers to enforce them except maybe if someone or the Public Protector herself approach a court of law seeking the implementation of these recommendations (the Democratic Alliance has since approached the high court to set aside the appointment of Mr Motsoeneng). Surely, the Public Protector should not rely on an outside agency before her recommendations are complied with as that may easily diminish the stature of her office. The efficacy of the referral of non-compliance to Parliament is also questionable. However, according to Bishop & Woolman (2005) the Public Protector’s reports may enable Parliament to exercise effective oversight over the Executive. Although this is possible, it is unfortunate that our Parliament is generally supine, if

not protective of the Executive. The Executive runs roughshod over Parliament. It is common cause that one of the African National Congress Member of Parliament resigned because, in his view, Parliament stalled a thorough investigation into the so-called arms deal. This is an indictment on our Parliament. For this reason, and the fact that our democracy is dominated by one party to which members of Parliament owes allegiance to and serve at its behest, the referral to Parliament of non-compliance with the Public Protector's remedial action is unlikely to bear fruits if the culprit is a senior member of the ruling party (Feinstein, 2007). The shenanigans involving the ANC in Parliament and the Public Protector bears testimony to this. The Public Protector had written a letter to the President bemoaning the fact that the President's purported comment on her report was not a comment on her report. The ANC caucus in Parliament registered its disappointment on the Public Protector for having written that letter as the President's report was before Parliament. It would seem that the ANC Parliamentary caucus is hell bent on protecting the President even before the Parliamentary process has begun. It is beyond the scope of this discussion to consider the appropriateness or otherwise of both the Public Protector's letter and the responses it solicited.

#### **4. Recommendations**

Neither the Constitution nor the Public Protector Act provides appropriate measures against the failure to adhere to the Public Protector's remedial actions. Although the rules have been promulgated by the Public Protector to remedy this defect, they woefully fall short. The primary reason being the sole reliance on politicians for ensuring compliance with the Public Protector's recommendations. As a result, it is proposed that the Public Protector Act be amended to provide some bite. This may be attained if the person to whom the Public Protector's remedial action applies or to whom compliance with the remedial action is vested is bound by the Public Protector's remedial action. If such person does not accept the Public Protector's report he or she should approach a court of law to set aside the recommendations within a stipulated time. Failure to do should render the report binding on the parties concerned and must be implemented at the threat of punishment. In other words failure to implement the recommendations must be a criminal offence. The proposed insertion to the Public Protector Act may provide as follows:

##### **Enforcement of the remedial action**

- (1) Wherever the Public Protector has taken a remedial action in terms of 182 (1) (c) of the Constitution, 1996 the person or the institution that must ensure the compliance with such remedial action must-

- (a) Within 14 days of the receipt of the Public Protector's report in terms of section 8 (3) of the Public Protector Act 23 of 1998 in writing indicate that he or she or it accepts the Public Protector's report and proposed remedial action;
  - (b) If he or she or it does not accept the Public Protector's report or remedial action indicate which parts of the report or remedial action he or she or it does accept and the reasons thereof;
- (2) The Public Protector may, if the report is accepted in terms of subsection (1) (a), require the person or institution responsible for the implementation of the remedial action to draft and submit, within the time prescribed by the Public Protector, to the Public Protector an implementation plan indicating how the remedial action will be implemented.
  - (3) The person or institution that does not accept the remedial actions proposed by the Public Protector must, within 30 days of the receipt of the Public Protector's report make an application or cause an application to be made on his or her or its behalf to the High Court having jurisdiction to set the whole of the report or parts of the report aside or the remedial action or parts of the remedial action he or she or it does accept.
  - (4) Failure to approach the High Court within the timeframes stipulated in subsection (3) the report shall be binding to all persons it applies and remedial action proposed therein must be complied with.
  - (5) The court may, on good cause shown, condone the application that does not comply with the timeframes stipulated in subsection (3).
  - (6) Nothing in this section precludes the Public Protector from issuing remedial action that is declaratory nature.
  - (7) A person or institution who fails to comply with the remedial action proposed by the Public Protector shall be guilty of an offence and be liable on conviction to a fine or imprisonment.

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## THE ROLE OF PUBLIC SERVICE COMMISSION IN IMPLEMENTING CONSTITUTIONAL VALUES AND PRINCIPLES FOR GOOD GOVERNANCE

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### Abstract

The paper revisits the challenges experienced by the Public Service Commission as an agent of transformation and good governance in the Public Service of South Africa through analyzing the results of a desktop study. The Public Service Commission promotes values and principles of the Public Service as enshrined in Chapter 10 of the South Africa Constitution Act, 1996 (Act 108 of 1996). Its primary mandate is to oversee public administration and its custodial responsibility of good governance. The Public Service Commission annually publishes its “state of public service” report where it analyses how the government performed in terms of the 9 values and principles of public administration. The Public Service Commission critically evaluates the 9 values and principles and reports how the public service implemented them. These 9 values and principles from Chapter 10 of the South African Constitution are discussed in detail during the course of this study. Further, the annual reports indicate how the state managed to implement policies through transformation and enforcing good governance principles. The Public Service Commission has an enormous task to drive transformation and good governance in the entire public service. It must ensure that every state organ practices good governance and also deliver services to the people of this country. The practice however shows that most of the Departments find themselves of the wrong side of the law and just ignore the recommendations of the PSC to improve the situation. The Public Service Commission are not given the powers to take actions those transgress the law by rely on the relevant Authorities.

**Keywords:** Governance; Constitution; Values; Principles; Public Service Commission; South Africa

### 1. Introduction

An analysis of the South African public service reveals that the reign of the new politically democratic government in 1994 heralded the dawn of a new era which crucified the imbalances and the policies of racial discrimination created by the public service during the apartheid epoch. The constitution of the Democratic Republic of South Africa (1996) created a fundamental transformation process from an apartheid-driven bureaucracy towards a more democratic public service which put citizens first through the establishment of the Public Service Commission (PSC). The Public Service Commission derives its mandate from section 195 and 196 of the constitution and it is responsible for the performance of the public service as well as the monitoring and evaluation of administrative practices whilst promoting the values and principles governing public administration as stated in Chapter 10 of section 195 (Republic of South Africa, 1996). The Public Service Commission is also tasked with the role of transforming the public

service through offering quality services to the citizens of South Africa. Therefore, it is reflective of a democratic government that has shifted from a rule bound culture to that which offers a broader public forum which is signified by people centered ethos of service delivery (*Batho Pele* Service Delivery Policy) whilst combating the spread of mal-administrative practices such as corruption and fraud so as to uphold the principles of good governance and the rule of law within the public service. Since 2001, the PSC has annually published a State of the Public Service Report in which it evaluates how the nine principles and values were implemented by the government. The PSC has an important role to ensure that the Public Service is delivering services to the people professionally, effectively and efficiently.

Nevertheless, the Public Service Commission is regarded as an agent of transformation and good governance in the public service, but the activities of the Public Service Commission have left many wondering how effective the commission is due to the fact that the absence of adequate basic service delivery, the rise of poverty, poor social service provision, escalating rates of corruption are all contributing factors that have been the sparks that are responsible for setting alight strikes and service delivery protest and yet the Public Service Commission has not been able to fully act out its constitutional mandates. This makes the case that although a new bureaucracy is operating under a democratically elected government, its legitimacy will not only come from popular consent or those supervising it, but also from the manner in which it will satisfactorily address the problems facing South Africans (Kalema, 2009:546). This leaves citizens of South Africa questioning whether the Public Service Commission is just but a ghost reflection of the apartheid era. Therefore this study strives to revisit the role of the Public Service Commission as an agent of transformation and good governance towards quality service delivery system in the Public Service.

## 2. Research Methodology

The paper is premised on the results of a desktop study. The desktop study focused on a wide range of reports published by the Public Service Commission and other organizations. Although no primary research was executed, it provides a useful overview of the state of human resource management in the Public Service and the progress that has been achieved since political independence in 19194. Thus, due to funding and time restrictions, the data is derived primarily from a desktop survey of secondary literature and reports from the Public Service Commission website. The article offers an entry point for re-examining the role of PSC as an agent of transformation and service delivery in the Public Service of South Africa. The initiatives are executed from a legal vantage point of the citizens for whom service delivery is intended since it is a legal obligation of the government to provide vehicles of transformation towards quality service delivery through monitoring and evaluation system. However, because it is not based on primary research with those directly involved or local communities, it has inherent limitations

(Mupindu, 2012: 87). It can be viewed as a snapshot of transformation and service delivery efficacy in the Public Service of South Africa. The article is based on the 9 values and principles of the Public Service as enshrined in Chapter 10 of the South Africa Constitution Act, 1996 (Act 108 of 1996). The initiatives resemble interventions for the best practices through improving the rate of transformation and service delivery in the Public Service of South Africa.

### 3. Background to the Study

The inheritance of apartheid presented the new South African government with vast challenges such as poverty, inequality, and the immense aspirations for greater access to basic public services. The government immediately began addressing these problems by enshrining constitutional rights to service access, as well as establishing the Public Service Commission in order to enhance excellence in government and within the public service by promoting a professional and ethical environment and adding value to a public administration that is accountable, equitable, efficient, effective, corrupt free and responsive. The rationalization of the South African Public Service to serve a democratic South Africa was mandated by the interim constitution and the essence of the rationalization process required that a single public service was to be established in place of the plurality of services which existed in the former dispensation (www.sals.gov.za accessed 01 September, 2013).

### 4. The Constitutional Role of the Public Service Commission

According to Cameron & Stone (1995: 15), the South African *Constitution* established the Public Service Commission to strengthen the oversight role of Parliament over the Executive and Administrative branches of the state to facilitate transparent and effective policy formulation and implementation. The Public Service Commission (PSC) is responsible to parliament with regard to the exercising and performance of its powers and functions. Sections 195 and 196 of the *Constitution*, vests the (PSC) with custodial oversight responsibilities for the performance of the Public Service. The term "oversight" refers to the fact that the PSC ensures that the Executive and Administrative apparatuses of the state are accountable to the Legislature and institutions supporting it through formal reporting on service delivery and the utilization of state resources. The term "oversight" also compels Accounting Officers to account for the budget allocated to their respective departments. Furthermore, the PSC must ensure that Parliament and the institutions supporting democracy should facilitate active public participation in the development of policies and strategies designed to address the needs of the people. In this context oversight must be strengthened to deepen democracy and achieve the objectives of a developmental state. Government will be more successful in mobilizing citizens if it is able to account for its electoral and constitutional commitments and is willing to interact with the citizenry and involve them in development in a participatory and transparent manner. The PSC monitors, evaluates

and investigates public Administration practices and promotes the values and principles governing public administration contained in the Constitution. It may also issue directives regarding compliance with personnel procedures relating to recruitment, transfers, promotions and dismissals (www.sals.gov.za accessed 01 September 2013).

A critical analysis of the constitutional role of the PSC brings to light the constitutional mandates of the PSC in the face of the escalating rate of mal-administrative practices such as corruption within the public service. This is eluded by the fact that since passing the Constitution, the government has continued to spend on basic public services and on public order and safety. According to Waldt & Dutoit (2003: 40), the South African government has made significant strides in improving the lives and living conditions of South Africa's historically oppressed majority, but the key developmental challenges of poverty, social inequality and unemployment remain. Despite the enormous effort and money put into new policies and institutions for improved service delivery, providing coverage and quality services for the rapidly growing mostly black and poor population remains a colossal challenge for the public service. The government and civil society are increasingly concerned that the huge investment in development is having less impact than expected. Inadequate services, combined with unemployment and continued poverty, have frequently ignited township protests and riots (known as "service delivery protests") and have spurred vigorous policy analysis, debate, and reform proposals. Creating jobs and improving services have emerged as the highest priorities of President Jacob Zuma's administration (www.sals.gov.za accessed 01 September 2013).

The *Constitution* requires input from the PSC on various matters concerning the public service, yet the recommendations of the commission are not binding. This is because most of the key recommendations of the commission are not being implemented and the commission itself has not been able to act out its constitutional mandates. Moreover, allegations of corruption and poor service delivery in the Public Service abound and are reported to both the Public Service Commission and other institutions supporting democracy like the Public Protector yet negative patterns of abuse of state power to generate illegal and illegitimate forms of resource accumulation have become widespread in all spheres of government. Both members of the public and public servants, who are aware of possible corrupt activities, are tentative about reporting such cases because the PSC hardly takes any action against reports of such mal-administrative practices within the public service. It is imperative that these whistle-blowers see that the cases they have reported are taken up and are being investigated and prosecuted by the relevant independent bodies and law enforcement agencies (www.sals.gov.za accessed 01 September 2013).

## 5. The Vision and Mission of the Public Service Commission

The researcher used the vision and mission of the PSC as a lenses and map to navigate throughout the study. The vision of the PSC include viewing itself as an independent and impartial body created by the constitution to enhance excellence in governance within the public service by promoting a professional and ethical environment and adding value to a public administration that is accountable, equitable, efficient, effective, corrupt-free and responsive to the needs of the people of South Africa (The PSC Strategy, 1999: 5).The mission of the PSC is to promote the constitutionally enshrined democratic principles and values in the Public Service by investigating, monitoring, evaluating, communicating and reporting on public administration (The PSC Strategy, 1999: 5).Through the research processes, the PSC will ensure the promotion of excellence in governance and the delivery of affordable and sustainable quality service.

## **6. The Public Service Commission Operating Principles**

In order to achieve the above vision and mission, the PSC is guided by the following operating principles:

- Impartiality and independence in all actions;
- Acting without fear, favour or prejudice in discharging its powers and functions;
- Integrity in working closely with Parliament, Provincial Legislatures and Departments;
- Leadership and innovation in good human resources management and performance in the Public Service;
- A good relationship of trust and respect with all clients and stake-holders through consultation, assessment and feedback; and,
- Commitment to and protection of the principle of merit, equity and fairness in employment in the Public Service (The PSC Strategy, 1999: 7).

## **7. The Constitutional Values and Principles which the PSC Monitors**

The Public Service Commission is required by section 196 (4) (e) of the *Constitution* to provide an evaluation of the extent to which the values and principles in section 195 are complied with in the Public Service. The PSC therefore uses the nine values as the frame for its analysis. The PSC publishes every year its State of the Public Service Report based on the 9 principles as provided in Chapter 10 of the *Constitution*.

### ***7.1. Maintenance of High Standard of Professional Ethics***

Fighting corruption is a major focus on this principle. In its fight against corruption, the government has promulgated legislation and put in place measures- an integrity infrastructure to try and discourage the scourge of corruption. The indicators were identified to assess the state of the integrity infrastructure which includes: minimum anti-corruption capacity, feedback on the National Anti-corruption hotline, compliance with disclosure of financial interest policy, number

of cases for financial misconduct, the PSC M&E system scores and the State of Professional Ethics in North-West Province (The 2011 State of the Public Service Report).

### ***7.2. Promotion of Efficient, Economic and Effective Use of Resources***

This principle requires the PSC to assess whether the government is performing efficiently, economically and effectively. This is a difficult task because it must be linked to departmental strategic plans, budgeting, performance monitoring and evaluation, and service delivery. This principle implies a relationship between the inputs, outputs and outcomes with the Public Service system (The 2011 State of the Public Service Report).

### ***7.3. Developmentally-oriented Public Administration***

The National Planning Commission in its diagnostic overview asserted that the developmental state model positions the state at the centre of efforts to transform the society. This implies that the state and the Public Service need to play a crucial role in building the necessary capacity to drive the development process. In this principle, the following indicators are used to assess the performance of the public Service: impact of social grants, access to basic services, unemployment, job creation under the EPWP, the PSC monitoring and evaluation system and assessing development capabilities (The 2011 State of the Public Service Report).

### ***7.4. Impartial, Fair, Equitable and Unbiased Services Provision***

This principle deals with the most important function of government that of delivering services to the people. The PSC uses the following indicators in assessing government: compliance with the Promotion of Administrative Justice Act, equity in district-level per capita primary health-care expenditure, equity in municipal per capita spending by province and equity in education outcomes (The 2011 State of the Public Service Report).

### ***7.5. Responsiveness to People's Needs and Public Participation in Policy-making***

This principle is looking at the strides the government has taken to involve the citizens in policy-making and also the important issue of addressing the needs of the citizens. The government is still faced with a lot of challenges with regards to effective public participation especially in policy-making. In his State of the Nation address, the President highlighted the importance of citizen feedback and participation through using modern media such as twitter and face-book. At National level, the Cabinet approved the new Public Participation programme outreach initiative previously known as IZIMBIZO which is an executive mechanism to engage the public. This is an important outreach campaign for communities especially remote rural areas where the executive directly engages with the public. In this principle, the work of the Community Development Workers is also assessed as they play an important role in extending government



services to the people. The indicators used in this principle include: PSC's M&E system, the effectiveness of the ward committee system on local government level and the PSC's citizen satisfaction surveys score-cards(The 2011 State of the Public Service Report).

#### ***7.6. Accountable Public Administration***

Accountability is an important principle since it requires that the Public Service opens its business or operations for public examination. It can be argued that this principle is perhaps much more relevant than it was in the past because more and more South Africans are demanding that the government accounts for its actions and in particular how it serves the citizens and how it spends its resources. In this principle the indicators used are: the proportion of HODS who were evaluated as against those who qualified to be evaluated, the filing of performance agreements, the PSC M&E system scores and the audit outcomes of departments and municipalities (The 2011 State of the Public Service Report).

#### ***7.7. Fostering Transparency and Public Access to Timely and Accurate Information***

Transparency promotes openness and includes the principle of accountability. In its mandate to monitor and determine whether the departments promote transparency the PSC assesses the quality of departmental annual reports as well as compliance with the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000). The annual report is the key accountability mechanism but must be written in such a manner that it is simple and clear to the reader. The report must also cover the key strategic objectives and how they were achieved and reached. The key requirement for annual reporting comes from the Public Finance Management Act, 1999 (Act No. 1 of 1999) which requires in section 40(3)(a) that Accounting officers must report on performance against predetermined objectives. The National Treasury has also issued guidelines in this regard. The intention is to make sure that the subjects covered by the annual reports are standardized. The M&E system of the PSC and the international Open Budget Index are the indicators which were used in this principle (The 2011 State of the Public Service Report). The 2011 report further shows that the capability of the HRM support function in the entire Public Service is very low. It is very much necessary that the HRM divisions be staffed by HR Professionals who have the skills and the knowledge to put their unit as a strategic nerve of the Department. These HR professionals must acquire the necessary skills and knowledge.

#### ***7.8. Maximization of Human Potential and Cultivation of Good Human Resources Management and Career Development Practices***

This is an important principle which ensures that the Public Service is practicing excellent HR practices, policies and procedures. This principle also requires that the Public service must recruit the best skills available in the country. This principle must also enhance high morale and

productivity within the Public Service. The HR Planning is a tool to predict the demand for all categories of skills in the future, compare demand to the envisaged supply of skills and develop strategies that will ensure that the Public Service will be able to employ the staff it needs to achieve its strategic goals. The indicators used here include: submission of HR Plans by department, the scores of the PSC M&E system, the time-frame for filling the vacant posts as well as recruitment and selection practices in respect of section 57 managers and Municipal managers. This principle requires that the HR requirements be met by the Departments (The 2011 State of the Public Service Report).

### ***7.9. Representative Public Administration, Employment and Personnel Management Practices: Ability, Objectivity, Fairness and Redress***

The National Planning Commission's review report has opened discussed issues and complexities surrounding South African institutions and its workforces on issues of representivity. New policies were introduced with the aim of addressing the imbalances of the past. The value and relevance of the Affirmative policy in the Public Service has also been reviewed. Although the Department of Labour annually publishes the statistics in terms of the Equal Employment Act of 1995, it is important to check the composition of the Public Service in terms of this principle. The indicators in this principle includes: achievement of representivity targets and the M&E system of the PSC scores. In terms of the 2011 Fact Sheet on the State of Public Service, there is still a lot to be done in implementing principle No. 9 ( 2011 Annual State of the Public Service Report).

## **8. Public Service Commission and the National Development Plan: Vision 2030**

The National Development Plan came up with the new recommendations on how the PSC needs to be transformed in order to build the capacity for the Public Service. Here are the recommendations:

- The PSC should be strengthened to make it a robust champion of a meritocratic public service by promoting and monitoring key norms and standards;
- Its mandate should be extended to include the primary responsibility for setting the norms and standards especially for recruitment purposes;
- Its mandate should be relooked at and be made to protect and support democracy just like other Chapter 9 constitutional institutions. This will enhance its independence in terms of its recommendations being taken seriously by the Executive;
- The PSC should play a direct role in recruitment especially such senior positions as the HODs and their deputies;
- The role of the PSC in recruitment will enhance its new role of promoting merit appointments in the Public Service;

- The PSC should play an active role in the new proposed Hybrid approach on top appointments where it should convene the selection panel together with the Head of the Public Service and finally draw the short-listing for suitable candidates;
- The PSC should work hand in hand with the new proposed position of the Head of the Public Service to whom the Directors-General report on organizational and administrative matters;
- The PSC should ensure that it has a strong independent Chair who carries cross-party support and commissioners who are appointed on non-political grounds;
- The appointment of Commissioners should become a litmus test for the government's commitment to retaining the independence of the PSC; and,
- The PSC should really play its active role in setting the norms and standards for the Public Service rather than being involved in the daily operational matters of the Departments.

## **9. PSC and Transformation in the Public Service**

According to Bekker (1995: 41), in the 1990s the pursuit of transformation seems to have been driven by a so-called paradigmatic shift from public administration to public management. Those who exposed this shift were convinced that the public sector would be radically transformed by it. As a result, public services have begun to emphasize public management as a panacea for addressing all of their delivery, efficiency, effectiveness and accountability problems. The post-apartheid era revealed that public administration was tarnished by its association with the apartheid state. The critical debate for advancing a shift was whether to move from the traditional generic administrative process approach to an open system, development oriented approach which could among other substantial benefits also facilitate citizen participation. The problem was not how to improve the efficiencies of the government and the public sector, but how to 'smash' it Lenin-like or, at least transform it according to the ANC's Strategy and Tactics. This is eluded by the fact that when the international winds of change in the field of public administration reached South Africa, they propelled unexpected debates.

From the 1970s, the South African government had pursued a policy of ethnic balkanization, breaking the territory into numerous tribal homelands or Bantustans. By the end of the apartheid period, the territory of South Africa had been fragmented into a jigsaw of so-called 'independent' states and self-governing territories. Over and above the "consociational" arrangements of the Tri-Cameral Parliament – three houses of parliament (one for whites, another for colored's and a yet another for Indians), a President's Council and myriad white and black municipalities – the homelands (Lebowa, QwaQwa, Bophuthatswana, KwaZulu, KaNgwane, Transkei and Ciskei, Gazankulu, Venda and KwaNdebele), collectively consisted of 14 legislatures and 151 departments. By the 1980s, however, the chronic corruption of homeland administrations and their massive wastefulness were evident even to those for whom the bantustan policy

represented a “sincere” attempt to give expression to the “national feelings” of South Africa’s diverse groups. Apartheid-era scholars tended to analyze this situation as failures arising from the public administration model – rather than as the result of apartheid *per se*. Some wondered, for example, if the “bureaucratic insensitiveness and apathetic attitude towards the community of some public institutions did not contribute to a large extent to the unrest and political turmoil in South Africa” (Chipkin & Lipietz, 2011:8).

What was being suggested, in effect, was that the Bantustan policy was failing because public administration in homelands (and other organizations that dealt with black people) did not adequately take into account the (tribal, cultural) norms and values of black people. A public service structured as a bureaucracy grafted a foreign (Western) growth onto ethnic or tribal (African) communities and ignored the values and norms that gave meaning and legitimacy to rules, processes and organizations in African societies. Due to this, the South African Interim Constitution of 1996 sought to redress this fragmented and dysfunctional system of administration to one which constitutes a balanced, integrated unity in which every component is essential for the effective functioning of the whole. The transformation of the South African public service to serve a democratic South Africa was mandated by the interim constitution and the essence of the transformation process required that a single public service be established in place of the plurality of services which existed in the former dispensation (www.hst.org.za.publications accessed 01 September 2013).

According to Wessels (2008: 23), the need to transform the South African public service was identified before it became the official policy of the Republic of South African government in 1995. This term “transformation” has been defined as a “dynamic, focused and relatively short-term process, designed to fundamentally reshape the public service for its appointed role in the new dispensation in South Africa” (The 1995 White Paper on the Transformation of the Public Service). It thus seems that the definition consists of two dimensions, namely the *action* (fundamental reshape), and the *purpose* (to fulfill its appointed role). The action dimension of transformation is explicated in a report by the Public Service Commission (The State of the Public Service Report 2006), in order to “(a) create a genuinely representative public service which reflects the major characteristics of South African demography, without eroding efficiency and competence”; and “(b) facilitate the transformation of the attitudes and behavior of public servants towards a democratic ethos underlined by the overriding importance of human rights ...” The reshaping of the public service accordingly seems to comprise two elements, namely the reshaping of the characteristic of the public service in terms of its representativeness, and the reshaping of its orientations or attitudes in terms of its democratic ethos.

The second dimension, which is the purpose of the aforementioned definition of transformation, must meet a specific criterion, namely that transformation has to lead the public service to fulfill its “appointed role in the new dispensation in South Africa” (The 1995 White Paper

on the Transformation of the Public Service). Within the South African context, this “appointed role” is best formulated in the *Constitution* of the Republic of South Africa, 1996 section 197(1) which refers namely to “loyally execute the lawful policies of the government of the day”. Amendments were made to chapter 9 of the constitution which provided for the establishment of state institutions supporting constitutional democracy within the framework of public administration, while chapter 10 provided the basic values and principles governing public administration. This means that the adoption of the 1996 *Constitution* marked the genesis of a new phase in the South African public administration.

According to Waldt & Helmbold (1996: 45), chapter 10 section 195 (1) of the constitution sets out the democratic values and principles which are to be enforced in order to maintain effective and efficient service delivery within the South African public service. It is evident that emphasis is made on the pillars of democracy which are accountability and transparency. It can also be noted that chapter 10 of the South African *Constitution* (1996) also emphasizes on the promotion of a high standard of professional ethics within the public service. “Ethics are as important for the public servant as blood for the body” (Waldt & Helmbold, 1996: 170). However, government and society cannot promote and enforce ethical behavior solely through the utilization of ethical codes of conduct or through the promulgation of a plethora of legislation. South Africa needs an organization culture that not only supports ethical behavior, but sees that it also defines and underpins right and wrong conduct at an individual and institutional sphere within the public service.

Chapter 10 of the South African Constitution (1996) can be regarded as the base for new administrative theories because in line with these constitutional principles, the white paper on the transformation of the public service (*Batho Pele*) was published in order to create a framework for the delivery of services which frees up the energy and commitment of public servants to introduce more customer focused ways of working. The approach was encapsulated in the initiative – *Batho Pele* (a Sesotho adage meaning People First). The Public service commission was also established by the constitution in order to enhance excellence in government and within the public service by promoting a professional and ethical environment and adding value to a public administration that is accountable, equitable, efficient, effective and corrupt free. This bears testimony to the fact that the PSC can be regarded as an agent of revisiting transformation and good governance in the public service.

The thrust of the *Batho Pele* policy framework is the improvement of service delivery in the public service and it consist of eight service delivery principles which are concomitant to the chapter 10 which provides for nine constitutional principles. These principles are expressed in broad terms in order to enable national and provincial departments to apply them in accordance with their own needs and circumstances and these include consultation, service standards, access, courtesy, information, openness and transparency, redress and value for money. The

success of the White Paper on the Transformation of the Public Service is determined by the progress made in the efforts to transform the public service as well as the transformation occurring in society in general although it is sad to note that of late, the service delivery incapability's within the South African public service has left many speculating about the effectiveness of the Public Service Commission, whilst others ascribe to the notion that there is need for institutional surgery that will result in the permanent removal of the PSC (Christiansen, 2002: 42).

This reveals that although the *Constitution* of the Republic of South Africa, 1996 sets the pace for the role of the PSC as an agent of transformation and good governance in the public service, the PSC has a fundamental role to play in public administration and it is crucial that its activities have to be fine-tuned so that the Commission is in a position to ensure that the Departments abide with its recommendations as well as constitutional mandates which are provided for in the Constitution (Act No. 108 of 1996). The main challenge facing the PSC is that most of the Departments ignores its recommendations and continue to do wrong things.

#### **10. Good Governance Principles in the Public Service**

Governance can be defined as the formation and stewardship of the rules that regulate the public realm. It is the space where state as well as economic and societal actors interact to make decisions, although it is important to note that governance is not just about how a government and social organizations interact and how they relate to citizens but instead it concerns the state's ability to serve citizens and other actors as well as the manner in which public functions are carried out, public resources are managed and public regulatory powers are exercised (www.idasa.org accessed 01 September 2013). Linked to the theory of governance, is the notion of good governance, and sometimes when the standards are not set and conduct is not satisfactory, it is referred to as bad governance.

Matovu (2006: 67) asserts that good governance is classified as being participatory, transparent, accountable, effective, compliant with the rule of law and responsive to the needs of people. It requires collaboration between government and the citizens since this will encourage citizens' capabilities in making decisions, improve government accountability as well as promote holism (Fuhr, 2000: 64). Neo-liberals view governance as a process that is intended to bring about changes in the public service and promote efficiency through measures such as marketization, contracting-out, implementation of the new public management approaches and operating under strict budgets while rational choice theorist view governance as a transformation of the traditional authoritarian government to a new approach that engages citizens in every part of policy making (Beviv & Rhodes, 2001: 6).

From the definitions cited above, it is important to note that of paramount importance is the fact that the two incidences (good or bad governance), do not happen simultaneously; in

most cases bad governance manifests itself when systems or structures are not functioning or do not exist at all, including indecisiveness on the part of managerial leaders. Therefore, in improving and promoting good governance, the systems and structures must complement each other, including the human element. It is often said that bad governance leads to corruption and in turn produces disastrous results. In relation to *good governance*, rule of law and legal frameworks should be fair and enforced impartially, particularly the laws on human rights (Siswana, 2007: 224-225).

In the public service, it is imperative for the Public Service Commission to enforce securities and monitor the applications of the above legislative frameworks to instill a good governance culture in the public service. The principles of good governance include; the rule of law, transparency, responsibility, accountability, production of results effectively and efficiently, equity and strategic vision (Siswana, 2007: 224-225).

According to Siswana (2007: 223), the above values and principles confirm that good governance in the public service has to be underpinned by democratic values and principles and these values must support the legislative framework and institutions of governance must be able to utilize and implement them. Based on the discussion above *governance* is evidently a process in which state institutions particularly the PSC and departmental structures co-ordinate government processes and implement public policies by complying with norms and standards set up by the government. Such a process of governance should promote and aim at instilling a culture of providing maximum or optimal service delivery to the public and support good governance in the public service in general. To support *governance*, both political and managerial leaders, should display a sense of stewardship at all times to the public and support the ethos of democracy crafted in the *Constitution*, 1996 such as accountability, transparency and responsibility (Siswana, 2007: 224).

It can be observed and argued that although the principles of good governance provide the essential ingredients for the implementation of an effective culture that provides maximum service delivery, it is evident that in terms of promoting good governance practically within the public service, these principles are far from being successfully implemented. This is mainly due to the fact that most government institutions in South Africa are still characterized by weak accountability and transparency procedures despite the constitutional provisions and mandates of the PSC set out in the constitution. This leaves one wondering whether the South African government missed a step in the transformation process to a democratic government characterized by the efficient and effective upholding of the values and principles governing public administration and good governance.

## 11. Conclusion and Recommendations



From the foregoing assessment, it is evident that chapter 10 of the constitution formed the constitutional bedrock which catered for the establishment of the Public Service Commission whose mandate is to take responsibility for the performance of the public service as well as the monitoring and evaluation of administrative practices whilst promoting the values and principles governing public administration and good governance. The Public Service Commission is also tasked with the role of transforming the public service so that it is reflective of a democratic government although it is important to note that other scholars argue that the role of the PSC is that of a mere toothless bulldog. They base their argument on the fact that the PSC has not been able to act out its constitutional mandates and display its role as an agent of change in the public service. This is because public service delivery issues as well as mal-administrative practices have become the order of the day in the South African public service and such a state of affairs has been the major reason behind service delivery protest and strikes within the public service. Due to this, it is important that the role of the PSC in bringing about change and good governance should not only be supported by legal documents but should actually be implemented effectively on paper as much as in practice. The values and principles are the corner-stones of good governance in the Public Service. Every effort must be made by government to ensure that these principles are owned and practiced by every civil servant and every state organ as stipulated in the constitution. The government must build capacity and ensure that service delivery is taking place effectively through these principles.

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## POLICE OVERSIGHT IN BOTSWANA

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### **Abstract**

Despite its reputation as one of the longest running functional electoral democracies on the African continent, Botswana has not developed effective oversight mechanism to protect and defend individual rights against intrusions particularly by state institutions. One of the most important areas where the lack of oversight is glaring is in the area of policing. Over the years, there have been reports of the police overstepping their authority and trampling the rights of the citizens they are supposed to protect. Reports abound on torture, illegal search, detention and even death of suspects in police custody. However, there is no independent oversight mechanism to ensure that citizens' rights are upheld by the custodians of the law. Aggrieved citizens depend on the police to investigate themselves and provide redress. Being the gatekeepers of the criminal justice system that also serves as a final arbiter in citizen grievances, the absence of clear checks and balances on police powers leaves the citizens at the mercy of the police whenever their rights are violated. The police lack a dedicated system to ensure accountability at both individual and institutional levels. An effective police oversight is one that accommodates a combination of internal and external strategies that holds individual officers and the institution accountable for their actions at all times. Using a variety of qualitative data gathering and analytical techniques this paper interrogates current structures and processes of oversight within and outside the Botswana Police Service. Drawing from human rights reports, media reports, annual police reports, legislation, cases and the US State Department yearly reports, the paper discusses police conduct in a range of contexts and considers the implications of the absence of a transparent and independent system of checks and balances to police powers.

**Keywords:** Police; Oversight; Citizens; Botswana

### **1. Introduction**

Botswana's almost incomparable human rights record (at least in the context of Africa) is getting increasingly jaded. The country's reputation as a "shining example of democracy" is as much a product of dogged adherence to the rule of law and observance of human rights as it is a commentary on human rights and democracy in Africa in the recent past. It might therefore come as a surprise to many that despite this reputation Botswana currently

lags behind many other countries in the democratic, world in terms of development and appreciation of police oversight mechanisms. Police oversight has become an important tool for regulating and correcting police exercise of power and ensuring that the police remain accountable to the public. The police are the gatekeepers of the criminal justice system which acts as a final arbiter in all civil and criminal litigation by and against members of the public. As gatekeepers, the police find themselves in a precarious position on the one hand being the custodians of the constitutionally enshrined civil liberties while on the other being the embodiment of the repressive machinery of the state. This situation inevitably calls for a transparent and independent oversight system that can preserve the integrity and professionalism of the police while at the same time cultivating public confidence in the police and their operations. Admittedly, many countries are finding that this is a very difficult goal to achieve since a good oversight system must be insulated from undue influence of both the police and elected authorities.

The law enforcement mandate of the police vests them with powers of interrogation, search, seizure, arrest, stop-question-and-search as well as detention (Reiner, 1992). Available legislative controls such as the Police Act, the Criminal Procedure and Evidence Act (CP & E), and the Constitution do not provide a blue print of how these broad duties are to be executed, leaving room for a wide range of discretion. It is therefore in the execution of these broadly stated duties that the police can inadvertently or otherwise encroach into constitutional freedoms of liberty, association, privacy, and life of citizens. Whilst Botswana has remained wedded to the traditional "internal affairs" oversight model many other countries have shifted towards external oversight. Many countries have adopted the „civilian review „ model whilst those countries thought to be in the lead in this area have either introduced the „civilian control model" or are at least experimenting with it (Prenzler & Ronken, 2001; Lumina, 2006). Thus, in Botswana citizens aggrieved by police processes therefore remain at the mercy of the police or very weak to non-existent oversight systems of control on police powers. Using a variety of qualitative data gathering and analytical techniques this paper discusses police conduct and accountability in a range of contexts and considers the implications of the absence of a transparent and independent system of check and balances to police powers. It interrogates the efficacy of the oversight measures in protecting the public from the state institution of the police. The information was gathered from a variety of sources including a human rights study, media reports, annual police reports, legislation, cases and the US State Department yearly reports

## 2. The Current State of Police-Public Relations: A Snapshot

Analysts and commentators have raised concerns about the deteriorating human rights situation in Botswana. Many of these concerns revolve around the treatment of civilians by security personnel including the police. In an article in *The Business Weekly Review* (08-14 Friday August 2014: 15), Gosego Lekgowe succinctly captures the public mood in Botswana which is presently characterized by fear and insecurity. This has now become the general state of affairs between the police and the public in the country.

The nation is gripped with fear, shock, anger, but mostly with fear, not exaggerated, illogical, and inexplicable fear-one attributable to a source, to their government. We are not simpetons-people of phobia and phantasm. Pulaenele Sekate (October 2011); arrested and detained by the police and later the police claimed he committed suicide. The case of Italy Setlampoloka is ongoing. In this case according to reports, police tortured the deceaced trying to obtain information from him-he died. The High Court will decide whether that is true. Just recently, the Midweek Sun published "We want our son back-distraught family". The family days on the 07 August 2011 after receiving a tip off that the police were looking form him Olefhile handed himself to Molepollole police where he was detained. His co- accused alleges torture, and he days he says he saw Olefhile's dead body being loaded on the back of a Toyota Conquest. Investigations have been done. They are refusing with the report. The family has not seen the body or its remains. Fear and distrust, other than to fear and to distrust your own government [and its processes] - what are you supposed to do when you are shot like shooting a target in the streets by armed army men-who exist defend you, and when you are held in custody, you get killed or disappear, and no explanation is given.

It is perhaps significant that despite an increasing number of successful criminal and civil cases brought against the police; and many other cases that have attracted media attention, neither the government nor the police management has found it necessary to institute an inquiry into police conduct. Instead they appear to believe in the "few bad apples theory" of misconduct which has been discredited in many other countries, including leading democracies (Prenzler & Ronken, 2001: 153). More critically would seem that there is tacit approval of methods used by police and security agencies to obtain information from those accused of wrong-doing. A study conducted by a local human rights organization,

Ditshwanelo, observed that “while the reported deaths and assaults have varied in nature, there is the overwhelming suggestion that torture is an activity condoned by persons in authority within Botswana” (Ditshwanelo: Botswana Center for Human Rights, 1998: 5). Police misconduct encompasses a number of other areas including corruption and bribery. Owing to these abuses, there have been incessant calls for independent police oversight notably by opposition politicians and the Law Society of Botswana. It has been thought that this might take the forms of a police ombudsman with powers to conduct independent investigations and more ambitiously, an oversight mechanism similar to the South African Independent Complaints Directorate. It has also been suggested that other complimentary oversight mechanisms might include a parliamentary Committee on Police.

### **3. The Law as Overarching Instrument of Oversight**

As the first point of contact into a system that serves as the final arbiter on civil and criminal litigation by and against members of the public, the police are not only accountable to communities, individuals and elected representatives, but most importantly to the law. Kennison (1998) and Walker (2005) emphasize that the police “should conform to established standards of lawfulness in [all] their operations. What this means is that in the exercise of their powers, the police have to demonstrate that their conduct is consistent with predetermined standards on performance and procedure. They should not only act responsibly and professionally but most importantly be seen to be so doing (Fyfe et al., 1997). The predetermined standard for the Botswana Police Service (BPS) is the Police Act CAP 21:01 of 1979 which defines the core mandate of the police, applied in conjunction with the Criminal Procedure and Evidence (CP& E) Act CAP 08:02 which provides a general guide on the practical exercise of this mandate. Section 6(1) of the Botswana Police Act CAP 21:01 sets out the jurisdiction of the police as being “to protect life and property, prevent and detect crime, repress internal disturbances, maintain security and public tranquility, apprehend offenders, bring offenders to justice, duly enforce all written laws with which it is directly charged and generally maintain peace” (Botswana Police Act, Chapter 21:01). The act also provides for the establishment of the Police Council consisting of not less than five (5) and not more than seven (7) members appointed by the President. There is no indication as to the attributes or qualifications that these members should have in order to be appointed to serve on the council.

S63 sets out the general duties of the Police Council while S64(1) specifically confers the oversight mandate. It provides that the Police Council shall have responsibility for considering any complaint against the Service generally, or any of its members, which the Commissioner cannot successfully resolve. This reflects a two tier system, in which the Council only attends to those issues referred to it by the Commissioner S64(2). In this respect, the Police Council appears to be part of the internal systems of control on police abuse of power; and to a limited extent an external mechanism. As an external oversight system, the Police Council is effective only to the extent that the police do pass on the unresolved disputes. Otherwise it is rendered redundant. This constitutes a glaring weakness in the system of oversight as only those complaints that the Commissioner could not resolve ever reach the Police Council. It is not even obligatory for the Commissioner to forward all complaints to the Council, if only for review. There is no avenue for aggrieved individuals to channel their complaints directly to the Police Council. According to Perez (1994), systems of oversight operated by the police is deterrent to citizen filling complaints. It also goes without saying that aggrieved individuals may not be free or comfortable to file their complaints, especially if the persons receiving the reports are housed within police buildings (Perez, 1994). The subculture of the police, characterized by loyalty to colleagues, code of silence, and secretiveness as aptly described by (Reiner, 1992); is not conducive to this system of reporting and investigating complaints. Whenever the police themselves, they are vulnerable to "influence, cajole, and even threaten citizens out of making complaints against them" (Perez, 1994: 89). The credibility of the Police Council is therefore highly suspect since it is the police who infringe on individual rights, receive reports of the dispute, investigate their infraction, and serve as the only route through which the complaints ever reach the one external body that provides redress. Worthy of mention also is the fact that members of the Council are presidential appointees, who have to receive complaints channeled by the Police Commissioner, who is also appointed directly by the president. The extent to which the Police Council is independent of the elected authority as is required is also suspect/questionable. From the preceding analysis, it is evident that legislative controls fall way short of providing the requisite protection to policed communities. While they do provide some kind of buffer against potential and actual abuse, their administration still relies heavily on the participation of the police to be partial and fair. More critically, there is no mechanism for monitoring that these legislative provisions are actually adhered to.



#### **4. The Office of the Ombudsman**

Outside of the police internal procedures and the legal safeguards available, the Office of the Ombudsman (established through the Ombudsman Act of 1995) is perhaps the one avenue through which aggrieved members of the public could direct their complaints and reasonably expect impartial redress. Section 3(a) allows any member of the public who feels aggrieved through maladministration to make a complaint directly to the Ombudsman. For the police however, the effects of this provision are immediately rendered irrelevant through S4(b) which precludes the Ombudsman from investigating security agents as long as their action is taken with the objective of protecting security or investigating crim. Action taken with respect to orders of directions to the Botswana Police Force or the Botswana Defense Force” Section 4(b) and (e). This essentially defeats the whole purpose of having the Ombudsman as an effective oversight against police powers. It is imperative to note here also is the fact that, the office of the Ombudsman as it obtains in Botswana is not a Police Ombudsman dedicated for complaints relating to unlawful arrests, detention, search, police brutality, torture and any other infraction by the police against the policed. A Police Ombudsman is a duly constituted office or unit that acts as an intermediary between the police and policed communities. The office is usually a statutory establishment with the primary responsibility to represent and protect the interests of the public in relation to police operations, conduct and policies. Unlike the current system, the Police Ombudsman is accountable to the public rather than the police. Upon completion of investigations, the office may mediate or make recommendations that may be binding or not. In progressive democracies, the office of the Ombudsman works alongside an independent police complaints system or authority. This is precisely because the Ombudsman is seldom punitive.

#### **5. International Instruments and Agreements**

As a member of the global community, the government of Botswana is signatory to a number of international conventions whose provisions are meant to promote a culture of tolerance, and accountability by the police and other state institutions through upholding the rule of law. Among others, Botswana has acceded to the UN International Convention on Civil and Political Rights (ICCPR); the Convention Against Torture and other Cruel and Inhuman or Degrading Punishment; the United Nations Charter for Human Rights as well as the

African Charter on Human and Peoples Rights. These efforts represent an attestation to subscribe to standards set out in such conventions and the first step towards legislating against abuse of power including by state institutions. Evidence indicates that Botswana Police Officers are reminded to observe these instruments when interacting with members of the public, especially anti-riot activities of the police. The organization mounts periodic courses to train officer-trainers on Public Order and Firearms. It is during these sessions that the police are cautioned against unlawfully dealing with suspects and rioters to avoid litigation (Botswana Police Service, 2006: 6). This kind of training however falls short as long as there is no proper monitoring of adherence. As an organization, the Botswana Police Service is also a member of international organizations whose core values, standards on procedure they have committed to subscribe to and uphold. The Botswana Police is a member of among others the International Criminal Police Organization (ICPO or Interpol) and the Southern African Regional Police Chiefs Cooperation Organization (SARPCCO).

#### **6. Internal Administrative and Early Intervention Strategies**

Police work is naturally characterized by the use of a wide range of discretionary powers, exercised in the context of the sub-culture of the police which according to Reiner (1997) is characterized by machismo complex, loyalty to colleagues and stern code of silence (Reiner, 1997). Exercise of discretion relating to arrest, stop and search, and the use of force is common among lower rank officers who have the highest contact with members of the public. Day to day police work therefore needs to be closely monitored using police based internal and early warning (Walker, 2005) or in-house (Perez, 1994) systems. Being the point of contact with policed communities, foot and traffic patrol (on-the-beat) officers' accountability is the litmus test to internal administrative oversight on police powers. Police-citizen interactions test the resilience of organizational policies and processes of controlling police using their power in excess. Paying special attention to the regulation of the behavior of officers on the streets as they interact with members of the community is therefore a critical component of internal police oversight (Walker, 2005: 15). Although internal administrative controls may be perceived to be biased and vulnerable to what Walker (2005: 37) dubs "bureaucratic self-interest and the power of police sub-culture", they do serve as a critical springboard to any external oversight mechanism. They may guard against toxic organizational culture that permits abuse in the first place. Cheh (1995: 234) proposes "comprehensive and enduring solutions [through] proper hiring, training and acculturation,

and supervision of officers”. The first part of this system is rigorous screening at recruitment, then thorough and continuous training. For the Botswana Police Service, vetting begins at recruitment when all aspirants are finger-printed to exclude those with criminal record. Those successful then go through twelve months of training in which they learn the provisions of the Penal Code, the Criminal Procedure and Evidence, the Constitution and standards and principles of human rights service (Botswana Police Service, Ministry of State President, 16 Sept 2014). As it currently is, the recruitment processes are being short-circuited and undermined by a new cadre of police known as Special Constables who do not undergo the normal rigorous police training. This special cadre is also extremely poorly paid, leaving them vulnerable to temptations and other questionable behaviors.

On the field, police decisions are monitored through the requirement of Standing Order No. 13 in which officers are required to record the details of their action against suspects. Again, this system falls short due to the absence of monitoring and evaluation. Since the use of force continues to be the most contentious issue for policing, and the subject for most litigation against the police (Perez, 1994), stern administrative tools have to be developed to specifically regulate its use (Walker, 2005). As part of this system, officers may be subjected to rules requiring them to file a report on all incidents where they had to use force to subdue a suspect, the nature of the force used, and the circumstances under which such was employed (Cheh, 1995; Walker, 2005). Supervising officers may then periodically review these reports to discern patterns of abuse and root out offending officers before the abuse becomes institutionalized. This tradition is not only proactive but most importantly cultivates a culture of accountability and respect for human rights. It works most effectively if accompanied by comprehensive manuals defining what constitutes force and the actions supervising officers are to take when detecting abuse. Although undergoing rigorous transformation toward professionalization, the Botswana Police Service has not developed a tool through which officers can account for the manner in which they exercise their discretionary use of force in the streets. Recording incidents of the use of force is subsumed under Occurrence Book and Situational Report submitted to the Commissioner every morning for discussion with senior police officers. However, many incidents of police brutality continue to slip through this system, raising questions about its usefulness as an internal oversight measure.

## **7. Professionalization as Possible Internal Controls**

At the close of the 1990s, Botswana Police Force changed its nomenclature to Botswana Police Service (BPS). Transformation of the police from Botswana Police Force to Botswana Police Service was intended amongst other things to make the police more accessible, accountable and to cultivate a softer image. However, this has not been accompanied by reforms to the police complaints system or police oversight. Reforms seemed to be directed at one of the two dimensions of accountability, namely provision of quality service at the expense of the other dimension concerned with civil liberties, fairness and respect for members of the public (Ransley, Anderson & Prenzler, 2007). Relatedly the BPS has, in an attempt to improve its organizational image, embarked on rigorous corporate development drive. The Botswana Police Corporate Development Strategies of 2003-2009 through to 2009-2016 depict a roadmap to professionalization in this direction. [Botswana Police Service (2003): Corporate Development Strategy 2003-2009; Ministry of Presidential Affairs and Public Administration. Gaborone, Botswana] Corporate Development Strategy 2009-2016 [Botswana Police Service (2009) Corporate Development Strategy 2009-2016 Ministry of Defense, Justice and Security, Gaborone. In the 2009-2016 strategy, the BPS espouses to be guided by principles of Integrity simply promising that "In the process of providing services, police officers will desist from a normative inclination to abuse the rights and privileges of their occupation. It is expected that they will display ethical behavior that appreciates the need for confidentiality, respect for human rights and not succumb to corrupt practices (BPS, 2009: 14). The strategy specifically places emphasis on performance improvement through the use of such tools as Performance Management Systems (PMS); Performance Based Reward System (PBRs); Thinking Business Process Re-Integration (BPR) and Balance Score Card (BSC) (BPS 2009: 26). Interestingly, none of the proposed Thematic Areas stated in the strategy [being I Public Safety and Protection; II Skilled and Motivated Staff and III Support and Infrastructure Development (BPS2009: 6] specifically addresses the thorny issue of accountability that can easily be compromised in the drive to deliver performance targets. Neither are the different levels of performance implementation, monitoring and evaluation, accompanied by parallel processes for accountability. The strategy simply purports to "underscore the importance of reviews to ensure that all that is planned is delivered (BPS, 2009: 40). This number crunching unaccompanied by an equal commitment to accountability can easily be a catalyst for brutality and widespread abuse of rights perpetrated in the name of performance improvement. The police may be pressured to employ underhand tactics in stop, question

and search (SQS); to effect an arrest or during routine interrogations, or even plant evidence to frame suspects just to be seen to be performing. For example a study by Ditswanelo identified as reasons for use and acceptance of torture, amongst others, employment of poor investigations methods, desire for quick results and failure by police to the gain the suspects confidence (Ditshwanelo, 1998). Certain specialized sections of the BPS notably the Botswana Special Branch (SB) [now absorbed into DISS], the Diamond and Narcotic Squad [now split into two distinct units of Narcotics, Flora and Fauna investigations as well as the Diamonds and Mineral Protection], and the paramilitary wing of the police known as the Special Support Group (SSG) are particularly notorious for employing forceful methods to make arrests or extract information. Certain categories of suspects are particularly at risk; those suspected to be involved in crimes related to precious stones, drugs, motor vehicle theft, and armed robbery. The inevitable result has been that a number of people have died while in their custody.

#### **8. Prosecution as Police Oversight**

Prosecution is often invoked at the tail end of all internal and external systems of controlling police exercise of powers of search, detention, interrogation, and reasonable use of force. The Law Society of Botswana reportedly observed that “prosecution of the offenders only always occur upon threats of private prosecution at the instance of the family and immense and sustained activism of Human Rights Defenders and the Media” [sic] (Tswanatimes [www.tswanatimes.bw](http://www.tswanatimes.bw)). Adjudication and resort to courts of law as an oversight system entails prosecuting officers culpable of police misconduct including death in custody, illegal search, arrest, detention as well as unjustified shooting of suspects (Walker 2005). According to Cheh (1995), “Are law suits an answer to police brutality” although prosecution is an essential check to police powers, it should necessarily be viewed as a “punitive control system” (Cheh, 1995: 233) that should only be invoked “where all other systems (internal and external) have failed [emphasis mine]. It is a knee-jerk approach used to address incidents of extreme abuse such as death in custody, unjustified shooting and to a lesser extent illegal search and detention. It is “an important last resort” (Cheh, 1995: 233) in the hierarchy of oversight systems. Litigation does little to prevent police abuse as it does not address the underlying causes of brutality and other systemic behavior. Cheh (1995: 234) rightfully concurs that “the use of criminal law to punish police who brutalize, assault, abuse, and even murder citizens represents a [glaring] failure of preventive measures, and if the

misdeeds are widespread, signals the need for immediate and thorough internal reform (Cheh, 1995: 234).

Civil and criminal litigations riddled with limitations characteristic of the entire adjudication system. The prohibitive costs and its complex and intimidating nature make it inaccessible to ordinary citizens who are often at the receiving end of police abuse and therefore more likely to need it. Complainants may be reluctant to pursue civil action for reasons of cost and fears that case may fail on technical grounds for example in one case plaintiff did not serve papers on the appropriate officer in Attorney General's office (Mushingi *versus* The Attorney General and Another BLR 49 2001 (HC) or Mogapi *versus* Attorney General and Another (CVHFT-000239-12) 2013] BWHC8 (08 March 2013) where the plaintiff brought the action after the prescribed time had expired. Prosecution only addresses the culpable officer and does nothing to address the systemic problems that lead to abuse in the first place. The police and prosecution also work in such close proximity that prosecutors may be reluctant to institute proceedings against offending officers except in extreme cases of abuse, especially those that may have already caught the attention of the public. In the final analysis, it also damages police morale and lock the police into a state of inertia even in instances where action should have been taken. Clearly, prosecutions are not necessarily the most effective way to reduce /prevent police misconduct for number reasons. Among these include police obstruction, the culture of loyalty and an impulse to protect one another. This may cause delays in gathering necessary evidence and also forwarding the case for prosecution. Furthermore myriad of factors such as judicial timidity and political imperatives may defeat both the judges and the law (Stone, 2002: 2).

International experience shows that very few cases end up in prosecution. In the context of Botswana for example, a study by Ditshwanelo (1998) on torture and other degrading punishments found that out of fifteen (15) cases recorded between 1993-1997, five (5) were dismissed as invalid claims, seven (7) were dealt with by police internal procedures and three (3) resulted in prosecutions. From those three (3) there was one conviction, one acquittal, and one case dismissed on grounds of insufficient evidence (Ditshwanelo, 1998: 8). It has been shown that even where a victim of serious police abuse has taken the trouble to report the matter to the police with the view to have the perpetrators sanctioned for misconduct, or prosecuted, police delays and obstruction may well mean that only path open to them is civil litigation. In the *Mogapi versus Attorney General and Another (CVHFT- 000239-12)[2013] BWHC8(8March 2013)* when the plaintiff's case

brought his case before the civil courts he had been waiting for more than five years for criminal prosecution to proceed after he had lodged a report alleging that he had been tortured by other police. Incidentally the civil action did not succeed because the court found that the case was brought outside the prescribed time.

## **9. Common Indicators of Ineffective Police Oversight**

### ***9.1. Police Brutality***

Unregulated use of force ultimately deteriorates into widespread police brutality. While the constitution of the Republic of Botswana expressly forbids torture, inhuman and degrading punishment, the CP & E 47 (1-2) on the other hand permits a reasonable use of force to effect an arrest. According to a study by Ditshwanelo: Botswana Centre for Human Rights (1998: 8), both the Attorney Generals Chambers and the Botswana Police confirmed that reports and allegations of torture by the police and other uniformed officers were valid. However, in the context of Botswana, the meaning of „torture“ is not clearly defined. It has been left to the courts to interpret it in relation to Section 7(1) of the Constitution which prohibits „torture and inhuman or degrading punishment or other treatment“ but does not provide a definition these terms either. When Botswana ratified the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment she entered a reservation regarding the definition of “torture” ([http://www2.ohchr.org/english/bodies/ratification/4\\_1.htm](http://www2.ohchr.org/english/bodies/ratification/4_1.htm)2008). Incidentally, Article 1 of the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT, 2008) defines “torture” thus:

“... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”.

It is doubtful given Botswana’s position regarding the definition of „torture“ that some of the elements in the UN definition would be acceptable to her. This paper adopts the broad



definition of torture even as it uses examples defined in very narrow terms from government reports. It has been suggested that police misconduct and abuse of civilians may be more widespread than available information suggests. It is therefore not surprising that the statistics captured in the various reports tend to be incomplete and unreliable. The 1998 study by Ditshwanelo found that over a 28 year period (1966-1994) the number of persons who, according to official sources died in police custody or as a result of police operations numbered thirty four (34) (Ditshwanelo, 1998: 5). The same report also notes, in respect of torture that between 1993 and 1997 there were fifteen (15) cases filed against the police, of which ten (10) were found to be valid claims, while five (5) were found not to be valid. Seven of these were dealt with through internal procedures whilst three (3) were sent for prosecution (Ditshwanelo, 1998: 8).

### ***9.2. Police Corruption***

Besides police brutality, corruption among the police continues to be the most contentious issue. It is a key indicator for poor police oversight. Policing, particularly by foot and traffic patrol officers, provides ample opportunities for corruption. Sherman (1978 cited in Perez, 1994: 23) perceives police corruption to be "an illegal use of organizational power for personal gain. The personal nature of the gain distinguishes corruption from brutality, perjury, illegal search or other law violations committed in the pursuit of such of such legitimate organizational goals of fighting crime. Police corruption inverts the formal goals of police organization. It is a use of organizational power to encourage and create rather than deter it" Corruption by the police can either occur at individual or institutional level (Perez, 1994; Walker, 2005). Individual type of corruption is one in which an officer may deliberately enforce the law for personal gain or omit to enforce the law to extract some benefit. It is also this kind of corruption that creates discontent and form the bulk of complaints about police corruption. Because it is hidden from public scrutiny, and that the victim may also be an accomplice, rooting out corruption by the police is extremely difficult. It is the case of the victims" word against that of the officer involved and therefore difficult to substantiate. Corruption within the police is often a culmination of systemic problems of poor remuneration, supervision, and ethics. There is a general consensus that corruption in Botswana is a growing problem (Mmegi, 2010; Mosetlha, 2014). Corruption in the police service worrisome (*Botswana Daily News*, 12 March 2014; *Sunday Standard*, 27 June 2010). The most prevalent forms of corruption include bribery, mostly among traffic

and junior officers, disappearance of dockets and exhibits, ghost employees, and misuse of government property. It has been suggested that certain cadres and departments are more vulnerable than others. These include the traffic police and junior officers. Traffic police have been involved in not only extracting bribes from members of the public, but they have been found to be operating taxis illegally, which has often led them to harass legitimate operators who they see as competitors. Police management has acknowledged that corruption amongst the police is increasing and has devised training programs to try and root out the problem. Where sufficient evidence exist, some of the cases are forwarded for prosecution, but as earlier indicated, prosecution is reactive. They have also established codes of conduct. To accomplish this they established a unit called Internal Affairs to investigate and deal with issues of police corruption (*Sunday Standard*, 27 June 2010). This is clearly not enough to inspire public confidence and inculcate good ethics not only because the police investigate themselves, but also because there is no external monitoring and oversight system. The police tend to place emphasis on managerialist interventions such as performance management systems [alluded to earlier] as the ultimate solution to this systemic problem. These clearly fall short of rooting out corruption from daily police operations.

## 10. Concluding Remarks

Internal police oversight mechanisms are riddled with shortcomings. Denial of culpability and systematic cover-up, especially of public complaints is, therefore, inevitable. Their intimacy to their policies and programs may compromise objectivity on reforms. When the public demands protection from criminals, politicians advocate tough action on crime policies, when they complain about police over-handedness, they advocate police accountability. This political dilemma may translate into policy and management dilemma for the police at the risk of anarchy and inertia. The position of elected authorities is therefore too elusive to be reliable as the main oversight system. While effective in some respect, criminal and civil prosecutions cannot be relied on as the core oversight system. In a democratic system such as Botswana, the media plays a critical role as an advocate for police accountability. Essential as it is, the oversight role of the media is at best sporadic and at worst vulnerable to sensationalism. As with prosecution and the elected authorities, they can only expose but not address endemic systemic issues that lead to lack of accountability. Other constituents of the civil society are generally perceived to be weak and

ill-equipped to call state institutions to order. It must be a healthy combination of internal and external strategies, accommodating both civilian and police views of policing and accountability. The system must have in-built safeguards against police capture, at the same time being equipped with sufficient authority and punitive powers obligating full cooperation from the police without paralyzing their mandate of law enforcement and protection of the public.

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## LIMPOPO PROVINCE PLACED UNDER ADMINISTRATION: IS THAT A PANACEA FOR CURBING CORRUPTION AND MALADMINISTRATION?

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### Abstract

South Africa has experienced high levels of corruption that undermine the rule of law and hinder the state's capacity to effect socio-economic transformation and development. A democratic South Africa has adopted a variety of legislative instruments designed for "fight against corruption"; and, they include Section 100 of the 1996 *Constitution* as well as the 1999 *Public Financial Management Act* and *Municipal Finance Management Act*. These instruments make provision for the national government to intervene in the administration of provinces and municipalities in cases of suspicion of corruption and/or maladministration. In November 2011, national government invoked these legislative instruments in order to intervene in the administration of three provinces, viz.: Limpopo, Free State and Gauteng. At the time, Limpopo Province was allegedly at the verge of bankruptcy. This paper discusses the circumstances that precipitated subjection of Limpopo Province to national government administration as well as the past and present financial situation of the province in order to make recommendations about measures for curbing corruption. The paper questions the effectiveness of imposition of administration on corruption and maladministration. Instead, it asserts that popular mobilization and inculcation of appropriate ethics, especially among the youth, through the schooling systems holds the potential for curbing corruption and maladministration.

**Keywords:** Corruption; (Mal)Administration; Youth; Schooling; Limpopo Province

### 1. Introduction

Fraud and corruption are generally seen as the biggest threats to South Africa's new democracy today. Madonsela (2012) captures the essence of the above assertion when she puts it that "it is clear that some political and administrative leadership entrusted with state resources enrich themselves instead of acting as custodians of the state. There would soon be no money left for service delivery in South Africa due to the alarming increase in corruption in government departments". These sentiments are echoed by Matsiliza (2013) who asserts that corruption and unethical behaviour can weaken any democracy, impact on economies; impede public service reforms and development efforts in South Africa. Corruption is defined as "the abuse of entrusted power for private gain (Transparency International, 2005). The National Anti-Corruption Forum (1999) defines corruption as "any conduct or behaviour in relation to persons entrusted with responsibilities in public office which violates their duties as public officials and which is aimed at obtaining undue gratification of any kind for themselves or for others". Fraud is also defined as intentional deception by concealing or misrepresenting information that harms the financial interest of another person so and benefits the financial interests of the perpetrator". In addition,

the Institute of Internal Auditors, the American Institute of Certified Public Accountants and Association of Certified Fraud Examiners (2007) define fraud as any intentional act or omission designed to deceive others, resulting in the victim suffering and the perpetrator achieving gain. The Public Service Commission (2011) reported various types of public services commission which includes the following: bribery, embezzlement, extortion, abuse of power, conflict of interest and abuse of privileged information, favouritism and nepotism.

In addition, according to the Financial and Fiscal Commission (2012: 1) a cornerstone of South Africa's Constitution is the obligation to preserve economic unity, transparency, accountability and sound fiscal discipline of central and sub-national budgets and related processes. This is necessary to maintain political credibility and macroeconomic stability, and most importantly, to prevent insolvency of sub-national governments and the likely deterioration in service delivery. As a result, Section 100 of the South African Constitution (1996) and certain provisions of Public Financial Management Act (1999) and the Municipal Finance Management Act of 1999 provide for a continuum of interventions of provinces and municipalities. Secondly, South Africa has other types of legislation which is meant to curb corruption. For example, Prevention and Combating of Corrupt Activities Act 12 of 2004; Protected Disclosures Act 26 of 2000 and others. There are also various institutions which have been established in terms of the Constitution to combat corruption. These include, the Parliament, the Public Protector, the Auditor General, National Council of Provinces, Standing Committee on Public Accounts (SCOPA) and others. In addition, there are law enforcement and investigating agencies which are mandated by law to investigate and prosecute where necessary public officials involved in wrong doing which involves corruption. These institutions include the Public Service Commission; South African Revenue Services; South African Police; National Prosecuting Authority; Special Investigation Unit; National Intelligence Agency and the Anti-corruption Co-ordinating Committee. This implies that the South African government is aware that corruption is a killer disease for any developing country hence the promulgation of various legislations, establishment of various anti-corruption bodies and law enforcement agencies. Despite all these efforts, corruption is rife in various provinces in South Africa.

To illustrate the point made above, in December 2011, the national government in South Africa intervened in the financial and administrative affairs of three provinces, namely: Limpopo, Free State and Gauteng. The provinces were put into different types of intervention. For the purpose of this paper, the main focus will be on the Limpopo province, whose intervention was a "complete take-over" of powers and functions of various bodies within the province. Secondly, Limpopo Province's intervention did not take 180 days as anticipated by the national government. Lastly, in July 2014, according to the Parliamentary Monitoring Group (2014), the first phase of the intervention was to stabilise the province. The second phase is the recovery phase. The

Parliamentary Monitoring Group also announced that the intervention has been changed from the Constitution's section 100(1)(b) to section 100 (1)(a). It is against this backdrop that this paper seeks to point out that the promulgated legislation is expected to be implemented by public officials; the institutions created to curb corruption and prosecute offenders are also led by public officials. Unfortunately, the same public officials and politicians are the ones involved in fraud and corruption. As Matsiliza (2013: 108) rightly points out, "the critical issue revolves around the moral dilemma choices and value judgement of officials and politicians while they are discharging their duties."

Using the qualitative approach, the article critically reviewed and analysed literature in various secondary sources with the intention of recommending mechanisms for instilling ethical conduct, morals and ethos in South African children and youth at a young age. In essence, this paper seeks to purport that children and youth can be agents of change in relation to fraud and corruption in South Africa. This view is supported by Nickels, Rowland & Fadase (2011) who point out that there is a need to be more intentional in teaching activism and developing children who will grow up to be responsible citizens and agents of social change in relation to corruption and fraud in the workplace. This paper is based on the theory of Justice as postulated by Rawl (1971). The next section will discuss Rawl's theory in detail.

## **2. Theoretical Framework: Rawl's Theory of Justice**

The concept of justice is quite broad, encompassing numerous values, which include fairness, equity, rights, and mercy. Principally, justice includes the state of being fair, moral rightness/rectitude, and a law system wherein every person is treated equally, as defined by diverse scholars such as Elkins (2007), Sarkar (2006), Bix (2003), Julian (2002), Gorovitz (2001), Walzer (1983), Halpin (1997), and Rawls (1971). According to Bix (2003), Julian (2002) and Halpin (1997), the Rawls' Theory of Justice forms a theoretical foundation supporting the philosophy of a bureaucratic welfare state. Gorovitz contends that Rawls' theory supplies a comprehensible academic foundation for the dominant utilitarian point of view; Rawls was the initial proponent of a logical validation for the state redistributing wealth in order to help the poor and disadvantaged (Gorovitz, 2001; Sarkar, 2006). In order to explicate the concept, Rawls' Theory of Justice describes two primary characteristics or tenets thereof, viz. the initial guaranteeing for each individual and equal for everyone, the most fundamental basic liberty and the latter declaring that all community members have equal access and are subject to equal advantages relative to all social and economic circumstances. Overall, Julian (2002) describes Rawls' Theory of Justice as providing the blueprint regarding the structuring of society, the assignation of fundamental rights and duties to each member of the community, in conjunction with the distribution of economic and social opportunities and resources to all societal individuals.



Although Rawls' ideas were innovative and ground-breaking, his postulations raised much condemnation and debate from multiple scholars from several disciplines, thus contributing to criticism and commentaries (Rawls, 1971). As a response to Rawls' (1971) publication, diverse works followed; these included that by Nozick (1974) (being critical of Rawls' opinions), Walzer (1983) (making a defence of communitarian political philosophy from a liberal perspective) and Wolff (1977) (condemning Rawls from a perspective which verged on Marxism). As part of the theoretical and conceptual framework of the study, the theory of distributive justice is also appropriate and applicable in relation to the issues related to fraud and corruption. Rawls (1971:274) defines the theory of distributive justice as "a set of standards, procedures and rules by which the distribution system of goods within a society can be judged". Distributive justice relates to how resources should be apportioned (Bix, 2003). Additionally, Bix (2003: 103) notes that distributive justice "entails the proper distribution of goods among a group". Bix continues that contemporary modern considerations of justice, which generally deem justice as relating to the proper structuring of government and society, basically relate to distributive justice. Accordingly, Elkins (2007) elaborates that it involves the impartial and ethical allocating of resources to all disparate members of a community or society, thus allowing for total resources available – what is to be apportioned, how it is to be distributed and the allotment patterns resulting.

Rawls postulates that an individual's circumstance – to which one was born – should not be the exclusive, prejudicial or deciding factor that influences the advantages or disadvantages individuals receive in life. Rawls contends, "the job of distributive justice is to limit the influence of luck so that goods might be distributed more fairly and to everyone's advantage" (Rawls, 1971: 274). Decisions relating to the apportionment of resources must be taken, due to the restricted nature of resources. The consensus or frequent response is in a reasonable, just style, allowing each person a fair share (Maiese, 2003). The concept of distributive justice, as described by Nozick (1974), regards a set of rules for society to obey in the acquisition and allotment of benefits and resources. Nozick (1974) asserts that the objective of distributive justice is to effect and guarantee a fair exchange rather than any particular apportionment outcome. In this paper, the researcher maintains that the theory of distributive justice helps to examine a set of standards, procedures, models and rules developed by the South African Government which will assist to curb the scourge of corruption and fraud in the country.

### **3. Research Methodology**

The paper uses a qualitative method which involved an extensive literature review of various sources which focus on how to curb, control and eliminate corruption in South Africa. The study also did content analysis of the documents from 2011 to date in terms of what has

been said in the media and written in terms of national intervention in the three provinces with a specific focus in Limpopo. This basic technique involves counting the frequencies and sequencing of particular words, phrases and concepts in order to identify key words and themes. Babbie & Mouton (2012: 491) define the same concept as “a research method which examines words or phrases within a wide range of texts including books, book chapters, essays, interviews, speeches and informal conversations. By examining the presence of repetition of certain words and phrases in these texts, a researcher is able to make inferences about the philosophical assumptions of a writer, a written piece, the audience to which the piece was written and even the culture and the time in which the text is embedded”.

#### 4. National Interventions in Limpopo, Gauteng and Free State Provinces

In December 2011, the national government in South Africa intervened in the financial and administrative affairs of several provincial departments. Table 1 indicates the nature of the intervention and the provinces and departments involved.

**Table 1:** Nature of National Interventions in Limpopo, Gauteng and Free State

Province	Departments	Nature of the intervention
1. Gauteng	Health Provincial Treasury	<ul style="list-style-type: none"> <li>• Intervention undertaken according to Section 6 (2) (f) to (g) of the Public Financial Act of 1999;</li> <li>• A memorandum of understanding was signed between the national government represented by the Ministers of Finance and Health and the Premier of Gauteng.</li> </ul>
2. Free State	Police Roads and Transport Provincial Treasury	<ul style="list-style-type: none"> <li>• Intervention undertaken according to Section 100 (1) (a)</li> <li>• Less intrusive</li> <li>• Section 100 directive was issued to the Premier outlining changes that need to be effected with the assistance of the National Treasury's Technical Support team</li> </ul>
3. Limpopo	Education Health Public Works Transport Provincial Treasury	<ul style="list-style-type: none"> <li>• Intervention undertaken according to Section 100 (1) (a)</li> <li>• Intervention entailed an effective take-over of the powers and functions of aspects of the provincial administration for a specified period.</li> </ul>

**Source:** Adapted from Financial and Fiscal Commission, 2012

According to table 1, it can be seen that Limpopo Province had the most intense kind of intervention as compared to the other two provinces. This implies that their financial stress was beyond boundaries as the Joint Ministerial team in Limpopo Section 100 intervention (2012: 1) put it that “the province was technically bankrupt and that the province has been spending beyond its means”. Since the focus of this study is in Limpopo province, the following section will give a detailed overview of the situation in Limpopo before national intervention.

#### **4. Status of Limpopo Province Before National Intervention**

According to the Joint Ministerial Team in Limpopo Section 100 intervention (2012), the situation in Limpopo was as follows:

- On the 22 November 2011, it became clear that the province would not be able to pay teachers, doctors, nurses, social workers, service providers and other public sector employees;
- The province faced a potential shortfall of R2 billion at the end of 2011 – 2012 financial years;
- The Provincial Treasury had an overdraft at the South African Reserve Bank of R757 million in November 2011. The province wanted to increase its overdraft by R1 billion;
- The province had also requested an additional R500 million on its overdraft facility from a commercial bank. The bank refused this request and terminated this facility;
- There was a large unauthorised expenditure which had grown from R 1.5 million to R2, 7 million in 2011;
- Accruals in the form of unpaid expenditure (unpaid invoices) grew to R500 million at the end of March 2011;
- By December 2011 it became apparent that the provincial treasury management function in Limpopo had collapsed – there was no proper cash management system in place and the budget section of the provincial treasury appeared to be dysfunctional;
- The province was paying certain service providers 8 times in a month. The frequency of the payments did not provide for an opportunity for proper verification nor proper cash management;
- Expenditure reporting was shown not to be credible. Supply chain management processes were not generally in line with legal requirements; and,
- Possible illegal payments by certain departments to service providers had emerged.

The discussion above is a clear indication of fraud and corruption in terms of the provinces expenditure and cash flow management. Therefore, the Province was put under administration.

#### **5. Status of Limpopo Province: Two and Half Years Later**

Two and a half years later, the province has turned around its financial status as it was reported during the Parliamentary Monitoring Group session on the "Briefing to NCOP – Joint Select Committees on the Limpopo Section 100 (1)(b) Intervention" on the 30th June 2014. The results of this meeting are discussed below in detail.

- A Memorandum of Agreement (MOA) has been drafted and will be signed between the Premier and Inter-Ministerial Committee (IMC), with conditions for transitioning

intervention from Section 100 (1)(b) to Section 100 (1)(a) as well as reporting requirements thereof;

- Financial Position is strong;
- Over R4 billion cash surplus in the bank;
- Lowest number of unpaid invoices (over 30 days) of any province in the country – R80 million (down from R1.1billion at the start of the intervention);
- Accumulated unauthorised expenditure reduced from R2.7 billion to R600 million. The rest will be wiped out by 2016/17;
- Departments are no longer over-spending their budgets;
- The Executive Council that presided over the initial collapse in 2011 was replaced in 2013;
- Progress with disciplinary cases since the Cabinet meeting in March 2014;
- Four staff members have now been found guilty and dismissed/fired in Co-operative Governance, Human Settlements and Traditional Affairs (judgment against 4 other officials is imminent);
- Within Roads & Transport, there has been 1 criminal conviction (GAAL), 2 dismissals in Roads Agency Limpopo, 1 dismissal in the department and 1 official has resigned;
- Within Health, the previously stalled disciplinary processes for the CFO are now progressing under the direct management of national Health; 2 officials charged with fraud & corruption have been dismissed;
- In Department of Public Works 11 cases of fraud have been investigated, 6 of these are in progress, and 3 have resigned;
- At the end of March 2014 the province had a total favorable bank balance of R2.5 billion comprising R18.1 million in the CPD account and R2.482 billion in the commercial bank accounts (viz. departmental PMG accounts and the Exchequer account), after accounting for the unprocessed bank transactions;
- The provincial cash flow has improved from R209.9 million as at 31 March 2011/12 to R1.698 billion as at 31 March 2012/13 and R2.5 billion as at 31 March 2014; and,
- National Treasury has also issued a cost containment instruction note 1 of 2014 (National Treasury, 2014).

According to the above discussion, it can be seen that the province is almost back on track. However, this paper seeks to question the ethical and moral values of public officials in Limpopo province, especially from the five departments which were put under administration. Secondly, this paper seeks to question again whether public officials can only perform at their best when the province is under national administration? What will happen when the national intervention team leaves? Thirdly, are South Africans generally people who need law enforcement agencies and legislation to make them perform within the right ethics.

## 6. Differences Between Section 100(1)(a) and Section 100(1)(b)

The South African Constitution of 1996 is the supreme legislation which of the country. Section 100 authorises the national government to intervene into financial and administrative affairs of any province if service delivered is being compromised. Section 100 (1) has two sub-sections which are quoted below:

100. National intervention in provincial administration-(l) When a province cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the national executive may intervene by taking any appropriate steps to ensure fulfilment of [hat l obligation including-

(a) issuing a directive to the provincial executive, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations; and

(b) assuming responsibility for the relevant obligation in that province to the extent

(i) maintain essential national standards or meet established minimum standards for necessary rendering of a service;

(ii) maintain economic unity;

(iii) maintain national security; or

(iv) prevent that province from taking unreasonable action that is prejudicial to the interests of another province or to the country as a whole.

As per the announcement made by the National Treasury (2014), the national intervention in Limpopo province has been changed from section 100(1)(b) to section 100(1)(a). This is a positive move towards the correct direction. However, corruption is very costly for both the government and the perpetrators. In order to correct the wrongs that are done, millions of Rands are spend in South Africa. According to President Jacob Zuma in his 2014 State of the nation address, he gave the following national report:

- 13 000 – the cases of corruption and maladministration that have been referred to government departments for further handling and investigation since the launch of the National Anti-Corruption Hotline.
- R320 million – the amount recovered by Government from perpetrators through the National Anti-Corruption Hotline.
- Anti-corruption action: 1 542 officials were dismissed from the Public Service
- 140 officials were fined three months' salary
- 20 officials were demoted
- 355 officials were given final written warnings
- 204 officials were prosecuted.

- R149 million – the amount paid by the Asset Forfeiture Unit into the Criminal Assets Recovery Account in the first six months of last year to the victims of crime. (State of the Nation address, 2014).

## 7. Children and Youth as Agents of Change

The Limpopo Provincial Government presented various strategies of how they will fight tooth and nail never to go back to the situation they were in when the national intervention started. All the activities depend in some cases, the same public servants who were there when the province plummeted into bankruptcy. Therefore this paper seeks to make different recommendations whereby content related to ethics, morals and values is taught to children from primary school up to university. Various studies and literature has proven that young people can make a difference, In South Africa in the 1980s, protests against the use of Afrikaans as a medium of instruction began in the Cape where some students had to write their Junior Certificate in Afrikaans. The marches, boycotts and strikes which were organised by the youth spread throughout the country and shook the entire country. Many slept at school and planned to protest police action in the town the following morning (Reynolds, 1995). That was a youth revolution which pushed the South African struggle forward. Young people once again played important roles in the Ukrainian protest movements on 1990 and 2004. According to Diuk (2001: 179),

“Ukraine’s youth acted as a catalyst for mass street protests; in 1990 a student hunger strike, the ‘Revolution of granite’ mobilised thousands on the eve of the break-up of the Soviet Union and in 2004, the youth of Ukraine played an important role in launching the Orange revolution. On both occasions it looked like Ukrainian youth were agents of change. In 1990 their demand for the resignation of the prime minister was achieved and they may have well speeded the final disintegration of the USSR”.

In Ethiopia, the Carter Centre was running a programme to prevent the spread of trachoma which is an infectious disease that causes blindness. They trained teachers in 7 822 primary schools on the causes and prevention of the disease. Then the teachers taught the primary school pupils about the disease and the prevalence of the disease decreased drastically (Dickman and Melek, 2013). According to Dickman & Melek (2013), “youth participation is an essential part of human growth, that is development of self-confidence, pride, initiative, creativity, responsibility, co-operation... that is where people learn to take charge of their lives and solve their own problems”.

## 8. Conclusion

In conclusion, this paper recommends that primary and secondary school curriculum should include content on ethics, ethical behaviour, values, corruption and fraud in order to curb

the scourge of corruption and fraud in South Africa. Young should join together to demand a voice in the decisions that affect their lives. In the process, they will be able to transform policies and making institutions more accountable.

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## “NO MORE GOING TO NANDOS”: RUDIMENTARY STATISTICS AND VENAL PUBLIC SERVANTS IN TENDER ADJUDICATION

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### Abstract

This paper advances the notion that corruption in public service is perpetrated by the corruptibility of functionaries. The psychopathology of corruption demonstrates that hominids are inherently venal and will thus continually reconnoitre ways of extracting personal wealth from the state. While castigatory actions and detection systems are a deterrent, they have proven to assist in as far as bureaucrats master the systems. In time, though, public functionaries devise devious strategies to navigate away from detection. It is against this background that this paper postulates that measures for eliminating the human factor and potential for insider trading from supplier selection could provide for self-checking that would curb fraudulent award of tenders. This hypothesis is tested through statistical summaries such as standard deviation for the determination of the most responsive tenderer in terms of price. Such measures could render it impossible for the adjudicator to pre-empt the most responsive tenderer and thus eliminate insider trading.

**Key words:** Corruption; Public Service; Tender Adjudication; Insider Trading; Anti-corruption

### 1. Overview and Problem Statement

The intra-organizational transition in South African politics from the Thabo Mbeki administration to the Jacob Zuma administration was postured as the beginning of a more responsive, less remote government that would be closer to the people and usher in an economic policy shift that will be more pro-poor and create more jobs. According to Daniel & Southall (2011: 20), the open extravagance of senior public servants and politicians that ensued stalked much annoyance and compounded the perception of rampant corruption and a collapsing local government. Consequently, corruption and tender procurement system though not synonymous are affiliated terms in the public vocabulary. Despite bounteous initiatives by government to curb corruption, it appears that both the incidents and the perception of corruption amongst South Africans are not receding. There is thus a need to review the basis for initiatives and systems that are in place with the intention to ascertain if they have a systematic handicap that could be curtailed. The preferential procurement regulation No. 5 promulgated in 2011 prescribes 2 formulae that must be used to calculate the points for price ( $P_s$ ) in respect of tenders specified ranges of rand value. The formulae are;  $P_s = 80[1-(Pt-Pmin)÷Pmin]$  for bids estimated to cost in a range of more than R 30 000 and less than R 1000 000 and  $P_s = 90[1-(Pt-Pmin)÷Pmin]$  for bids exceeding R 1000 000. The 2 formulae have a term,  $(Pt - Pmin) ÷ Pmin$  where  $Pt$  is the price under review and  $Pmin$  is the lowest bidder's price.

It can be deduced from the formula that the bidder with the lowest price will get the full points for price since the term  $(P_t - P_{min}) \div P_{min}$  will become zero when  $P_t$  equals  $P_{min}$ . The challenge that municipalities experience with the application of these formulae is the tendency to receive a very low price that will automatically expose the municipality to a high risk when the appointed contractor is not breaking even during the execution of the work. While there would probably be legal grounds to not consider the lowest bidder, the atmosphere of a bid adjudication meeting may not be a conducive environment for an official to champion the disqualification of a bidder with the lowest price without the official being suspected of corruption. In some instances, this can be career limiting or life threatening. Notwithstanding, the engineer has a reasonable estimate in mind of what the cost of executing the work will be. This estimate is normally computed by a detailed analysis of quantities and their market values plus a percentile mark-up providing for a nominal profit margin. The knowledge of this estimate gives a bidder an unfair advantage over other bidders. The process of scoring bids based on the most responsive price is thus inherently exposed to manipulation because an official can pass the value of the estimate to a bidder. It is, henceforth, exposed to the human element. While this is one of many facets comprising the competitive bid evaluation process, it must be appreciated that the battle against manipulation of the process will be augmented by limiting the potential influence of officials in every aspect and stage of the tendering process. This is because officials are reasoned in this scholarly work to be inherently corrupt. A system that removes the human element in tender adjudication will thus assist the fight against corruption in the public sector or any other sector for that matter.

The effort to curb corruption must thus avoid all opportunities to pre-empt the price that is likely to win the bid since this price will be secretly passed on to one or more of the bidders in exchange for a bribe. Indeed a substantive number of contractors in the construction sector readily offer bribes in exchange for a price estimate by the engineer or any official that may be privy to the information. The next challenge that the traditional formula presents, by favouring the lowest bidder, is the bias towards established enterprises which tend to undermine efforts of redress. Companies that are more established are able to price very low because they have optimised their work methods to increase profit and they have established good relations with suppliers to get discounts. Some of these established enterprises own the value chain by being in construction whilst manufacturing material and hiring out plant and equipment. While these are strategic business tactics that may be encouraged, the redistributive imperative imposed by the South African historical disposition is a casualty. The established contractors can easily muscle out all emerging contractors by using their access to capital equipment. The proposed method targets one aspect of tender corruption. This is the pervasive insider selling of information on what the expected price is to prospective bidder(s). The public official or the consulting

engineer is habitually asked to estimate the price that the consultant calculated to be the most responsive or the minimum for which the project can be executed.

This is colloquially called 'taking the official to Nandos' because of the assumed restaurant environment that this is believed to happen. On disclosing the engineer's estimate verbally, the official will then be rewarded with an emolument. There are officials that solicit contractors to give them money in exchange for this inside information about the value of a construction project as well as there are contractors that offer a bribe in exchange for the same information. Consulting engineers appointed by the client are also known to do the same. The contractor will then prepare a bid with a price that is very close to the engineer's estimate. There are cases, as it is done for most tenders of the Department of Transport in KwaZulu-Natal, where the best price is taken to be the lowest price above the engineer's estimate. In this instances, the engineer's estimate is highly coveted and would thus attract a good fee from an aspiring contractor. In the case of grant funding, the official knows the budget and this information can give the contractor a good idea of the expected bid price. This paper proposes a method that precludes anyone from the bidder's side or from the client's side (engineer included) from pre-empting what the most responsive bid will look like, price wise that is. The proposed method removes the human element by ensuring that it is not possible for anyone to predict the value of the most responsive bid beforehand. This is achieved by ensuring that the best bidder's price is partially dependent on the average of the other bids and partially determined by the engineer's estimate. This prevents insider trading while ensuring the selected bid is viable with respect to the bidding price. With this approach, the engineer still gives his estimate which must not be made public but if leaked to a prospective bidder would more likely disadvantage the bidder than assist his quest to be awarded the tender. The most responsive bidding price will thus lie midway between the mean of the bids and the engineer's estimate. Other procedural arrangements will also be in place to get maximum results from this method.

## **2. Literature Review**

A broad definition of corruption is offered by Klitgaard (1998) as the misuse of office for unofficial ends. It is the social constructivism of this definition that is significant to this work notwithstanding the rigorous academic discourse that the definition continues to attract. Characteristically, literature on corruption would, after discussing and problematizing various definitions of corruption discuss the effects thereof (Caiden, 2001; Klitgaard, 1998, 1989; Punch, 2000). Another aspect of the literature on corruption is the attempt at delineating the causal effect of corruption (Rose-Ackerman, 1978; Atlas, 1990; Caiden, 2001; De Graaf, 2007). To this, Caiden (2001: 21) concedes that there are many varieties of corrupt behaviour and multitudinous factors contributing to corruption. De Graaf (2007) attempted to typify theories on causes of corruption by grouping them in categories. He, however concedes that the theories are based on different

levels of variables which, according to him, is problematic. But there is, at least for the purposes of this work, merit in his comparison in that it gives a red thread common to the practice of corruption that could assist the intervention framework.

Chabal & Daloz (1999) resent the obsession of social science scholars with normative questions aimed at solving the problem of corruption. Chabal & Daloz (1999) accuse accusing social science scholars of distracting attention from analytical questions that shed light on how politics actually operates. This work would have been reproached because it does, rather emphasise the justification of the solution on the basis of a brief theoretical basis. Furthermore, Chabal & Daloz's (1999) aspiration is for scholars to write more on the investigation of cultural, social and psychological basis of the mental dispositions that perpetuate corruption. This is believed to be an approach that will explain the relations of reciprocity and the vertical networks in which corruption depends. To this end, Chabal & Daloz (1999) would find consolation in this work. The public choice theory that Rose-Ackerman (1978) popularised describes the human being as a rational being that will constantly evaluate the consequences of corruption against the benefits there of. On finding the benefits to be on the favourable side of the scale, the propensity will thus be to participate in corrupt activities. The public choice theory was thus grouped amongst related theories under the name of public choice theories. There are theories that view corruption as an exceptional and temporary problem that is equated to a "cancer". These theorists believe that a "surgical" procedure to remove the offending factor will yield a clean organisation (Punch 2000: 317). This group of theories are referred to by De Graaf (2007: 49) as "bad apple theories".

Jackal (1988) writes about a scenario where an individual is almost under duress to be corrupt because of the prevailing atmosphere or, as Punch (2000: 317) puts it, not being corrupt is viewed as betraying the group. Theories that play into this phenomenon are grouped by De Graaf (2007: 51) as organisational culture theories. This theories can be viewed as explaining the conditions under which corruption occurs. There are theories that attribute corrupt practices to the state of society. The logic is that the moral standing of the individual as a private being is the same standing the individual will take to the work environment (De Graaf, 2007: 53). These group is called clashing moral values theories. Perhaps the notion that culture plays a role in corruption is a view that belongs to this line of theories. In an analysis of culture and corruption in Latin America, Husted (2002: 415) agrees with Harrison (2000: 60) that one of the fundamental factors that explain the slow progress of economic development in Latin America is culture. Husted (2002: 416) observed that in Latin America, leaders deserve special privileges and benefits because they are construed to embody what is good for society. This understanding will resonate with an African mind set.

There is also a culture of collectivism in Africa and Latin America which puts significance to family and close friend that Africans can relate to. In Husted's work, this was well captured by

a Brazilian idiom, “*os amigos, tudo; para os inimigos, a lei*” (for friends, anything; for enemies, the law). Enemy in this context is understood to mean anyone outside the loyal clique of the individual (Husted, 2002: 417). According to Earley (1997: 165), collectivism controls individual behaviour through guilt and shame but shame remains a stronger force than guilt. Though Earley does not elude further why this is the case, the reason could logically stem from the fact that shame is collectivistic while guilt is individualistic and thus better to handle. This is another African anthropological fact. Weaver (2001: 30) deduces rather insightfully that punitive interventions such as fines do not address corruption in collectivistic societies. The significance of Weaver's (2001) deduction is the fact that Africans are more afraid of being named and shamed than having to pay back the money. Hyslop (2005: 778) explains the transition into the new dispensation post 1994 as a time when a new administration had to rely on a bureaucracy they could not trust to assist in the managing of the transitional period. The situation resulted in many new administrators that were trusted having to replace those associated with the old regime. In a collectivistic society, the level of indebtedness of those given the jobs and the shame of being seen to be ungrateful by not returning the favour feeds the propensity to engage in corruption practices.

The attempt in literature to divide corruption causes by peculiarity to either developed or developing countries is also notable. Classically, the work of Fijnaut & Herbert (2002) paid appreciable attention to the fact that in developing countries, it is the poor working conditions and low salaries that increase the propensity to be corrupt. Moorcraft (1994: 297) writes that the corruption is the cause of economic woes, a suggestion of converse causation. This argument should be settled in South Africa because within South Africa, there are people living, for all purposes, in a developed country and those living in a developing country. There is a gap in literature on comparative corruption levels between the rich and the poor in the same country. At best, a country with a significant income gap like South Africa could be a good case study. De Graaf (2007: 43) also notes the basis of corruption studies on theoretical construction as opposed to empirical studies. It appears that De Graaf (2007) would appreciate a case study approach that would then be built into a theory on corruption. The merit of this argument is that a reactive response to an incident may be observed over time to assess if further similar transgressions were able to manifest after the intervention. Theoretically, an incremental response would treat all the symptoms until the problem is solved. But in practice this may result in such complex bureaucratic procedures hampering the service delivery process while still “leaking”.

Mary Follett's rather epic paper edited by Gulick & Urwick under the editorial title of *Papers on the Science of Administration* (1939: 161) advances two points on control which are (1) control is more becoming and more about fact control rather than man control and (2) control is becoming more and more about correlation of many controls rather than a superimposed control. 75 years on, her assentation would see the rise of fact control and the alignment of

interventions as an accepted model of control. Follett's work was emphatic in saying that a control measure must be generated directly from a situation because while all activities in an organisation are channelled at one goal, they typically require different controls. The significance of Follett's paper is in it being a pioneering work in the subject of control and the scientific basis on which it is reasoned. More intriguing is the elaborate example from Zoological sciences on the behaviour of mice, an example she used to describe how the distribution of mice populations is dictated by an "environmental complex" which in organisational science will be an output of the prevailing organisational culture and societal disposition.

It thus follows that even in the combat of corruption, the intervention systems and methods must attempt to deal with the methods of getting work done in a manner that a corrupt individual will battle to foil the systems for his/her selfish ends. Henry Malinga presented the National Treasury of South Africa's series of interventions aimed at combating corruption IN September 2007. These could be summarised as (1) increasing the burden of expectations to accounting officers by expecting them to take reasonable steps in combating tender fraud, (2) disqualifying bidders with poor record of performance and a proclivity to be corrupt and (3) maintaining a register of defaulters. While there could be reports on how efficiently these interventions were implemented, the impact is arguably negligible. South Africa is not a less corrupt country than it was before these interventions if any index is invoked. The era of tender boards has lapsed, the green paper on public procurement has come and gone and a proliferation of corruption hotlines is evident but conferences on corruption are still on how to contain the problem and not on how we can keep our cleanliness. Perhaps a more transparent public service will reduce corruption as Albert Meijer purported that transparency is aimed at achieving change in the way government officials behave (Curtin & Meijer, 2006: 110).

### **3. Proposed Method**

The solution to the problem of officials colluding with the bidder by disclosing the engineer's estimate lies in ensuring that the most responsive bid price is not known until all the tenders are submitted. At the advertising stage, the bidders must be required to submit 2 envelopes. One must have the tender document and other required documents minus the bill of quantities. The bill of quantities must be separated because the weight of the tender price. To illustrate the process, a hypothetical situation of tenders being submitted is created. The bid prices are summarised in the table below. Before the price table is compiled, each bid must be evaluated based on the requirements stipulated in the bid document. This will typically include; proof of compliance with respect to required documents such as the tax clearance certificate, BEE certificates, proof of enterprise address, business registration certificate, Construction Industry Development Board certificate, proof of ownership of plant etc. On confirming that the bidder complies, each bid will be scored on all other functionality criteria except price responsiveness.



Once the scores are determined and noted, only then, the price comparison, which forms the basis of this work, will be evaluated. The emphasis on the procedure above is to avoid a pervasive situation where the adjudicator will perform the adjudication exercise and on finding that the company in cohorts with the official came third in the scoring would then go back to scrutinise the first two companies with such fervent detail that the least transgression, no matter how trivial and immaterial, will be used as a basis for disqualification. Hence the first stage must be to ascertain that the other aspects of the bid are covered and tenderers are thus appraised on this first stage and scored accordingly.

**Table 1:** List of Bidders and their Respective Prices

Name of Bidder	Bidding Price
GUNDO CC	R 1 100 000
JACOB PTY	R 1 700 000
SAAPAM CC	R 2 000 000
MOKOPANE CC	R 989 000
GRACE CIVILS	R 689 000
TENDER CC	R 1 500 000
DONALD CC	R 1 200 000
PROF CIVILS	R 300 000
AGANG PTY	R 290 000
TAURAI CC	R 100 700
TUMELO CC	R 130 0050
DAN PTY	R 780 000
Average Price	R 995 729

**Source:** Fictitious data, for illustration purposes only

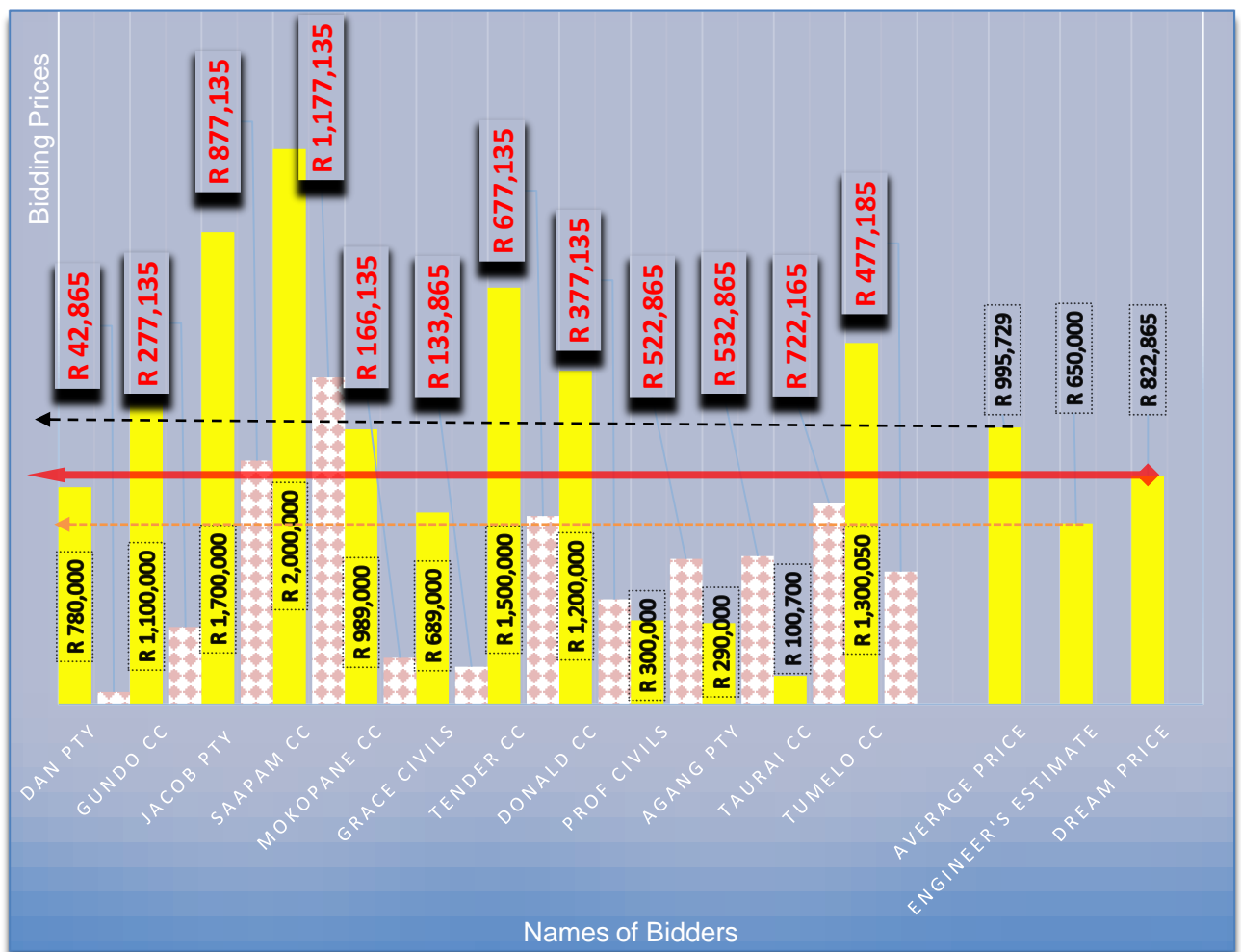
The Once tabulated, the average of the prices is computed. The engineers estimate is also computed. In this instance, the engineer’s estimate is taken to be R 650 00. Bid values together with the engineer’s estimate and the average of the bid values have been plotted on Graph 1 below for a visual display of the concept. The median or the average bid price and the engineers estimate is determined by adding the average bid price and the engineer’s estimate and dividing them by two. This gives a midpoint between the two values which is represented in the graph the bold horizontal red line. This line represent the ideal cost of doing the work and is thus called the “dream price”. The closeness of each bidder to this amount is determined by subtracting the bid price from the “dream amount”. The answer must be kept positive. This means there is no consideration of whether a bidder is below or above the “dream price”. The main consideration is the proximity of the bidding price to the “dream price”.

The values of the difference between each bid price and the “dream price” are shown in red font on the graph and graphically represented by the chevron filled bar chart. The company on the extreme left, DAN PTY has the lowest value at R 42 865. This means their price is closest to the “dream price” and thus they have, ceteris paribus, the most responsive tender at a value of

R 780 000. The second best price would then be that of GRACE CIVILS at a value of R 689 000. The two tenderers are not the lowest bidders. The lowest bidder is TAURAI CC with a price of R 100 700. The lowest bidder has a price that is R 722 165 off compared to the “dream price” and is thus considered to be unresponsive.

The most responsive bidder based on this method would thus be awarded full points for price as is the case with the normal process of taking the lowest price. The institution responsible for the award can build into its policy, a points' allocation method where the prices are ranked from the most responsive to the least responsive and then award, say, 80 points to the best price and  $80 - 2n$  to each successive price where  $n$  is a natural number increasing in order of the position. For the best tender price,  $n$  is regarded to be zero and the natural numbers thus follow.

Figure 1: Adjudication Blue Print



#### 4. Interpretation and Analysis of Results

In comparison to the conventional system the following can be deduced from the proposed adjudication method. The lowest price is not necessarily the preferred price. When or if the lowest

price becomes the preferred price, it can be construed as a special case. While this can be construed as being wasteful, it should be noted that empirically, an appreciable number of project delays stem from bidders who grossly under-priced their bids in a desperate attempt to get work. This results in poor margins and failure to honour financial commitments to suppliers of materials and workers alike. With reference to Figure 1 above, the lowest price, above the engineers estimate is that of GRACE CIVILS. In the conventional adjudication process, this could well be the company whose representative(s) colluded with either the engineer or the client's representative, a public servant, to get inside information on the most responsive price expected. Knowing that the engineer's estimate is not a guarantee to get the tender will reduce the likelihood of contractors interacting with public servants in corrupt relationships aimed at subverting what should be a transparent and fair process. It is only when the prices are determined and computed that the most responsive price is determinable. Outliers are immediately overlooked.

The difference between R 650 000 and R 822 865 is the additional amount of R 172 865 that would cushion the contractor's profit margin and enable him to meet his obligations. Corruption activities would have had an almost similar amount exchange hands with the detriment of undermining the credibility of state through compounding perceptions of foul play. Now that this amount is going into the project means it will be accounted for and tax will be deducted from it properly. Instances where the bidders overpriced the bids will be served better because the average of the bidding prices will be reduced by the engineer's estimate yielding a reduced "dream price". Similarly, generally under-priced bids will be increased by an increased engineer's estimate to favour the most responsive bid.

## **5. Conclusion**

Calls for the eradication of the system of tenders as a modality for mounting state projects have a basis on the presumed inherent corruptibility of the system. It has been demonstrated herewith and elsewhere that the psychopathology of corruption is a narrative on the fallibility of the human condition. Any systems built on the premise of a public servant with infinite integrity will not succeed. At least not in the collectivistic culture that African societies thrive. Opportunities for tender corruption are present in every step of the tendering process. The evolving sophistication of the corruptors and the increasing gullibility of the public servant requires a comprehensive approach to combating corruption. What scholars still need to explain is why with such clear preponderance of work on how deleterious corruption is, the same corruption appears to enjoy legitimacy even amongst the most senior leaders in politics and in administration. The approach though cross cutting must make scrutiny stops on all stages of the process to identify loopholes that can provide opportunities of corrupt practices. The proposed methods provides a system devoid of direct human influence that can be operated and

computed on an information technology program. This method will be more productive if the adjudication process begins by confirming all the other criteria for responsive tenders. Further research must still be done to find means of extricating the human factor from other aspects and steps of the tendering process. The more this is done, the better the loopholes that are exploited from personal gain are covered. This will thus move public service into a space where the systems in place remove the human factor effectively making it more tedious or impossible to interfere with the tender award process for personal gain. Even when a dispute arises, the process of tracing the procedure followed will immediately show the point at which the public official or the engineer decided to subvert the system for personal gain. Further statistical data must be evaluated to ascertain the deviations that this method will introduce or even better, would have introduced to the supply chain process. This research would ideally involve taking bid prices of old bids and averaging them. Then the engineer's estimate will be ascertained and bids ranked accordingly. This will be useful also in determining if the state would be in a net loss or net gain due to the introduction of this system of adjudication.

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## PUBLIC SERVICE (MIS)MANAGEMENT OF THE GIFTS: TRAVESTY TO FOSTERING INTEGRITY AND PREVENTING CORRUPTION

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### Abstract

This paper seeks to analyse South Africa's regulatory frameworks relating to the receipt of gifts in the Public Service in order to assess the mechanisms for management of this practice in Sedibeng District Municipality (SDM). The paper reports a study that adopted a qualitative approach to conduct desktop, questionnaire and interview surveys. Whereas desktop study was used to compile information on the regulatory frameworks relating to this phenomenon, questionnaire and interviews were administered within the SDM to determine the extent of the gifts receipt practice. The paper finds that worldwide, the acceptance of gifts in the Public Service and private sector is a common frequently experienced phenomenon largely due to the negligible attention placed on these practices in the codes of conduct/ethics. The SDM survey results show that the absence of clear principles makes it difficult to foster existing regulatory provisions for managing receipt of gifts, thereby undermining efforts towards the prevention of corruption. The paper presents recommendations that could potentially enhance the management of gifts in Public Service.

**Keywords:** Public Service; Regulatory Frameworks; Managing Receipt of Gifts; Corruption; Sedibeng District Municipality

### 1. Introduction

This paper emanates from the study conducted by the Public Service Commission (PSC) during the period 1 July 2007 to 31 January 2008. The survey conducted by the PSC assessed the effect current regulatory provisions of the five national and provincial departments in the five selected provinces of South Africa. The PSC surveys concentrated on the effect of the regulatory provisions amongst public servants employed in the selected departments in five provinces. The survey conducted by the PSC was prompted by apparent inconsistencies and ambiguities in the current regulatory provisions pertaining to the receipt of gifts and other hospitalities by public servants. For this study, the regulatory provisions will concentrate to the gifts offered to public servants in their personal capacity and not those offered to government departments. The receipt of goods by public servants compromises the idea of having an ethically sound Public Service. The PSC condemns such actions especially when the public service is continuously under close scrutiny by the public and the media. This paper assesses the institutional arrangements on the management and the criteria for the acceptance and non-acceptance of gifts. The PSC guides the public sector to appoint the ethics officers and this study will ascertain whether such measures are implemented. The discussions of this paper begin with an overview of gifts and the extent of gifts. The results are also presented and discussed. The intervention strategies for

fighting corruption and promote ethical conduct are also described. The paper also concludes with a set of recommendations that seeks to improve the management of gifts by public servants in South Africa.

## **2. Research Methods**

The SDM as a district municipality is the second level of administrative division and it is responsible for co-ordinating development and delivery of services in the whole district. The administrative seat of SDM is Vereeniging. The SDM consists of the three local municipalities, namely Lesedi, Midvaal and Emfuleni (SDM, 2014). Its mission is the creation of a local government dedicated to the provision of quality services in an effective, efficient and financially sound manner by. In its mission the SDM strives to:

- Promote the Batho Pele principle;
- Ensure cost effective and affordable service delivery;
- Monitor and develop staff to ensure consistently high work output;
- Adhere to good governance and sound management practices; and,
- Develop a culture of accountability and transparency (SDM, 2014).

In order to fulfil the co-ordination of development and delivery of services directives, the SDM does so through the Political and Administrative Management structures. The Political Management comprises the office of the: Mayor; Speaker; Chief Whip; and the Members of the Mayoral Committee. The Members of the Mayoral Committee plays an oversight role on the administrative units. The SDM comprises of six administrative units, namely: Strategic Planning and Economic Development; Corporate services; Community Safety & Sports, Recreation, Arts, Culture and Heritage; Transport Infrastructure and Environment; Finance and Youth Advisory Centres.

The study reported in this paper was conducted to examine the institutional arrangements for managing the receipt of gifts in the SDM. The study was carried in August 2014. A self-administrated questionnaire was developed after literature reviews based on the reports and secondary sources of the topic under discussion. The study obtained all required ethical approvals from the office of the Chief Financial Officer in the SDM. The Assistant Manager: Sourcing Development Funding was then interviewed in order to comprehend the municipal arrangements relating to the management of gifts in the SDM.

## **3. Overview of Gifts**

The Department of Public Service and Administration (DPSA, 2011: 2) defines a "gift" as a token which is bestowed voluntarily without any expectation of tangible compensation, and for which no direct or indirect contractual obligations are imposed. A gift may also include a "quid pro quo contribution" (Goebel, 2010: 5). A gift has a value attached to it and maybe issued directly



or indirectly. Some gifts are personalised. Gifts may come from restricted donors. The Hawaii State Ethics Commission (2011: 2) identifies four categories of gifts: Tangible Gifts; Hospitality gifts; Activity-related Gifts; and Travel.

### ***3.1. Tangible Gifts***

Tangible Gifts are often called "Gifts of Aloha". These are modest gifts of nominal value, which are traditionally given as part of the local culture which is a gesture of aloha or goodwill. "Gifts of Aloha" include, but are not limited to, flowers, a box of candy, cookies, art decorations to share with the office. Other tangible gifts of nominal or minimal value may also be accepted. Since municipal officials engage with a diversified supply chain they may receive a calendar, coffee mug, or small promotional business items such as a pen, mouse pad, or refrigerator magnet (Hawaii State Ethics Commission, 2011: 2).

### ***3.2. Hospitality Gifts***

The Department of Public Service and Administration (DPSA, 2011: 2) defines "hospitality" as any food, drink, entrance to events, accommodation or entertainment provided free of charge or heavily discounted and for which no direct or indirect contractual obligations are implied. Examples may include the "types of events include, but are not limited to, breakfasts, lunches, and dinners; receptions; meet and greet types of events; and fundraiser dinners" (Hawaii State Ethics Commission, 2011: 2).

### ***3.3. Activity-related Gifts***

"Activity-related" gifts include, but are not limited to, recreational, sports, and entertainment events such as golf (including charity golf tournaments), cruises, tickets to athletic contests, movies, shows, concerts, and tickets or passes to visitor attractions (Hawaii State Ethics Commission, 2011: 2).

### ***3.4. Travel***

Gifts that are travel-related, including, but not limited to, airfare, hotel accommodations, and meals, generally, may be accepted only if there is a legitimate "state benefit" (Hawaii State Ethics Commission, 2011: 2). In most cases the purpose of the travel-related gift is aimed to reasonably benefit the employee in performing his or her official duties. Public officials accept gifts from both restricted and non-restricted donors. The State of Connecticut (2010: 5) described restricted donors as those:

- registered lobbyists or a lobbyist's representative;
- individuals or entities doing business with your state department or agency;
- individuals or entities seeking to do business with your state department or agency;

- individuals or entities engaged in activities regulated by your state department or
- agency; or
- contractors pre-qualified by institutions (State of Connecticut, 2010: 5).

Goebel (2010:5-11) further categorises gifts as outright gifts, pledges, planned gifts and endowments. Goebel (2010: 5-11) further categorises gifts as outright gifts, pledges, planned gifts and endowments. Pledges are commitments to give a specific dollar amount according to a fixed time schedule (Goebel, 2010: 5). Outright gifts includes “cash and cash equivalents; publicly-traded securities; closely held securities (non-public); real property; personal property; gifts-in-kind; library gift acceptance” (Goebel, 2010: 6). Cash is often the easiest way to give and the most frequently received form of gift accepted by the public and private officials. The Hawaii State Ethics Commission (2011: 2). Planned Gifts normally comprises “charitable bequests; charitable gift annuities; charitable remainder trusts; gifts of life insurance; retirement plan beneficiaries; pooled income fund; pooled income fund; revocable trust” (Goebel, 2010: 7).

#### 4. Extent of Gifts

Globally, corruption is widespread and seen as one of the greatest obstacles to the country's economic development as well as to the provision of quality public services. Corruption-related challenges in the country stem from a weak separation between the public and private spheres, leading to extensive clientelistic practices and patronage, as well as widespread political corruption. Such corruption challenges are exacerbated by weak law enforcement, which fuels a culture of impunity, particularly with regards to high-ranking officials involved in corruption schemes (Martini, 2013: 1). A glance at the newspapers or a glimpse of the news on the television show that ethics and anticorruption issues continue to figure on the public agenda. They are no longer confined to only local and national levels of government but are spilling over into the international arena (United Nations, 2000: viii). The interaction between employees, suppliers and the public through gift offering is a common cause for conflicts of interest for physicians that negatively influence prescribing behaviours of public officials throughout the world (Mikhael & Alhilali, 2014: 705). A myriad of challenges are apparent in the public service as far as implementation of ethical and anti-corruption measures is concerned, chief among them is non-compliance with legislation and lack of enforcement (DPSA, 2011: 2).

There is little discussion of, or involvement with, other gift forms. Miree (2003: 3) put in plain words that “once gift acceptance policies are in place, however, they tend to drift to the back of the policy manual where they age unnoticed and no longer provide the intended safeguard”. It is also indicated that the implementation of anti-corruption and good governance measures has not been satisfactory including the review to assess impact thereof. Some of the implementation gaps include:

- Limited implementation and adherence to the Code of Conduct;

- Non-compliance with the Financial Disclosure Framework;
- Non-compliance with Section 30 of the Public Service Act dealing with remunerative work outside the public service and Section 31 dealing with;
- recovery of losses;
- Non-compliance with the Minimum Anti-corruption Capacity Requirements;
- Non-adherence of supply chain management prescripts;
- Weak enforcement and inconsistent application of disciplinary measures;
- Resignation and transfer to other departments before disciplinary processes could be instituted or concluded; and,
- Ineffective implementation of the Protected Disclosures Act, 2000 (DPSA, 2011: 7).

The conduct of some public servants as highlighted in the various government reports have identified a culture of unethical and undesirable conduct by some public servants. Supply chain management prescripts are not adhered to which results in tender related malpractices, fraud and corruption as a result of improperly awarded tenders, goods and services provided at grossly inflated prices, officials benefiting from government contracts, unnecessary purchases and payments for services not rendered (DPSA, 2011: 8).

## **5. Results and Discussions**

This section presents the results of the processes implemented for managing gifts in a district municipality with reference to the SDM. Local governments are recognised as the sphere of government closest to the people especially where many basic services are delivered to serve the needs of the local community. The following sections form part of the analysis of the management of gifts in the SDM.

### ***5.1. Policies on Gifts and Institutional Arrangements***

The PSC prescribes that the institutions are required to develop a policy for managing and accepting gifts. The main purpose of a gift acceptance policy is to assist the organization in evaluating potential gifts in order to protect the organization from gifts that expose the organization to risk or are inconsistent with its mission (The Hawaii State Ethics Commission, 2011: 1). Miree (2003: 1) identifies three roles of a gift policy. Firstly, the policies define the types of assets that are acceptable. Secondly, policies establish the gift forms that are acceptable. Thirdly, gift policies define the organization's role in gift administration. The SDM indicated that it has a policy that regulates gift acceptance. The policy is attached to the Finance department as a Supply Chain Management policy for managing gifts accepted. It does not have a separate policy to regulate the acceptance of gifts. The respective policy was approved in 2013. The said policy is reviewed annually; hence the policy was last approved in 2013. The review is an important process in which the policies are dusted off and reread, and forgotten items reinstated

in memory. Review also allows fine-tuning or amendment to the policies in the event that changed circumstances allow the organization to accept new gifts, or to restrict or expand the manner in which current gift forms are handled (Miree, 2003: 2).

The research results indicated that the SDM has a staff complement of +600 employees. An institution with such amount is required to establish a dedicated office that will manage the policy directives. The response from the SMD indicated that the Finance Cluster lead by the Chief Financial Officer is in charge of monitoring the gifts received by employees. In terms of transparency and accountability, the SDM was asked if employees were familiar with institutional policies and procedures regarding gifts/gratuities. It was indicated that the management periodically communicate information on gift policy to all employees and that employees aware of the limitations on gift types and amount. However the municipality experienced non-adherence from staff.

### ***5.2. Receipts of Gifts and the Monetary Limits***

The PCS condemns the receipt of gifts. Although gift acceptance among public sector employees is common and there are no significant differences between the job ranks. Such gifts have a market value (Organisation for Economic Co-Operation and Development, OECD, 2005a: 45). It was important to ask about the monetary limit on gifts in the SDM. The Regulations on the Financial Disclosure Framework prescribe that members of the Senior Management Service (SMS) must disclose gifts with a value of R350.00 or more (PSC, 2008: 8). Based on the pressures faced by public office, the SDM indicated that a gift of R350.00 (USD32) may be acceptable.

### ***5.3. Gifts of Significant Risk***

The public sector is one of the most important customer groups for many suppliers and service providers. Relationships with customers have always been considered to be important in business management. Koebel (2010: 11) associated gifts of Significant Risk as:

- all gifts of real property;
- gifts of personal property if not to be used by the college;
- all gifts of real or tangible personal property subject to donor restrictions regarding the disposal of such property ;
- any bargain sale agreement where a donative element is associated with the acquisition of property by the college below its fair market value;
- cash gifts with significant donor restrictions; and,
- all gifts of unusual items or gifts of questionable value (Koebel, 2010: 11).

The SDM was asked to select the gifts normally received and to identify the gifts that are likely to pose the greatest threats in the institution. The guideline for the responses was based on the

items presented in Table 1. The practice of giving gifts should not be common or frequent in occurrence.

#### 5.4. Honorarium

Being a public service employee involves a public trust. This means that duties must be carried out impartially and with integrity. Employees often attend public meetings, public lectures and also as keynote speakers at the public gatherings and academic conferences. The SMD was asked if it expects employees to disclose the gifts received from the public appearances. It was reported that the employees are required to disclose the gifts received at all times. The author of this paper has witnessed a number of incidents in the public gatherings whereby dignitaries were offered gifts and such gifts were un-wrapped in front of the delegates as a gesture of disclosing the gifts received.

**Table 1: Gifts of Significant Risk**

Gift items	Gifts items received		Gifts that are likely to pose the greatest threats in the institution			
	Yes	No	None	Less threat	High threat	Extreme threat
<b>Monetary (cash)</b>						
Cash at hand		√				√
Cheque		√				√
Gift vouchers		√		√		
Electronic transfers		√				
Credit card		√				
<b>Non-cash</b>						
Pen/any other stationary	√		√			
Calendar/diary/tie	√		√			
Beverages: soft and hard drinks		√		√		
Business lunch/dinner		√				
Invitation to golf day or tickets to sporting event	√					
Furniture (e.g. household)		√			√	
Sponsorship and bursaries for family relations		√				
Hunting/fishing/golfing excursions		√				
Clothing	√		√			
Communication devices (e.g. Television set, cell phones, laptop)		√			√	
Weekend away		√			√	
Overseas trips		√			√	
Other			√			

#### 5.5. Declaration of Gifts

Public service employees are required to discuss the gifts received with a supervisor or manager to ensure appropriate approval is obtained prior to a decision about whether to accept

a gift or benefit. Furthermore, institutions are required to record all gifts and benefits provided or received that have a retail value in a central register and to publish this register every quarter. The OECD (2005b: 46) advised that “an official who receives a gift must complete a declaration: within 14 days after the gift becomes a reportable gift because it exceeds the “reportable gift threshold”, or for another reportable gift within 14 days after receiving the gift”. The author asked the SDM whether there is a/an:

- Gift disclosure form to declare the receipt or offer of a gift;
- Gift disclosure form approved by relevant managers of acceptance in accordance with this Policy; and,
- The form accessible on the Council website and from the Council's Executive Officer.

The responses given indicated that the SDM does not have a gifts disclosure form.

### ***5.6. Reporting and Publication of Gifts Received***

Institutions are required to keep a register of reportable gifts received by any official in the employ. The OECD (2005a: 46) defines a “reportable gift” as:

- any gift made to an official by an organisation, agency or private sector entity, or
- any gift made to an official by a private individual.
- where the current market value of the gift exceeds the “reportable gift threshold”.

Employees may receive more than one gift from the same person in any financial year. Gifts may exceed the threshold of a municipal guideline in a financial year. A reportable gift received by the official must be dealt with as the public body's accountable asset officer. It was found that the SDM does not have a gift register which approves the gifts received. A gift register is used for reporting gifts received. Reported gifts must be registered and published. The publication maybe registered and published: internally, in a government gazette, online, or as a confidential document. The report must be published weekly, monthly, quarter and annually.

### ***5.7. Valuation of Gifts***

Public service agencies and employees are required to have an appropriate person to verify the estimated retail value of a gift, if the value is not easily established. Deliberately under valuing a gift or benefit to avoid reporting it or to fraudulently keep it may be official misconduct. The questions also inquired whether the SDM carried out the processes and frequency for valuating gifts received. The response revealed that the SDM does not have the valuation process of the gifts received.

### ***5.8. Retention of Gifts and Benefits***

Institutions are required to complete the declaration, reporting-publication and valuation process for the gifts received. The questions posed to the SDM, inquired about the retention of

gifts received. The SDM mentioned that the gifts that were below the threshold were retained by the respective recipients. However the municipality does not have the procedure to determine the disposal of gifts.

### **5.9. Adequacy and Effectiveness of the Gift Policy**

The main purpose of a gift acceptance policy is to assist the organization in evaluating potential gifts in order to protect the organization from “problem” gifts (gifts that expose the organization to risk or are inconsistent with its mission) (PSC, 2008: 8). Receipt of gifts has become a key issue in public debate worldwide in recent years, not just in the private sector but also increasingly in the public sector. If not adequately identified and managed, grey zones can provide opportunities for public officials to take advantage of their public position for personal benefit. There is increasing recognition that conflict-of-interest situations that are not properly dealt with can lead to corruption (OECD, 2005: 1).

The SDM was asked to share the municipal experiences related to the receipt of gifts. The SDM announced that the gifts policy is incorporated with the SCM policy. A follow-up question determined the adequacy and effectiveness of a gift policy. It was indicated that the gift policy is inadequate and inoperative. It was indicated that the lack of enforcement and the absence of a gift register were inhibiting factors for non-compliance. The absence of a clear principle makes it difficult to safeguard the current regulatory provisions for managing the receipt of gifts (PSC, 2008: 8). Miree (2003: 2) indicates that lack of compliance: breed inconsistency; obfuscates good judgement; and send mixed signals to potential donors. The results of this paper discovered that the processes undertaken for managing the receipt of gifts was inoperative. The manager was asked to suggest a strategy that will help to enhance the process. The SDM suggested that the line managers together with the finance cluster should:

- review policy and enforce strict measures for adhering to the PSC guidelines;
- increase awareness among staff and community; and,
- increase monitoring and reporting within the municipality.

Developing gift acceptance policies should be a collaborative process involving the planned giving staff, the organization's managers, the board's committee responsible for oversight, and the professional advisory committee or advisor (Miree, 2003: 2). Gifts received by employees from the public or companies could lead to conflict of interest which may negatively influence and prescribe behaviours of officials. Reviews may be used for as an opportunity to educate, to preach, and to probe for potential gift opportunities (Miree, 2003: 15). Involve the committee and the board through cautionary tales, or solicitation of experiences with other organizations that could have been avoided. Such cases could also affect developmental mandate of the institution. The discussions below emanates from the gaps identified during the surveys conducted with the SDM.



## 6. Interventions: Fighting Corruption and Promote Ethical Conduct

The literature reviewed indicates that the quest for finding robust strategies for managing the receipt of gifts in the public sector is common worldwide. Similar studies were conducted by various authors. Brett, Burr, and Moloo (2003) conducted a study on the topic “*Are Gifts from Pharmaceutical Companies Ethically Problematic? A Survey of Physicians*” The study sought to determine the degree to which physicians regarded common pharmaceutical marketing activities as ethically problematic, and to compare the views of experienced physicians and physicians-in training (Brett et al., 2003: 2213). The PSC (2008) published a report of the survey conducted in 2008 which investigated the “Management of Gifts in the Public Service”. The report published by PSC seeks to promote accountability and transparency by:

- assessing how departments interpret and manage the acceptance and non-acceptance of gifts;
- establishing whether government departments have a system for managing the acceptance of gifts by public servants in an accountable and transparent manner; and
- exploring mechanisms or approaches to improve the management of gifts by public servants in South Africa.

The two studies mentioned above symbolises the fundamentals of good governance and ethical conduct. Hence the Organisation for Economic Co-Operation and Development (2005a: 3) advises that the *identification and resolving conflict-of-interest situations is crucial to good governance and maintaining trust in public institutions*. Good governance plays an important role in the development process, and “requires the highest standards of integrity, openness and transparency” (Balboa & Medalla, 2006: 1). Maintaining public trust in the integrity of democratic institutions is essential to the success of representative democracy. An ethical governmental process is a precondition for making good public policy. Action towards curtailing corruption is perceived as a commitment towards creating good government. The main requisites for good governance include:

- political legitimacy for the state through democratic elections and transfer of power and an effective political opposition and representative government;
- accountability and transparency in the sharing of information;
- separation of powers;
- effective internal and external audit;
- effective means of combating corruption and nepotism;
- competence of public servants;
- impartial and accessible justice systems; and,
- the absence of arbitrary government power (Balboa & Medalla, 2006: 1).

Effective ethics infrastructure can be founded on eight key elements: political commitment; an effective legal framework; efficient accountability mechanisms; workable codes of conduct;

professional socialization mechanisms; supportive public service conditions; the existence of some ethics coordinating body; and an active civic society (Simmons et al., 1998: 4).

The Department of Public Service and Administration (DPSA, 2011: 2) introduced the Public Sector Integrity Management Framework. The purpose for introducing the Public Sector Integrity Management Framework is to strengthen measures and standards for managing integrity and promotes ethical conduct in the public service. The Framework aims to: strengthen existing measures regulating probity in the public service; strengthen capacity to prevent corruption; monitor and evaluation to ensure compliance; and enforcement as a deterrent (DPSA, 2011: 5). In order to close the policy gaps and strengthen implementation of ethical and good governance measures, the following additional measures were proposed by the South African public service which aimed to enforce:

- Acceptance of Gifts, Hospitality and other benefits;
- Disclosure of Financial Interests and Assets of employees;
- Amendments to the Financial Disclosure Form;
- Restrictions on Remunerative Work outside the Public Service;
- Post-public employment;
- Designation and Appointment of Ethics Officers;
- Enforcement; and,
- Strengthening Investigation and disciplinary capacity through the Special Anticorruption Unit (DPSA, 2011: 7).

This is provided for the strengthening of measures to prevent and combat corruption and corrupt activities and to encourage all employees and other stakeholders to strive toward the promotion of integrity and the prevention and detection of unethical conduct, fraud and corruption impacting or having the potential to impact on the local sphere of government.

### ***6.1. International Commitments***

In recent years, the government of Uganda has been vocal about fighting corruption in the country. A series of laws and policies aimed at reducing corruption and its pervasive effects have been established, but the lack of implementation and enforcement of these rules and policies have raised doubts about the seriousness of the government efforts as well as of its political will to actually change the situation in the country (Martini, 2013: 10). The United Nations has an interest in these new challenges which public services are facing everywhere and a mandate for taking action. For fifty years, the United Nations Programme in Public Administration and Finance has been providing research and analysis to inter-governmental bodies and policy advice and technical cooperation to Member States upon request. It has organized for a where countries could consult one another about their experiences, both in comparing problems which they face and sharing best practices in finding solutions. Currently, this Programme is carried out

by the United Nations Secretariat, through the Department of Economic and Social Affairs and, more specifically, the Division for Public Economics and Public Administration. The Programme is advised by a Group of Experts, which meets biennially and reports to the Economic and Social Council and ultimately the General Assembly (UN, 2008: 8).

## **7. Key Recommendations for Managing Gifts**

There is a growing recognition that countries need to cooperate at the transnational level to stem corruption and other problems, such as organized crime, which are associated with it. Local government standards vary widely, for example on gift limits or definitions of a lobbyist. Managing gifts does not prevent public officials from having any private interests. However, an effective gift receipt policy needs to strike a balance between the public interest in order to protect the integrity of public decisions and the private interests of public officials (OECD, 2005: 3). Public officials should make decisions and provide advice without regard for personal gain. Institutions are required to:

- identify relevant conflict-of-interest situations;
- establish procedures to identify, manage and resolve conflict-of-interest situations;
- demonstrate leadership commitment;
- create a partnership with employees;
- enforce the conflict-of-interest policy; and,
- initiate a new partnership with the business and non-profit sectors (OECD, 2005: 6).

Gift acceptance policies are rarely adopted at the inception of an organization's programme. It is against this background that the PSC deemed it necessary to do a survey on how departments manage the acceptance of gifts by public servants. The PSC is mandated by Section 195 of the Constitution to promote and maintain the democratic values and principles governing public administration. As custodians of good governance, the PSC is obliged to ensure maintenance of effective and efficient public administration and a high standard of professional ethics in the Public Service (PSC, 2008: 8). The South African Public Service developed measures and regulations to regulate the receipt of gifts. In this regard it needs to be mentioned that the Code of Conduct for the Public Service stresses that a public servant should not use his/her position to obtain private gifts or benefits. It further emphasizes that the acceptance of any gifts or item of monetary value from any person or entity may only be accepted with the express written approval of the Head of Department (PSC, 2008: 8).

### **7.1. Reviewing Gift Policies**

Once gift acceptance policies are in place, however, they tend to drift to the back of the policy manual where they age unnoticed and no longer provide the intended safeguard. The primary benefit of gift acceptance policies is to maintain discipline in gift acceptance and

administration. Discipline prevents the acceptance of gifts that will cost the organizations time, money, and possibly its reputation, by reminding the organization and its when to say “No” when gifts are issued to them (Miree, 2003: 1). The establishment of procedures may serve to monitor and audit the reports. The respective processes may help to assess the implementation of the process; to evaluate internal controls in order to improve governance in the public agencies; and to investigate illegal or improper activities within the public administration (Martini, 2013: 8).

### ***7.2. Designation and Appointment of Ethics Officers and Gift Acceptance committee***

In light of responding to these trends and in light and for continuing to strengthen the institution of the public service, the United Nations has been focusing on the issues of professionalism and leadership in civil service systems (United Nations, 2008: iv). In September 2003, Cabinet approved the requirements for minimum anti-corruption capacity for departments in the Public Service. An executive authority designates or appoints such number of ethics officer or officers as may be appropriate for the department to perform the following functions:

- promote integrity and ethical behaviour in departments;
- advise employees on ethical matters;
- ensure organisational integrity of policies, procedures and practices;
- identify and report unethical behaviour and corrupt activities to the head of department;
- administer and manage the implementation of the framework in departments;
- monitor and evaluate the implementation of the framework;
- develop and implement awareness programmes to educate officials on ethics;
- good governance and anti-corruption measures;
- keep a register of all public servants under investigation and those disciplined for;
- corruption and provide to DPSA special anti-corruption unit;
- liaise with the DPSA special anti-corruption unit regarding all disclosures; and,
- manage and administer the e-filing of financial declaration forms (DPSA, 2011: 11).

The responses from the SDM outlined that the management of gifts is undertaken by the finance unit. The GAC facilitates the gift acceptance process by means of reviewing gifts in accordance with the policy, researching, and evaluating the proposed gift in light of the organization’s policy. This committee should be small enough to respond quickly to unusual gift offers and to make timely decisions. In terms of risk gifts the GAC will make recommendations on how to handle the respective gifts.

### ***7.3. Register of Reportable Gifts***

The results indicate that the SDM does not have the gift register for recording all gifts received by officials. It is a requirement for the public body must keep a register of reportable gifts

received by any official of the institution. The register must include information about each of the following matters:

- the date the reportable gift was received by the official.
- the persons and circumstances involved in making and receiving the gift.
- a detailed description of the gift, including its current market value and the basis for the valuation.
- the approval for receiving the gift, if relevant, and
- the date the gift was transferred to the control of the body and the present location of the gift.

Some gifts may have less nominal value. In such cases the gift may be disposed or the official may be permitted to retain the gift. Even though such gifts are given to the officials, the recording to the register must be made. If the gift is disposed, the following must also be considered: the authority for disposal; the date and method of disposal; the name and location of the beneficiary; and the proceeds, if any, arising from the disposal (OECD, 2005a: 46).

## 8. Conclusion

The paper found that there is little discussion of, or involvement with gift received by public officials. Ethics is gaining prominence in the discourse about governance today. There is a perception that standards in public life are in decline. This raises questions about the costs of misconduct on the part of those who have been entrusted with guarding public interest and resources. There is a move worldwide to restore a measure of trust and integrity in public institutions and officials, to safeguard democracy and promote better governance. Globalization, technological advances, spreading democratization and fiscal crises are challenging states to deal with strong external forces, to be smart in serving its citizenry, devolve power, and divest itself of obsolete activities. As a result, the public service, as an institution, is under pressure to transform itself to respond to these changes.

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## FOCUSED INTERVENTION STUDY AND THE PROMOTION OF EFFECTIVE OVERSIGHT: EXPERIENCES FROM THE GAUTENG PROVINCIAL LEGISLATURE

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### Abstract

This aim of this paper is to analyse the experiences of the Gauteng Provincial Legislature (GPL) and its Focused Intervention Study (FIS) to demonstrate that oversight could be effective in serving public interests if it is held as a continuous process, rather than fragmentary once-off event. In the interests of financial accountability and compliance as well as enhancing service delivery performance, *Section 114(2)(b) of the Republic of South Africa's 1996 Constitution* accords the legislature the role of overseeing the activities of government departments and other organs of state. Notwithstanding this constitutional mandate for the South African legislative branch of government, threats to democracy have been incessant, characterized by maladministration and misuse of public funds, among others, which in return precipitates suboptimal service delivery performance. The measure of effective oversight is in its service of the interests of the public, especially that which involves the delivery of services. However, the South African legislature's oversight role is characteristically reactive and, therefore, incapable of proactively dealing with emerging challenges, opportunities and emergencies. This paper argues that oversight can be effective if it is conducted as an ongoing process before, during and after the implementation of programmes.

**Keywords:** Democratic Institutions; Oversight; Service Delivery; Focused Intervention Study; Gauteng Provincial Legislature

### 1. Introduction and Background

It has been over 20 years since the advent of a democratic South Africa. This highlights, in part, that the country's democracy is maturing. However, its maturity will be determined by the extent at which the government respond to the needs of the people. *En passant*, *Oxford dictionary* defines democracy "as a system of government in which all people of a country can vote to elect their representatives". It is generally referred to as the government of the people by the people. It is emphasised that democracy is not constraint to voting, but should aim to benefit the public (Mpehle, 2012: 216). Nonetheless, the country is still facing numerous challenges in its effort to respond to the needs of the people, include but not limited to maladministration and misuse of public funds amongst others. These challenges take place regardless of the existence of democratic institutions such as parliament and provincial legislatures. These democratic institutions are entrusted with the obligation to ensure good governance and promote the welfare of the local communities (Shija, 2012: 7). It is acknowledged through the principle of *trias politica* which recognises the separation of powers of the state. It establishes the separation of powers



between the legislative, executive and judiciary branches of government to promote systematic checks and balances in upholding transparency and accountability (Mojapelo, 2013: 37).

This emphasises that every arm of the state has been allocated its own constitutional powers to exercise. For instance, oversight is a central mandate of the legislative branch of government (Murray & Nijzink cited in Madue, 2012: 432) although it is not the sole mandate. Other mandates include law making, facilitating public participation and promoting corporative governance. Oversight as a point of contention in this study is a constitutional obligation in terms of the doctrine of separation of powers. This is enshrined in Section 114(2)(b) of the Constitution of the Republic of South Africa, 1996. This is to promote financial accountability, transparency and compliance as well as enhancing service delivery performance. However, oversight has been criticized as being reactive and unable to deal with emerging challenges, opportunities and emergencies. The paper argues that oversight can be effective and take place before, during and after the implementation of programmes. This is presented through drawing from the experiences of the Gauteng Provincial Legislature (GPL) in conducting its Focused Intervention Study (FIS) as an oversight tool.

## 2. Gauteng Provincial Legislature

The Gauteng Provincial Legislature (GPL) is one of the nine (9) South African provincial legislatures formed on the 27<sup>th</sup> of April 1994. It is constituted in terms of chapter six (6) of the Constitution of the Republic of South Africa, 1996 which defines the structure of the provincial governments. The GPL consists of 73 members elected through a system of proportional representation ([www.gpl.gov.za](http://www.gpl.gov.za)). This is a system wherein political parties are allocated seats proportional to the number of votes they have received during provincial elections (Mattes, 2002). As far as provincial elections take place after every five years, this entails that the legislature is elected for a term of five years. The legislature derives its oversight mandate from the Constitution of South Africa pertaining to the powers to hold the executive accountable for its actions or inactions. Thus it has been over 20 years of the legislature's existence and its fifth term; however questions are still raised with regard to the effect of the oversight role of South African legislatures. Amongst the questions is: *does the oversight role of legislatures effective to promote transparency, accountability, and in-turn service delivery performance?* In an attempt to examine this question, there is a need to understand the concept of oversight.

## 3. Concept of Oversight

In the clarification of the concept of oversight which is the bone of contention in the study, the premise is founded *in* Section 114(2)(b) of the Constitution of the Republic of South Africa, 1996. It stipulates the role of the legislature to oversee the activities of government and any organs of state. The Oversight and Accountability Model of the South African Parliament (2009: 7)

acknowledges that “legislative organs of state are mandated by the Constitution of the Republic of South Africa to scrutinise and oversee executive action and any organ of state”. This forms the basis of what legislative oversight entails; however, various scholars have outlined their views on what the concept of oversight pertains. Amongst the scholarship review undertaken, Schick (1976) cited in Pelizzo, Stapenhurst & Olson (2006: 8) assert that oversight comprises of the supervision of policies and programs ratified by the executive. Johnson & Nakamura (1999: 4) support the notion that oversight happens subsequent to the enacting of legislation. It consists of scrutinizing the correctness and efficiency of policies and programmes implemented. These denotations suggest that legislatures are reactive institutions because their function transpires after an event has taken place. Contrariwise, Pelizzo et al. (2006: 8) agree with the delineation provided by Maffio (2002) that oversight also comprises the supervision of government’s plans before their implemented by the government and any organs of state.

In consideration of the above discussions; oversight can be conducted *ex ante*- before and during the implementation of a programme – as well as *ex post*, after its implementation (Pelizzo et al., 2006; Stapenhurst & Pelizzo, 2002 cited in Madue, 2012: 434; Pelizzo & Stapenhurst, 2004: 3-4). This is in contradiction of the orthodox that legislatures respond to the activities of government to determine value for money which for this reason were mostly criticised of being reactive than proactive institutions. Zvoma (2010: 3) is of the opinion that oversight is not the same with supervision. This is not a contrary view to the prior explanations of oversight; but argues against the utilisation of the concept supervision, which is justified as to respect the separation of powers. The foregoing may be criticised for not providing a succinct justification and an alternative definition of oversight. Mubangizi & Tshishonga (2013: 205) highlight that the term oversight was invented from the verb “to oversee; it denotes the process of monitoring and safeguarding a political process”. This refers to the role of legislatures in monitoring, reviewing and supervision of the executive’s activities (Kaiser, 2006; Yamamoto, 2007: 9). This goes beyond supervision, it includes monitoring, safeguarding and review, but the contested concept is still encompassed. The article thus far acknowledges supervision as part of the working connotation of legislative oversight.

Madue (2013: 39) observed that oversight is a vehicle to hold the executive accountable in realising the programmes enacted and adequate spending of the executive. Less (1997) defines oversight as “the behaviour by legislators and their staffs, individually or collectively, which results in an impact, intended or not, on bureaucratic behaviour”. It is stated that oversight is a process that should be discussed in the framework of democracy (Shija, 2012: 1). Particularly, oversight should ensure that the policies of the government represent the needs of the people (Yamamoto, 2007: 9). The oversight role of legislatures should be to the benefit of all citizens of the country and this is emphasised in the paper. Oversight in this article is defined as the process carried-out by legislatures to scrutinize, monitor and review the actions or inactions of the

executive and promote transparency and accountability in managing public resources and conducting public affairs in the interests of the people. It acknowledges oversight as a “process” and in-turn takes into account the notion that oversight should take place before and during the implementation of laws or in the preparation of policies, and after laws or policies have been implemented to monitor whether their effectively implemented. This suggested definition of oversight will be a point of reference in this article. It also encapsulates the role and importance of oversight which is an area of discussion below.

#### **4. Importance and Role of Oversight**

In general, scholars in varied disciplines such as political and social sciences agree on the fact that oversight is good for the appropriate running of a democratic system of government (West & Cooper, 1989; Pelizzo & Stapenhurst, 2006; Shenga, 2007; Madue, 2012). It elaborates that for a democratic government to operate effectively; there is a need for the legislators who are elected representatives to monitor activities of the executives. This underlines that there is a correlation between oversight and democracy. It is further substantiated by international organisations and agencies which have regarded oversight as a fundamental facet in promoting democracy (Pelizzo & Stapenhurst, 2006: 5). These institutions have been in the forefront to ensure that legislatures are empowered to oversee government programmes as a way to improve democracy. West & Cooper (1989 cited in Pelizzo et al., 2006: 8) emphasize that amongst the benefits of effective oversight in a political system is to ensure that government improves its programmes and legislatures enact policies. It is an important feature in a political system (Nijzink & Piombo, 2004: 3). It is significant in safeguarding the constitutional obligation of the separation of powers. The separation of powers is between the legislature, executive and judiciary to maintain transparency amongst others. In this article, it will be to uphold the systematic checks and balances between the legislature and executive (Johnson, 2005 :3), and it has several interconnected purposes and objectives. Simmons (2002: 3) and Zvoma (2010: 3) spell out those purposes and objectives of oversight.

- Improve the efficiency, economy and effectiveness of government operations;
- Evaluate programmes and performance;
- Investigate and prevent poor administration, waste, abuse, arbitrary and illegal and unconstitutional conduct;
- Protect civil liberties and constitutional rights;
- Inform the general public and ensure that executive policies reflect public interests;
- Gather Information to develop new legislative proposals or amend existing statutes; and,
- Ensure administrative compliance on legislative authority and prerogatives.

The purposes and objectives of oversight may be implemented through the utilisation of oversight tools. Scholars have identified and studied several tools utilised to oversee the activities

of government (Yamamoto, 2007; Pelizzo & Stapenhurst, 2002, 2004; Rapoo, 2004; Simmons 2002). The oversight tools identified as utilised in various legislatures include but are not limited to Committee Hearing; Hearing in plenary sitting, Questions and Ombudsman. The tools have been broadly studied to investigate the potential of oversight depending on the number of tools employed. Pelizzo et al. (2006: 8) highlight that effective oversight should not be determined by only the number of tools in effect, because it also depends on other conditions such as amongst others the information available to conduct oversight and the exercise of powers allocated to the legislative branch of government. Furthermore, there is an assertion that technical capacity to a certain extent determines the ability of legislatures to conduct oversight (Shenga, 2007; Musavengana, 2012). This capacity may be in various aspects such as its independence, expertise and resources. Madue (2012: 432) supports the notion that capacity is fundamental for effective oversight. It has been acknowledged that the executive is generally dominant over legislatures; however, Shija (2012: 7) has maintained that legislatures have been fighting to be independent and diverge from the influence of the executive. This relates to legislatures building its own capacity to support oversight. The article agrees that capacity is important, but not the sole aspect to promote effective oversight. There is a need for innovative methods and tools for oversight.

## 5. Focused Intervention Study as a Tool for Oversight

Focused Intervention Study (FIS) is defined in the Programme Evaluation and Budget Analysis (PEBA, 2004: 8) methodology as *"the oversight visits that are programmed to respond to the service delivery progression through the budget cycle. It is informed by support staff briefings to focus the fact findings by Members of the Provincial Legislatures (MPLs). This is to ensure relevant and well-planned Committee Oversight visits and do away with a reactive or ad-hoc approach and presenting a more proactive approach"*. The Budget Cycle Model (BCM) prescribes at least two FISs per financial year; this takes place after the departmental vote (budget) and annual report (PEBA, 2004: 33; Sector Oversight Model, SOM, 2012: 20). It is imperative that the FIS should be indicative of actions that need to be taken by the Committee of the legislature so as to proactively address issues of executive's effectiveness and efficiency in service delivery. Amongst the requirements of the PEBA and the newly adopted SOM include but are not limited to stakeholders making inputs on FIS topics; Researchers presenting on the consolidated FIS topics and briefings; deliberations by MPLs and agree on topics and plans to be pursued; oversight visit and subsequent FIS report to be tabled in the house as well as passing resolutions. Noting the foregoing requirements, it is important to discuss some of the emerging FIS approaches utilised by various Committees in the GPL.

### 5.1. First Approach:

- The paper identifies suggested topics emanating from either the budget or annual reported as stated above, and Committee will reach a consensus on which topic to pursue. The paper will draft a list of clarity-seeking questions in terms of the work being carried out by the executive relating to the FIS topic.
- Stakeholders will be identified from the information/responses received from the executive. Stakeholders will be selected from the information provided by executive.
- The paper will conduct a pre-visit to the identified stakeholders for environmental scanning and brief the Committee about the pre-findings.
- Then the Committee will go on site visits to conduct semi-structured interviews with the identified stakeholders. Subsequently, an FIS report will be produced and recommendations for the executive to implement.
- The Executive may be called to appear in the Committee to respond to emerging pertinent issues.

#### ***5.2. Second Approach:***

- The paper identifies suggested topics emanating from either the budget or annual reported as stated above, and Committee will reach a consensus on which topic to pursue. The paper uses a list of clarity-seeking questions in terms of the work being carried out by the executive relating to the FIS topic.
- A visit by the Committee to executive's offices will be arranged, at which the Committee members will be able to visit the various sections of the institution and interact with employees.
- During this visit, the executive will present to the Committee information pertaining to the questions received. Stakeholders will be identified from the information/responses which will be received from the executive.
- An unannounced visit will be scheduled to regional offices in order to assess and observe their behaviour/efficacy.
- Then the Committee will go on site visits to conduct semi-structured interviews with the identified stakeholders. Subsequently, an FIS report will be produced and recommendations for the executive to implement.

These two examples represent some of the emerging FIS approaches utilised over the previous five years by the GPL in its endeavour to promote effective oversight. The foregoing assertion acknowledges that some other approaches may exist apart from the listed approaches; however, the two emerging approaches employed in the paper remain prevalent.

## **6. Promoting Effective Oversight Through Focused Intervention Study**

Focused Intervention Study (FIS) is important to bridge the gap between in-house oversight and field-based oversight. This is fundamental as in-house oversight mechanisms such as Committee hearings and question time are regarded as reactive approaches, while the need for strengthening field-based oversight is supported. Legislative oversight has been criticised for being in-house based, and it's not able to deal with the actual service delivery issues. Field-based oversight is regarded as a proactive approach to oversight. In the face of what the literature studied highlights, scholars continue to be caught between defining oversight along the lines of whether oversight takes place either before, during implementation or after implementation of government's programmes. However, the definition adopted in this context highlights that oversight happens before and during implementation of programmes (*ex-ante*) and after implementation of programmes (*ex-post*) in which FIS is relevant.

FIS enables the Legislature to be proactive in its attempt to scrutinize, monitor and review the actions or inactions of the executive and promote transparency and accountability in managing public resources and conducting public affairs. The literature studied indicates that despite the precise purposes and objectives of oversight discussed in the article, there are challenges which are barriers to effective oversight. These challenges include but are not limited to lack of capacity (human and financial) and access to information, and may also be regarded as conditions that oversight depends on. Lack of access to information remains a key challenge wherein the legislature become more dependent on the executive and this subjects the legislature to the executives influence as well as compromising its independence (doctrine of separation of powers). However, FIS empowers the legislature to initiate processes to conduct oversight visits to gather amongst others independent information from the executive programmes and supposed beneficiaries of such programmes.

Pelizzo et al. (2006) underscored that effective oversight is not only determined by the availability of oversight tools, but how the tools are utilised. In this case FIS is a classic example of an oversight tool aimed at promoting effective oversight. It is however important to note that as in every practical situation, FIS has its limitations. Amongst others, the limitations of FIS are outlined as follows:

- Public participation is limited as purported that stakeholders do not make inputs on Focus Intervention Study topics and in most cases oversight visits only involves the project managers, executive and beneficiaries;
- There is only two Focused Intervention Studies in a financial year emanating from the Budget vote and Annual report processes, and this is not enough for effective oversight; and,
- Capacity may be hindrance as the Focused Intervention Study process is mostly dependant on the briefing by Staff members.

## 7. Concluding Remarks

The paper concludes that Focused Intervention Study as a tool of oversight may promote effective oversight. FIS is an oversight mechanism that empowers the legislative branch of government to effectively carry-out its mandate enshrined in the Constitution of the Republic of South Africa, 1996. It is however important to advise that FIS should not be seen as a separate process away from other processes of conducting oversight. It is a tool linked with other tools of oversight and, it functions better in conjunction with other tools of oversight, that is, questions and Committee hearings as it takes place through Committees of the legislature. Furthermore, there is a need to address the limitations of FIS as outlined, and this could have a potential to promote effective oversight.

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## IMPLICATIONS OF CORRUPTION ON THE MILLENNIUM DEVELOPMENT GOALS WITHIN A DEVELOPING STATE: ILLUSTRATIONS FROM LIMPOPO PROVINCE

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### Abstract

Section 195 of the Constitution of the Republic of South Africa 1996 provides for values and principles of public administration as a tool to eradicate corruption within the public sector and administration practice in general. However, such tool has failed neither to eradicate corruption nor control its pathological escalation within the practice as envisaged within the constitutional founding in South Africa. Such failure poses a serious challenge within the practice of public administration in a maturing democracy like that of South Africa more so if it is aligned to the United Nations Millennium Development Goals (MDGs). This paper extrapolates the implications of corruption tendencies on service delivery issues that are meant towards the realisation of the MDGs within the practice of public administration specifically within a maturing democracy of a developing state like that of South Africa. Corruption, in whatever form, manifests in public administration as a pathological on the achievement of the MDGs. The argument put forward is based on the empirical study done in the Limpopo Province to the effect that corruption tendencies of whatever scale have directly impacted on service deliverables such as eradication of extreme poverty and the achievement of universal primary education, as cases in point. The paper has also revealed that the Provincial Administration could not contribute positively towards reduction of child mortality as well as improvement of maternal health services. Failure to effectively address such prioritized areas within the MDGs have a direct bearing in the extent to which the practice of public administration can be able to address titanic challenges like that of the scourge of HIV/AIDS. Finally, corruption led to negative contribution to HIV/AIDS as prioritised by the UN's Millennium Goals. Public servants fail to act within the principles set by the ethics of the sovereign good because they are appointed on the basis of political connections. The recruitment strategy of public administrators should be based on academic qualifications, professionalism, skills and knowledge. Since outsourcing is central to corruption, tendering processes should be adjudicated by retired judges and other professionals.

**Keywords:** Corruption; Public Administration; Service Delivery; Millennium Development Goals

### 1. Introduction

Corruption in South Africa is eroding the fabric of the foundation of public administration practice and thus lead to inability of the public service in delivering services to the vulnerable poor. According to the Transparent International Corruption Index 2013 South Africa ranked number 72 out of 177 countries and territories in the world. When compared to 2012, the

perception index shows that the situation is getting worse as the country was ranked 69 out of 176 countries with 2011 having ranked 64. The International Global Corruption Barometer (2013) alludes that corruption in the public sector takes place at the point of public service delivery through the quest to gain access to those services. The same report revealed that nearly half of the citizens have paid a bribe to government officials in exchange of government services. Corruption if not addressed may lead to failure of the delivery of services or a poor state of basic services such as education, health, water and sanitation. It therefore hampers the ability of public administration practitioners from achieving the mandate for the delivery of services and that eventually impact on the extent to which the United Nations Millennium Development Goals (MDGs) are realised. The MDGs of the United Nations (UN) of September 2000 commits to the global world to end extreme poverty, diseases, and environmental degradation by 2015. Such commitment was followed by the Millennium Declaration which was aimed at improving the human condition globally (Sachs, 2005: 210-211). Slater (2012) is of the view that bribery, embezzlement, patronage, nepotism, conflict of interest and procurement of goods and services take place within contracting and out-sourcing by public officials within public administration practice. Chapter two (2) of the *Constitution* of the Republic of South Africa 1996 provides for the Bill of Rights that entitles citizens of the Republic to receive basic services. Public Administration as a scientific discipline that is primarily concerned with the implementation of government policy (Botes, Brynard, Fourie & Roux, 1996: 257), and as well as the practice of complex governmental service (Bingham, 1991: 02), remain crucial to the realisation of MDGs since their achievement hinges on the strength of the state organisations meant to promote them (Bresser-Perira, 2005: 1).

The strength of the country's governance institutions depends on the quality of the public administration systems that are charged with the implementation of policies on an efficient manner (Bresser-Perira, 2005: 1). Therefore the prerequisite for good governance is beyond rhetoric emphasis as it determines the extent to which those responsible within the public administration practice take charge. Yet good governance and good administration are loaded with ethical values and principles such as trust, transparency, responsibility, accountability, responsiveness and participation (Salminen, Viinamaki & Ikola-Norrbacca, 2007: 83). Miller & Nunn (2006: 9) argued that government should remove arbitrariness in the public service delivery through operating within the rules of law; legal competency; exercising appropriate administrative discretion and procedural fairness; organise to ensure proportionately and also commit to promote professionalism and integrity (see also Botes et al., 1996; Bourgon, 2007). They are also of the opinion that the output of public administration namely efficiency and effectiveness are central to service delivery. In this regard South Africa loses billions of rands from corrupt activities in various state entities.

In Limpopo Province which is the focus of this paper, government employees collude with business people to score government tenders within the government's procurement system. Tenders worth multi-millions were awarded for the delivery of services that never happened or took place. Roads infrastructure, hospital supplies, textbooks delivery, schools became dilapidated without repair until the National Government invoked Section 100 (b) of the Constitution of the Republic of South Africa (*City Press*, 11 August 2013). All these corrupt activities were orchestrated or took place in complicity with government employees who were expected to operate within the framework of public administration ethos within the public sector. The study by Salminen et al. (2007) suggest that governments have invited corruption in their door step by embracing market-driven and extensive privatisation. This paper however report on a study that investigated the impact of corruption on public administration's ability to deliver services and also on the achievement of UN MDGs.

## **2. Methodology**

The study reported in this paper was qualitative in design and methodology and sought to investigate whether corruption has an impact on public administration's ability to deliver services. The investigation was also focused on further empirical question of whether corruption impacts on the achievement of UN MDGs. Review of literature was done on books, government reports, newspapers, and scholarly articles to get more insight on the existing knowledge on the study undertaken. Limpopo Provincial State of the Province Address (SOPA, 2014) was also served as a point of departure to get the insight of the Premier of the province' position on the progress towards achieving the MDGs and dealing with corruption. A purposive sample was chosen wherein questionnaires were emailed to five senior officials of the five provincial departments that are put under administration in terms of section 100 of the Constitution of the Republic of South Africa of 1996. After completing the questionnaires, the selected respondents emailed them back to the researcher for analysing through Excel computer software. These departments are Education; Health and Social Development; Public Works; Treasury as well as Roads and Transport. The rationale for this was to solicit perceptions of the officials involved within the respective Departments because they understood what was practically going on in their departments. They had the potential to provide valuable and reliable information for the study. The questionnaires contained similar questions which sought their opinions on appointment of staff and service providers for goods and services since these two areas were perceived as tools used to promote corrupt activities.

## **3. Public Administration**

The role of public administration is to promote socio-economic development in order to improve the social well-being of communities in health services, education, transport, electricity,

agriculture and social security (Mohammed, 1998: 4). The emergence of Public Administration is attributed to Woodrow Wilson (1856–1924) with his famous seminal paper on “The Study of Administration”. In this paper, he proposed two dichotomy of the same coin by demanding the separation of politics from administration. He defined administration as the practical operation and functioning of government which needed to be studied empirically due to its science in nature. The quest for Woodrow Wilson was to find the best mechanism for governing through his, “The Art of Governing” (Link 1968: 431). Woodrow Wilson (1856–1924) expected employees to be independent and neutral of the elected branches of government. Bureaucrats have to play the role of influencing politicians in policy implementation and not instructed to implement unlawful instruction (Wilson, 1887: 1). Public administration is crucial for the implementation of programmes of politicians who come to power to achieve their objectives (Tshikwatamba, 2007). The achievement of these objectives hinges solely on public administration practice. At the centre of public administration practice is the existence of public servants to translate ideas, wishes and policies of politicians or those in political offices at a given time (Mohammed, 1998: 4). The objectives that public administration practice seeks to achieve on behalf of politicians are the provisioning of roads, schools for education, health services, electricity, transport and housing (Mohammed, 1998: 5). In order to ensure that these services are provided there is a need for a strong citizens’ participation in the political process by making demands (Mohammed, 1998: 12) and mandating the government of the day.

The science of administration encourages public administration to function like business in making the organisation carry out its mandate in an impartial manner (Wilson, 1887: 10). Such theoretical exposition had found expression within Section 195 of the Constitution of the Republic of South Africa of 1996. The constitutional provisions were also reduced to policy positions like that *Batho-Pele* principles to be implemented within the public service in South Africa. Politics is state activity while administration is an activity of the state. Politics is construed as special province of the statesman and administration of the technical official. Politics does nothing without the aid of administration while administration is devoid of politics (Wilson, 1887: 10). This is the German understanding of public administration. It wished to separate politics from administration. Yet, it complemented the view of Woodrow Wilson (1856-1924) who advocated separation of politics from administration. Goodnow (cited in Henry, 1975: 379) is of the opinion that public administration should centre in the government bureaucracy. Golembiewski also cited in Henry (1975: 378) has alluded to public administration to resolve around locus and focus in which the former denotes institutional “where” of the field while the latter refers to the “what” of the field which includes the study of some principles of administration.

The study by Mohammed (1998: 6) revealed that the existence of highly articulate and capacitated citizens is prerequisite for holding the governments accountable. Yet, this can only happen if there is a strong political will and culture to ensure that is realised. The availability and

existence of vibrant civil society with strong democratic political culture form a firm foundation for guaranteeing government accountability (Haque, 1997: xiii). Lack of strong democratic political will and culture leads to non-existence of expected initiative by citizens (Mohammed 1998). The study by Wellington & Innocent (2009: 177) in Zimbabwe has revealed that political appointees do not serve the society they are expected to serve but satisfy selfish ends of the politicians who appointed them. Similarly, Blesser-Pereira (2005: 4) argues that the role of public administrators should be limited to enforcement and interpretation of the law and making good use of the tax resources of the state. Their appointment should be based on merit informed public competition while their training should include public ethos of civil services followed by proper remuneration (Saro-Wiwa, 1995: 56). Adding to this, Weber cited in Pfiffner (2004: 1) argued that “the honour of civil servant is vested in his ability to execute conscientiously the order of the superior authorities...., without this moral discipline and self-denial, in the highest sense, the whole apparatus would fall to pieces”. The man in whose name public administration is attributed to Woodrow Wilson (1856-1924), expected public officials to be independent and neutral of the elected branches of government. As bureaucrats, they have to play the role of influencing politicians in policy implementation and not instructed to implement unlawful activities within the public service (Wilson, 1887: 1). The bureaucrats referred to here, should boast training and expertise to implement policies with confidence. According to him the bureaucrats should be selected from those who are wise put thus,

“... recruit for the bureaucracy from these wise hundreds, produce more of them, and open for the public a bureau of skilled, economical administration” (Wilson, 1887: 1).

Wilson (1887: 1-2) was obsessed with professionalism in running bureaucracy and envisaged administration whose administrators train and empower the electorate to understand the operation of public administration. In recent times, Saro-Wiwa (1995: 56) argued that recruitment of employees based on merit and competency lead to development of stable country and signals democracy of nations. This implies that employment of bureaucrats which is not based on merit and competence threatens public administration practice in general. Those who are not trained find it difficult to defend public administration ethos in the public sector because they are not aware of what must be done and how it must be done. In contrast to the views above Schmidt (2002: 158), argues that recruitment of qualified personnel is difficult given the expectation of citizens to the leaders and the limited space available for manoeuvre.

#### **4. Millennium Development GOALS (MDGs)**

The MDGs are the broader framework for service delivery through the reduction of extreme poverty, diseases and deprivation. Table 1 below lists the MDGs as set by the Millennium Assembly in 2000.

**Table 1: Millennium Development Goals (MDGs)**

1. Eradicate extreme poverty and hunger	Halve between 1990 and 2015 the proportion of people whose income is less than one dollar a day
	Halve between 1990 and 2015 the proportion of people who suffer from hunger
2. Achieve universal primary education	Ensure that by 2015 children everywhere boys and girls alike will be able to complete a full course of primary schooling
3. Promote gender equality and empower women	Eliminate gender disparity in primary and secondary education preferably by 2015 and to all levels of education no later than 2015
4. Reduce child mortality	Reduce by two thirds between 1990 and 2015 the under-five mortality rate
5. Improve maternal health	Reduce by three quarters between 1990 and 2015 the maternal mortality ratio
6. Combat HIV/AIDS, malaria and other diseases	Have halted by 2015 and begun to reverse the spread of HIV/AIDS
	Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases
7. Ensure environmental sustainability	Integrate the principles of sustainable development into country policies and programs and reverse the loss of environmental resources
	Halve by 2015 the proportion of people without sustainable access to safe drinking water and basic sanitation
	By 2020 to have achieved a significant improvement in lives of at least 100 million slum dwellers
8. Develop a global partnership for development	Develop further an open, rule based, predictable, non-discriminatory trading and financial system. Includes a commitment to good governance, development and poverty reduction –nationally and internationally

Source: Sachs, 2005

### 5. Imposition of Section 100 of Constitution of Republic of South Africa in Limpopo Province

Limpopo Province became embroiled in corrupt and nepotism activities which threaten service delivery and MDGs of the UN. These corrupt and nepotism activities took various forms. Slater (2012) is of the view that bribery, embezzlement, patronage, nepotism, conflict of interest and procurement of goods and services take place within contracting and out-sourcing by public officials within public administration. In Limpopo Province, corruption was entrenched through appointment of cronies who did not have required qualification but who owe their luck to the allegiance to powerful political figures. As a result the province of Limpopo which is one of the nine provinces in South Africa became embroiled in corrupt activities which resulted in the weakening of the provincial government. Government contracts became a dominant feature around which other elements revolved. The quality of employees is regarded as related to the



manner in which they are recruited and promoted. Where public servants are employed on the basis of connectivity or bribing powerful officers and not merit, such public servants become less competent and less well motivated and they become prone to corruption (Wei, 2000: 19). This is the case with Limpopo Province where appointments were based on rewarding foot-soldiers who campaigned for senior politicians to gain access to the political office or legislature. This unethical behaviour bred nepotism in the quest to appoint those who would be pulled by strings to carry out the mandate of dishing tenders to cronies.

Corruption is regarded as one of the most damaging consequences of poor governance. It is seen as achieving the opposite of investment and economic growth, decreasing the resources for human development goals, deepens poverty levels, subverts judicial system, and undermines the legitimacy of the state and if not combated, it becomes entrenched (Kaufmann & Shang, 1999:96). Corrupt activities consumed the government and the public could no longer receive basic services as expected. The Statement of the National Government Cabinet was made on the 5<sup>th</sup> December 2011 as a response to the state of financial management and governance in Limpopo Province. The statement highlighted challenges in under-spending, overspending and supply chain management (De Vos, 2011). The statement of the cabinet revealed that the province had utilised R757, 3 million overdraft facility with Corporation for Public Deposits (CPD). Limpopo Province approached National Treasury to top up this amount to R1, 7 billion to finance salaries and wages for its public servants in November 2011. For example, the Provincial Department of Education failed to deliver textbooks to students for 2012 / 2013 financial year. The Provincial Department of Education and other four Departments were put under administration with national government appointing administrators to pull the province out of financial quagmire (Report of the Select Committee on Finance on the follow-up visit to Limpopo, 2013). The province had a deficit of R2billion and had almost collapsed. The huge deficit was a result of unethical conduct by both politicians and public servants who compromised the proper implementation of Public Finance Management Act (PFMA) 1999. The values and principles of public administration as provided for in terms of section 195 of the Constitution of the Republic of South Africa of 1996, such as transparency and openness in dealing with government operation were ignored by senior government employees.

The above unethical conduct by the government urges Michael (2005, 2006 cited in Radhika, 2012: 26) to ask, "Why public servants fail to act within the principles set by the ethics of the sovereign good". He argues that the purpose is to deliberately avoid their implementation because of vested interest. Further, he argues that employees should be guided by the natural ethical behaviour taught outside the formal institution. Public servants are expected to behave in a manner that they respect and abide by the ethics thus serving the parliament since it is a symbol of representative democracy as it represents the will of the people (Radhika, 2012: 26). Although, the distinction between politics and public administration is blurred it is important to respect roles

and responsibilities of politics and administration in order to promote efficiency and order in government (Radhika, 2012: 26). The professional ethics has penetrated public administration and this needs to be understood thus the need to study it within its scope. Studying public administration is a journey towards professionalizing government (Chapman, 1959). In December 2011, national Cabinet announced it was intervening in the Limpopo Provincial Government in keeping with Section 100 (1)(b) of the *Constitution* of the Republic of South Africa, 1996. The intervention effectively stripped the Provincial Cabinet powers and authority to govern. The five provincial departments namely Education, Public Works, Provincial Treasury, Health, and Roads and Transport were placed under administration. In line with section 36 of the Public Finance Management Act, the affected Heads of Departments were forced to give up their designations as Accounting Officers. They surrendered their powers to the newly deployed Administrators to the province to restore the apparent collapse of administration. In his State of the Province Address in 2013, premier Mathale reported that:

“We reported last year that five of our provincial departments were placed under section 100(1)(b) of the Constitution of the Republic of South Africa. We made a commitment to work with the national intervention team and we remain steadfast to this commitment. One of the critical issues highlighted by the intervention team was that there is a need to strengthen the structural capacity of the Provincial Treasury. We are working together with the National Treasury to strengthen the Provincial Treasury. We have upgraded the post structure of the executive management of the Provincial Treasury to enable it to respond to its mandate adequately. The fact that we are working together with the National Treasury through the intervention team and there is progress in our work to stabilise our finances undermines any allegation concerning a pending legal challenge against the intervention. As the ANC-led government, we will never take another ANC-led government to court, for that will be against the values and principles of cooperative governance and mostly, counter revolutionary”.

## 6. Cadre Deployment

The single instrument utilised to promote various corrupt activities in Limpopo was the cadre deployment. Cadre deployment undermined academic and professional qualifications and preferred political connectedness with powerful politicians. The deployed cadre takes orders from the politicians about who to allocate tenders to perpetuate the unfortunate circle of corruption. This was in contrast to Weber (1864–1920 cited in Pfiffner, 2004: 1) who argued that “the honour of civil servant is vested in his ability to execute conscientiously the order of the superior authorities...without this moral discipline and self-denial, in the highest sense, the whole apparatus would fall to pieces”. Trusted cadres were appointed in line with the spirit of democratic centralism. Usually, most of them do not have academic and experience to match

the job entrusted to them. On the other hand women are rushed into these positions without necessary training to prepare them for these key positions in order to achieve employment equity as provided for in terms of Employment Equity Act of 1998. The appointment to these positions is viewed as a favour and the incumbents surrender their accounting responsibilities to political heads (MEC) and Mayors in the case of Municipal Managers in municipalities. This is done in the name of toeing the line to avoid losing the job. The situation becomes even worse in that every MEC or Mayor who assumes office comes with own Head of Department or Municipal Manager notwithstanding belonging to the same governing political party. The talk is that, "*a thi zwimi nga mmbwa ya munwe*" meaning that "I do not hunt with someone's dog". This becomes evident by the way five departments were put under administration under the watch of HODs who are expected to administer their departments in keeping with chapter 10 of the Constitution of the Republic of South Africa 1996 that instructs that values and principles of public administration should be complied with. Argyriades (1996) is of the view that public servants are permanent employees who legitimise politicians in parliament. They are expected to utilise their experience, knowledge and depth amongst others in supporting politicians and also implement policies that benefit the public. The implementation of public policies should take place in an ethical manner. In order to ensure smooth implementation of public policy, there should be a strategy of getting the best employees through:

**Recruitment:** The staffing of public sector should be planned in such a manner that merits and tests are independently conducted and not politically influenced. The elements of merit and achievement should be considered if the public sector is to be successful in achieving public sector goals.

**Promotions:** Promotion of employees should not be done to reward friends or relatives without following certain traits to promote good governance. The promotion of individual employees should follow the values and principles of public administrations as enshrined in the Constitution of the Republic of South Africa, 1996. This therefore, means that experience and long service coupled with achievements and performance would be considered for promotion.

**Training and Education:** Education equips individuals and those educated are the agents of development in a society. Both education and training enhance professionalism in the public sector and administration. The educated understands what ethical and unethical behaviour in government is. The educated understand the implementation of theories such as scientific management as expounded by Frederick Taylor (1856–1915) which are crucial to improve performance of public sector. The employees who are educated know that their status is at stake if they compromise ethics in public service and fear no victimization by those who intimidate them irrespective of the position they hold.

In an interview with Capricorn FM, on the 25<sup>th</sup> February 2014 spokesperson for the Premier in Limpopo Province said that in the Department of Roads and Transport there are teachers who

were appointed into the positions of engineers. This acknowledgement by the office of the premier suggests that positions were not given to relevant professionals who could lead engineering functions to benefit service delivery. This kind of practice is a proof that appointments were happening through reasons not related to service delivery which is crucial to public administration. Appointments could have been motivated by being politically connectedness with powerful politicians who could have been interfering in administration. Another reason could suggest that such officials were appointed for the purposes of implementing mandates of allocating tenders to friends and relatives of politicians in an unethical and corrupt manner hence the placing of such department under administration.

## **7. Conclusion: Implications for Service Delivery**

The main goal of this study was to discuss the extent to which corruption fails service delivery in South Africa. This paper has highlighted that corrupt activities of the Limpopo Provincial administration derailed the government from making a positive contribution to the eradication of extreme poverty which is a MDGs of the UN. This also had a ramification to the achievement of universal primary education another Millennium Goal of the UN when textbooks could not be delivered to schools. Provincial administration through the Department of Health was unable to achieve other Millennium Goals of the UN such as the reduction of child mortality, improvement maternal health. Most importantly, the provincial administration limited its ability to address the HIV/AIDS which is a national crisis and human right issue since the budget was misappropriated through corrupt activities. Other diseases such as malaria could not be gotten the better off because of such practices unlawfulness. It is important to investigate reasons why public administration is placed under threat. The public administrators of Limpopo Provincial administration failed to defend public administration by acting outside the principles set by the ethics of the sovereign good. There could be many suggestions why these public administrators failed to defend public administration. The appointment of these public administrators is through cadre deployment. This deployment does not take into consideration academic qualifications and professional skills and knowledge of the deployees. Academically qualified, skilled and professional are discriminated against in favour of those close to the powerful ones. As a result, deployed cadres feel that they owe their appointment to the politicians and as such they implement mandates which are self-serving contrary to prescripts of legislations such as PFMA of 1999 and others. In the final analysis, this appointment compromises service delivery. Politicians make laws and implement with the administrators instead of allowing administrators to do the execution of the policies without interference. The administrators have been turned into self-serving tools of politicians since former do not assist in advising the politicians.

There is a need to defend public administration in South Africa and Limpopo Province in particular. In order to defend public administration, recruitment strategy for public administrators

should be based on academic qualifications, professional skills, knowledge and professional experience as opposed to political deployment. The recruitment strategy should focus on those who have studied public administration and management related fields. It is clear from this study that the major source of corruption in public sector is outsourcing of services and goods through bidding processes or tenders. Politicians influence their political appointees to award tenders in their favour in return for appointments thus rendering service delivery compromised since poor quality services if any are rendered. There is a need to solicit the services of retired judges and other professionals to draft specifications, evaluation and adjudication of tenders. They too, should be alternated and also be rotated in all the provinces. They should not account to politicians but to a neutral board such as a Tender Board. There should be a way in which the names of bidders are removed and evaluation and recommendation done anonymously and names only known to the Tender Board. This will promote fairness, openness and credible process.

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## CORRUPTION AND SERVICE DELIVERY IN SOUTH AFRICA

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### Abstract

A government faced with developmental challenges as is the case with South Africa requires every cent of revenue that is due to it so as to address the ever widening gap between the haves and the have nots. Corruption consistently deprives the authorities the ability to deal effectively with service delivery. Yet, the public and private sectors are equally ravaged by corrupt practices often reinforcing each other. This paper outlines forms of corruption and its impact on different facets of life. Specific reference is drawn to the consequences of corruption to service delivery as witnessed through protests and demonstrations. Also, the paper examines the roles of the Departments of Public Service and Administration and Co-operative Governance & Traditional Affairs as well as the Competition Commission and other state agencies in dealing with corruption. To this extent, the paper analyses policies, strategies and plans designed to deal with corruption. The paper asserts that authorities are nowhere close to winning the battle because the perpetrators are firmly entrenched within the system and also well-connected.

**Keywords:** Corruption; Service Delivery; Public Service; Administration; Anti-corruption Bureau; South Africa

### 1. Introduction

The state through the various spheres of government has the obligation to provide public goods and services to its clients, the citizens of the country. South Africa is among the countries that employ a competitive bidding system in the procurement of goods and services. There are situations in which procedures and practices are flouted. The triple challenges often cited as having a detrimental effect on the country's economy and well-being are poverty, crime and unemployment. Corruption has the potential of overtaking these three or of being included among these economic ills since it is as equally crippling to the country's well-being as the three if not worse than all of them. Whilst the authorities and other parties/institutions are battling with strategies and plans to deal with corruption, service delivery suffers as perpetrators of corrupt activities in South Africa are unfortunately always ahead of the authorities' actions to combat the scourge. The country boasts an arsenal of statute, strategies and institutions to combat corruption. It is unfortunate that reports of corrupt activities in both the private and public sectors appear in the media suggestive of failure in the instruments or perhaps in enforcing such tools. The purpose of this paper is to reflect on the impact of corruption on service delivery. The paper relies on secondary data both as literature and sources of evidence, drawn from published articles, newspaper reports including web-based sources. The definition of corruption is given so are its forms and causes thereof. Service delivery is explained including the impact of corruption

on the service delivery. Measures to combat corruption are outlined. Recommendations and the way forward are sketched out with conclusion as the final section of the paper.

## **2. Corruption**

Corruption according Andvig et al. (2000: 9) is a complex and multifaceted phenomenon with multiple causes and effects, as it takes on various forms and functions in different contexts. Among a plethora of definitions of corruption, Rossouw (2010: 4) identifies corruption as the act of unfairly or illegally influencing a decision-making process by giving or receiving a benefit for the person making the decision or a third party connected to the decision maker. Kyambalesa (2006: 103) drawing from the African Union Convention on Preventing and Combating Corruption, defines corruption as “illicit enrichment”, referring to wealth accumulation and / or wealth generation through unscrupulous or vile means. The Concise English Dictionary (2012: 375) defines corruption as “moral perversion, depravity and dishonesty”. Not only do the words in this last definition of corruption sounding terrible, they also carry a denigrating image to an extent that no one would wish to portray or be associated with corruption. If these words are as ugly as stated, why then is corruption on the increase in South Africa? Bruce (2014: 50) commenting on the issue of the ANC's & Zuma's, sums it beautifully when stating that rather than uniting against corruption, many South Africans are willing to excuse or overlook acts of corruption. The ensuing statement is not meant to suggest that the people referred to above will necessarily engage in corrupt activities. It only means that they are prepared to close one eye if people in their camps have been involved in corrupt activities instead of openly vilifying such acts. This is very frightening because unless we all unite against fighting corruption no matter where it comes from, we are headed for a societal paralysis and economic doom. Before proceeding to discuss the forms, the causes and the measures to combat corruption, it is prudent to briefly describe service delivery as this will set the tone for the paper in general and the argument involving the consequences of corruption on service delivery.

## **3. Service Delivery**

A service is taken to mean an act of help or assistance. According to the Concise English Dictionary (2012: 1518), service is defined as an organised system of labour and material aids used to supply the needs of the public. Delivery means the state of being rescued or the act of rescuing and or liberating adding that in the South African context, delivery refers to the supply of basic services to communities deprived under apartheid (Concise English Dictionary, 2012: 435). The latter part of the definition though requires substantiation. Though apartheid played a significant role in depriving communities of services (essential) and other amenities, with “service delivery” fulfilling that task, it nevertheless remains a relatively semi-permanent obligation on the part of government to render the function. This means that through the collection of taxes,

authorities are responsible for the provision of public goods and services and yes, of attending (redress) to the imbalances of the past as well. South Africa is among the nations that procure goods and services through a tendering system (competitive bidding mechanism). This system provides for at least two important considerations, firstly optimal utilisation of resources as purchases are obtained from competing suppliers on the basis of better quality product(s) (meeting specifications), and competitive pricing. The second consideration is transparency which implies that the buyer (government) is not doing business with connected persons instead, suppliers will have to demonstrate their ability in meeting all the stated requirements.

#### **4. Forms of Corruption**

Corruption assumes various dimensions, types and forms dependent on a multiplicity of disciplines and sub-disciplines impacting on it such as philosophy, theology, economics, politics and others. This has an effect that a myriad of forms and or types of corruption are spoken of. Webb (2010: 283) is agreeable when submitting that the study of corruption is not the preserve of public administration adding that other disciplines such as administrative law, philosophy, politics, economics and business management also have interests to undertake research into this field. Andvig (2000: 9) adds that corruption has been studied as a problem of political, economic, cultural or moral underdevelopment, and mostly as something in between. Finally Engen (cited in Bauer, n.d.: 52) states that corruption takes many forms and is a universal cancer. Tooley & Mahoi (2007: 367), Ruhiiga (2009: 1091) and DPSA (2003: 130) have each identified with the following as forms of corruption: bribery (taking money to give people preferential treatment); embezzlement (theft of resources by persons entrusted with authority and control); fraud (making false claims for benefits); extortion (coercing a person or entity to provide a benefit to a public servant, another person or an entity in exchange for acting/not acting in a particular way), abuse of power (using one's power or position of authority to improperly benefit or discriminate against another person), conflict of interest (where a public servant acts or fails to act on a matter where the public servant has an interest; insider trading (using privileged information you have access to because of your job to benefit someone who can make money from it; favouritism (unfairly providing services or resources to friends) and nepotism (giving jobs or services unfairly to family members).

#### **5. Causes of Corruption**

Kyambalesa (2006: 108) enumerated and discussed at length ten causes of corruption as, (1) poor governance, (2) political instability, (3) government reshuffles, (4) weak legislative system, (5) weak judicial system, (6) bureaucratic red tape, (7) inadequate compensation, (8) greed, (9) moral deficiency and (10) lack of professional counsel, whilst Van der Merwe (2006: 37) on the other hand supplied fourteen causes of corruption as (a) public apathy; (b) lack of trust

by officials in colleagues; (c) weak law enforcement; d) greed; (e) culture of paternalism; (f) perceived economic adversity; (g) privatisation; (h) affirmative action/empowerment; (i) poor education/training of officials; (j) inefficient management; (k) poor salaries; (l) lack of ethics, (m) politicisation of the public service and (n) poor checks and balances. Whether government reshuffles are a cause for corruption or corruption results in government (cabinet) reshuffles (as means to remove corrupt incumbents from office which amounts to replacing the bad potato so to speak), remains a chicken and egg scenario. Cabinet reshuffles have taken place more than once in the history of the democratically elected government of South Africa. Although some are carried out because of reorganisation of portfolios and thus have nothing to do with corruption, there are instances where politicians were removed because they had been involved in corrupt activities. The task of the authorities and the public at large is to devise solutions to deal with these and many other manifestations of corruption that appear to be both a social and economic ill.

## **6. Implications of Corruption on Service Delivery**

The public sector meets most of its delivery requirements through purchases of goods and services from the private sector. It is under these interactions that possibilities to engage in underhand activities often arise. The public sector players have the greatest chance of initiating and also influencing the private players into corrupt activities. Ruhiiga (2009: 1093) argues that municipal officials together with other public official are most likely to be corrupt(ed) because these are at the interface of service delivery with citizens and private sector contractors. Judge Heath (2000: 3) however, is of the view that the private sector is the main instigator of corruption adding that, corrupt business people easily manage to find loopholes in the anti-corruption legislation. Often public sector transactions would involve three parties, the supplier of goods and services (service provider), the client (service deliverer) and the consumer entity (beneficiary). There is often an initiator of the deal and the other two players may at first not be willing to get involved. There is possibility that they may eventually be coerced or be enticed to participate. If all the three are dishonest, they ultimately accomplish the delivery of an intended transaction. Kroukamp (2006: 215) suggests that corruption by its nature requires an individual in an influential position in the public sector to collude with another person inside or outside the department. Whilst the government's procurement system looks transparent and fair from the point of buying openly through a competitive bidding process, the outcome is not what is desired. The basic notion is that goods and services will be obtained at relatively cheaper prices (competitive) than if buying directly from suppliers. These days the opposite is the norm.

Prices are inflated and more resources have to be spent on the same quantity and sometimes less quality goods and services. The competitive bidding system in the public sector may take either the form of open and or the closed tendering models. In the course of procuring

goods and services, an insider from the supplier entity/firm could rig the process. When the quotations/submissions have been received, a connected person would be advised to submit a modified quote once the other prices have been observed, putting such persons at an unfair advantage (there are quite more advanced processes of doing these including sheer bypassing of procedures). It must be realised that in the course of delivering the product, the three also siphoned for own use a portion of the resources (money) designed to carry out the transaction. Such acts therefore rob citizens of the initially planned quality and sometimes quantity of desired benefits. Further, it robs the taxpayers the right to enjoy their hard-earned money as they are expected to contribute once again to failed projects. It robs the citizens the right to enjoy additional benefits as corrupt activities have the potential to divert those funds into wrong hands and secondly because money is being diverted into fighting corruption. It is a vicious circle in that the taxpayers will have to contend with financing outlays that were budgeted for in a specific period but money diverted to other illicit uses in most cases resulting in projects not reaching completion. Ruhiiga (2009: 1096) basing his study on large infrastructural projects argues that because corruption would have eliminated competition, the result is mediocre contractors who are unable to deliver, higher prices owing to the commission/cut required by officials, the end product of substandard quality and lastly, wastage of resources. This is further supported by Rossouw (2010: 5) by stating that corruption destroys the pillars of democracy, creates unfair competition, causes price increases, wastes resources and costs jobs.

Heath (2010: 2) is adamant that corruption has negative consequences. It can distort the allocation of resources with the result that goods and services become costly. It diverts resources to non-priorities resulting in non-enjoyment of basic necessities. It acts as a disincentive discouraging investment and may increase the likelihood of committing other crimes. He concludes by submitting that corruption becomes both the cause and consequence of underdevelopment and poverty in general. Naidoo (2012: 673) posits that corruption costs the public and the poor people the most adding that diverting resources from their intended purposes distorts the formulation of public policy and the provision of services. Tooley & Mahoai (2007: 369) concur when stating that diversion of resources from their intended purpose distorts the formulation of effective public policy and the provision of services. They are emphatic in conceding that there is no doubt that corruption impacts on service delivery such that service delivery is either inefficient or there is a lack of quality service delivery (Tooley & Mahoai, 2007: 366). The problem is that there are no warning bells to alert the authorities and other watchdog institutions early enough of those about to commit corruption. Even if they were since its human beings with brain power we talking about here, they could always find ways to bypass those processes. Lawal (cited in Dassah, 2008: 56) suggests that treating corruption as a high-risk, low-gain affair rather than a low-risk and high-gain proposition has the potential to reduce corruption.

Perpetrators will think twice before engaging in corruption because in that way it does not pay, the risk far outweighs the gains.

## **7. Measures to Combat Corruption**

South Africa wasted no time in setting up programmes, plans and strategies to deal with corruption. A plethora of legislation includes the Constitution of the Republic of South Africa Act (1996), the Competition Act (1998), the Prevention and Combating of Corrupt Activities Act (2004), the Public Finance Management Act (1999), the Municipal Finance Management Act (2003), the Executive Members Ethics Act (1998), the Public Service Act (1994) and much more. Of these, the Prevention and Combating of Corrupt Activities Act is paramount. Heath (2010: 3) also feels that this Act is the most relevant citing the aims of the Act, which include the strengthening of measures to prevent and combat corruption; provisions for the offence of corruption; for investigative measures and for placing certain restrictions on persons and enterprises convicted of corrupt activities. The Public Service Anti-corruption Strategy is also very significant. All of its (nine) considerations have merit, however, for the purposes of service delivery, the fifth and the sixth considerations appear to be relevant as they deal with improvements to procurement systems, employment arrangements, the management of discipline, risk management, information management, financial management as well as the management of professional ethics. Reid (2014: 1) concedes that “the rise of the tenderpreneur (term used for officials who do business with the state) is a worrying trend in South Africa. It is something both government and the private sector need to weed out. A new central government office to oversee all tenders is a step in the right direction, but perhaps companies need to put in place more transparent checks and balances”. It is sobering to note that the reforms started by the erstwhile minister of finance (Gordhan) are gaining momentum. This could indeed put a stop on acts of rigging tenders.

Over and above the already mentioned pieces of legislation, a number of corruption fighting agencies were set up, though some have ceased to function. Institutions such as the Directorate for Priority Crime Investigation, the Asset Forfeiture Unit, the Special Investigating Unit, the National Prosecuting Authority, the Financial Intelligence Centre, The Auditor-General, the Public Service Commission, the Independent Police Investigative Directorate and the Public Protector have been established with a view to providing a corrupt free environment among other things. That South Africa is still ravaged by high levels of corruption after so many years of spade work needs deeper attention. Certainly we should be reminiscing on a war well fought, but where exactly is the problem? There is a need to find answers to problems posed by corruption including the question by Newham (2014) which is “why corruption in South Africa is getting worse”? Different theories have been explored to explain why corruption is so difficult to contain. One of the reasons could be found in the observation made by Ruhiiga (2009: 1094) regarding anti-corruption agencies. He notes that in spite of efforts to curb corruption it is still difficult to

measure effect as the extent of corruption is not known, mandates of anti-corruption agencies are not clear, proliferation of agencies with minimal resources, the public sees detection as more effective than prosecution, the application of the code of ethics in the public service has not received necessary support, and that corruption in the department of Justice defeats the ends of justice and tarnishes the name of the judiciary. To address the concern that corruption combating agencies are numerous leading to coordination challenges, Kroukamp (2010: 5) suggests the creation of a single anti-corruption agency with added resources. Niekerk & Olivier (2012: 133) also suggest that the South African government should seriously investigate the possibility of establishing an effective single anti-corruption agency as the current multiagency approach is not very effective in combating corruption.

On the contrary, Naidoo (2012: 677) argues for investigative units to be established within departments, centralised anti-corruption units in the provinces and that premiers should commit as many resources as possible to the investigation of corruption. Godi (2007: 3) adds that crucial for every country is the adoption and implementation of an anti-corruption agenda grounded in the rule of law also pointing out that some scholars, whilst they acknowledge the role of legislation, policies and strategies, in the absence of the will (political) to effectively implement policies corruption will still pose a problem. In an attempt to quantify and calculate the cost of corruption to service delivery, grouping them in terms of similarities has merit. Ruhiiga (2009: 1095) did just that, separated forms of corruption in terms of their characteristics. The first sub-set consisting of fraud, embezzlement, abuse of power and theft as in of all these forms, individuals and or groups physically transfer funds or resources from government sources for their own use. The second sub-set consisted of bribery, favouritism, nepotism, insider trading, extortion and conflict of interest because this sub-set involve the receipt of illegal benefit by public officials from individuals and entities in return for favours. Bardhan (2006: 343) on the other hand distinguishes between non economist's and economist's approaches in explaining corruption manifestations. Non economists would emphasise social norms and moral values meaning that the rise in corruption would suggest moral decay on the part of society. Economists on the other hand emphasise incentives and organisations.

When government, business and civil society engage in programmes of awareness raising and subjecting employees to codes of ethic and behaviour they are appealing to morals and values and norms. While the timeframe that it takes for people to convert may be longer, they do this with the hope that their attempts together with an appeal for moral suasion, will eventually produce desired positive change. On the other hand the same players set up institutions, processes and organisational structures to regulate and enforce compliance. These are given various powers to investigate and deal decisively with the transgressors. These institutions should act in a transparent and responsible way. They should ensure that they are accountable for their actions and should be trusted that they do not have other bosses to which they give



favours. Incentives could include recognition and reward for work well carried out. The danger may arise when the number of institutions and structures are too many as this could lead to conflict of interest. Bureaucratic practices and processes should also be reduced. If incentives are weak, this could open a window for perpetrators to lure officials into accepting bribes and counter incentives. Carrim (2010: 1) from the ministry of cooperative governance and traditional affairs admits that the spark of service delivery protests among others is corruption.

### 8. Evidence of Service Delivery Protests in South Africa

The following table represents a timeline of the most prominent protests triggered by corruption in South Africa (table 1).

**Table 1: Service Delivery Protests in South Africa**

Period	Place	Narration
2009-10	Durban	The erstwhile municipal manager (Sutcliffe) failed to report corruption to police (R1.1 m) after report (Ngubane investigation in 2010) had presented him with the findings (Enock 2012).
		Manase report implicated senior eThekweni councillors and their families, municipal managers and senior politicians in alleged corruption involving billions of rands (Mgaga 2013).
2012	Study conducted in Durban, Gauteng & Northwest provinces	A respondent (official) indicated that the Black Economic Empowerment strategy was being abused by a few elite who are associated, one way or the other, with politicians, to accumulate personal wealth (Mpehle 2012:223).
2014	Madibeng	Water supply had been interrupted for a while. What emerged thereafter is that local municipal officials had decided to outsource water delivery on trucks than fix the main water supply lines with intentions of making money from the water delivery system (Lekgowa & Nicolson 2013).
2013	Bekkersdal	Protesters wanted the local municipality's leadership removed for failing to provide jobs, services, and for alleged cases of corruption.
2014	Brits	The Hawks have arrested three family members for an elaborate motor vehicle fraud scheme that took the banking industry for a whopping R50-million (ENCA 2014).
2013-14	Durban	The National Prosecuting Authority (NPA) denied that top KwaZulu-Natal prosecutor dumped files in a multimillion-rand tax fraud trial involving Durban businessperson Shawn Mpisane. The Durban businessperson and her company, Zikhulise Cleaning Maintenance and Transport CC, had been accused of inflating suppliers' invoices by R4.7-million in an attempt to cut the tax bill. She was also accused of violating the Close Corporations Act by remaining Zikhulise's sole member when she had a previous fraud conviction (Mail & Guardian 2014).

Finally the words by an official from Corruption Watch has semblance as he argue that "the public is rightfully cynical of the corrupt officials or CEOs who publicly proclaim their

commitment to fighting corruption while privately condoning or even engaging in it. But in so proclaiming, they are in effect setting higher standards against which they can be judged and in which, if their deeds do not match their words, they will be found wanting. This is how change happens in a democracy" (Lewis 2014: 1).

## 9. Conclusion

The paper set out to give an account of corruption in South Africa. The introduction was outlined. It was stated that corruption in both sectors reinforces each other. Both corruption and service delivery were defined. Causes and forms of corruption were stated. The impact of corruption on service delivery was sketched out. Measures, strategies, programmes and institutions aimed at combating corruption were outlined. A few cases of corrupt practices were cited as evidence. Further, some of these cases served to confirm the assertions that perpetrators are ahead of authorities attempts in squashing corruption and that perpetrators are well-connected. Recommendations were stated followed with the conclusion and the references section.

## 10. Recommendations

South Africa, it has emerged, has very good legislation and institutions for the fight against corruption. The writer would like to emphasise the implementation of legislation. For example, if among others, the Prevention and Combating of Corrupt Act is vigorously implemented with the necessary force of will, we can defeat corruption. The same could be said about the Public Service Anti-corruption Strategy. The agencies fighting corruption should be scaled down as reporting, coordination and monitoring is presently not very effective. The reforms started by Gordhan in the ministry of finance as well those by Sisulu in the department of Public Service and Administration on strengthening processes to fight corruption should be pursued with determination. There is a pressing need for the public involve themselves more in watchdog responsibilities, it is after-all their money that is being squandered. Ethics should be set as among the requirements in the induction and later courses in the workplace, both in the public and private sectors. Leaders from all walks and particularly senior offices must lead by example.

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## MANAGING PUBLIC SERVICE DELIVERY: A CASE OF THE LIMPOPO DEPARTMENT OF PUBLIC WORKS

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### Abstract

Service delivery by the Limpopo Department of Public Works may be seen as the production of outputs, which include the acquisition, maintenance and disposal of land, and the building of classrooms, clinics, hospitals and other government infrastructure. In principle, undertaking to deliver these outputs means upholding the vision of the Department. Often, management of service delivery by the Limpopo Department of Public Works, including the way it is administered, is usually considered to be ineffective, insufficient and beset with functional problems. In addressing these issues, the question which this paper raises is: How does the Limpopo Department of Public Works undertake the management of its service delivery activities? In view of the foregoing, this paper undertakes to consider the management of service delivery by the Limpopo Department of Public Works. The paper examines literature relating to management and service delivery issues as well as government documentation; and, a semi-structured questionnaire for the management cadres of the Department was used to collect data. This paper details the problems with management in the Limpopo Department of Public Works; and, it shows that the experience of management is critical to the functionality of an institution and that institutions need to embrace change, particularly within a technical environment.

**Keywords:** Management; Public Service Delivery; Limpopo Department of Public Works

### 1. Introduction

Section 195 of the Constitution of South Africa (1996) prescribes that there should be economic, efficient and effective use of resources and that a high standard of professional ethics should be maintained in the public service. Furthermore, it intends that good human resource management and career-development practices that maximise human potential be cultivated. Lastly, public administration should be broadly representative where employment and personnel management practices are based on ability, objectivity and fairness (The Constitution of South Africa 1996). Further, the Public Finance Management Act (Act 1 of 1999) provides for the management of national and provincial governments to ensure that all revenue, expenditure, assets and liabilities, of governments are managed efficiently and effectively. The Limpopo Department of Public Works does not provide services directly to the public. It often serves as a support function for provincial government departments in undertaking their service delivery mandates. Client departments including: Education; Health; Sport, Arts and Culture and other provincial departments have often lodged complaints to the Limpopo Department of Public

Works about its functional problems in failing to address their service delivery requests. These clientele departments have, in some instances, withdrawn requests for services and have instead appointed project management units (PMUs) and/or private consulting firms to assist with the provision of infrastructure (Budget Speech MEC for Education 2004). In addressing these issues, this paper provides a statement of the problem, the literature review, research methods, data analysis and findings as well as conclusions and recommendations. The statement of the problem is outlined below.

## **2. Statement of the Problem**

This paper considers the management of service delivery in the Limpopo Department of Public Works. The development of management skills takes responsibility for motivating and influencing others and for contributing towards the team, institutional effort and successes, based on individual and collective performance. The manner in which management of the Limpopo Department of Public Works should be interrogated to consider its applicability in the provision of services to its clients. These could include whether key components of the Department's management understand leadership in the context of relationship building, information sharing and the need for a shared vision? Service delivery by the Limpopo Department of Public Works may be seen as the production of outputs which include the acquisition, maintenance and disposal of land, and the building of classrooms, clinics, hospitals and other government buildings, in principle, upholding the vision of the Department. Management in service delivery by the Limpopo Department of Public Works, including the way it is administered, is usually considered to be ineffective, insufficient and beset with functional problems. This paper explores the management of service delivery by the Limpopo Department of Public Works. The aim of this paper therefore seeks to analyse: How the Limpopo Department of Public Works undertakes the management of its service delivery activities? In order to properly respond to this problem, it is necessary to consider a literature review which provides a broad understanding of the management of service delivery in government departments.

## **3. Literature Review on Management and Service Delivery**

Several studies have been conducted in order to properly locate and understand the notion of service delivery. These include Crous (2004: 575) who have conducted a statistical review of service delivery through the implementation of *Batho Pele* principles by observing that "the South African public service will be judged by its effectiveness in delivering services that meet the basic needs of all South Africans". In the case of German Technical Corporation (GTZ), (2010:9), the argument raised is that service delivery can be implemented by means of a service delivery cycle, which often consists of the following elements: planning and policy development, stakeholder management, infrastructure coordination, infrastructure management, technical

assistance, and monitoring and evaluation. In this case, the accounting officer is held responsible and accountable for service delivery. In further undertaking a review of the literature on service delivery issues, often pertinent issues such as employee performance and management culture find resonance. For example, Manyaka & Sebola (2012), align themselves with the view that effective management of employee performance in South Africa has a direct link to the effectiveness of public service delivery. Performance management has a decidedly negative perception, which therefore renders its purpose insignificant. Previous work by Kaseke (2011: 95-98) and the German Technical Corporation (2010: 5), consider functional management into three focal areas. They are outlined below:

- Managing performance
  - Lack of commitment among staff members
  - Poor management of assets
  - No departmental capacity-building interventions
  - Low satisfaction levels.
- Management culture
  - Weak management culture does not promote synergy.
- Managing alternative delivery options
  - Abnormal dependency on consultants.

It is therefore imperative to consider the question of functional management key in the provision of public services. In understanding the applicability of the above key aspects within the context of Limpopo Department of Public Works, it is necessary to consider a definition of service delivery. In his report, Mathikhi (2011: 6) defines the core functions of the Limpopo Department of Public Works as including the following: property management, design and construction, maintenance, and expanded public works programme. In this way, a contextual definition of what a service delivery is becomes clearer. The second component of the literature review on service delivery considers the management culture. The on-going debate between compliance and the need for efficiency, draw attention to the lack of effective cooperation, the lack of a strategic, needs-based, outcomes-based and competency-based approach to public service training and education (Marais & Kroukamp, 2005: 129). A rapid results initiative, with a focus on results performance, puts the following building blocks in place, namely, strategic planning, performance contracting, annual work plans and service delivery charters (Hope, 2012: 128).

According to Bloom et al. (2010:2) as well as Potgieter & Pretorious (2009: 41), a skill-based technical change (SBTC) provides a positive catalyst in modern management. Theletsane (2012) further believes shared values of *Ubuntu* and *Batho Pele* are part of the foundation of the *Ubuntu* management concept. Theletsane (2012: 269) further contends that the integration of *Ubuntu* management could make it possible for public managers to improve their management



style and performance. Accordingly, the Project Management Institute (PMI) list specific attributes of general management. These skills include well-developed leadership and management skills, the ability to interact effectively with executives, management and other stakeholders. Skills should include goal-setting, performance evaluation, reward and recognition, succession planning and employee development (Project Management Institute, 2006: 32). Halachmi & Bouckaert (2003: 437) express the view that productivity is equated with better management, particularly "business-like" management. They define four aspects thereof, namely:

- Management as a moral order: Management by making use of a societal order or convention to maintain or support instruction or command.
- Management as a technical-scientific order: Management understanding which conforms to the style, type and methods used in science or research.
- Management of meaning: Accountability and rights based on criteria such as legitimacy and efficiency or the lack of it, in turn this element is linked to political activity.
- Management as a political activity: Concern for the political impact the management activity has or performs.

An analysis of the above shows that there are various management cultures which needs to be taken into consideration. The following cultural areas, have been identified namely, new public management, compliance versus efficiency management, managing performance, Western culture, *Ubuntu*, general management, project management and productive management. The literature review of this paper draws on works previously undertaken on aspects of service delivery. It considers what service delivery is in the context of the Limpopo Department of Public Works. Schools, classrooms, hospitals and clinics constitutes some of the examples of the outputs that are provided to user and client departments.

#### **4. Research Methods**

##### ***4.1. Methods of Data Collection and Instruments***

The paper considers how the Limpopo Department of Public Works undertakes the management of its service delivery activities? A qualitative method of research design which employed semi-structured questionnaires to source data was used. The questions in the instrument related to considerations of management methods that led to open-ended responses. In addition, as part of the qualitative data collection, semi-structured questionnaires were also used to obtain feedback from senior officials. The questionnaire was made up of several questions, which were divided into the management of service delivery and service delivery functionality for the purpose of this paper. The target staff who participated in the study are the head of department, all general and senior managers and some district managers.

##### ***4.2. Research Area***

The area is the Limpopo Department of Public Works, Limpopo Province of South Africa.

#### ***4.3. Population and Sampling***

The population of this paper consists of senior and middle management members of staff of the Limpopo Department of Public Works. The population consists of 167 officials as captured in the 2009/10 annual report. The sample size consisted of mainly top and senior management plus a selection of two middle management officials from each of the five district offices (Limpopo Provincial Government 2010). Further, it is necessary to also highlight that during the data collection stage, twenty-two percent of the targeted respondents' posts were vacant. This was observed because the organogram provides for thirty-six (36) posts but only twenty-eight (28) of them were filled and could be used as respondents for this research.

### **5. Findings and Analysis of the Questionnaire**

Questions raised with respondents considered two main issues which are analysed in this paper. These are the management of service delivery and service delivery functionality of the Limpopo Department of Public Works. Responses to the questions are analysed below in line with the above aspects as a summary of the findings from the questionnaire.

#### ***5.1. Management of Service Delivery***

The responses to the questionnaire have been grouped into the main divisions as described by the questions. These sections are as follows:

##### ***5.1.1. Level of Understanding of the Management of Service Delivery***

Respondents were asked to describe their level of understanding of the management of service delivery in the Limpopo Department of Public Works and to further elaborate on their responses. This question, although requesting a qualifying response, did not provide a measurable scale to guide respondents. Most respondents provided an explanation but did not necessarily qualify the level of their understanding. One respondent said "good" and backed up the answer by stating that all the services of the Department should be aimed at achieving its mandate, the provision of infrastructure. Another respondent said "moderate to poor" and backed up this position by explaining that the management of service delivery needs a strong monitoring team within units. From the above responses, it could be concluded that most employees have a shallow understanding of the management of service delivery. These employees do not fully understand the management of service delivery in the Department.

### *5.1.2. Supervisors' Understanding of the Management of Service Delivery*

Respondents were asked if they thought their supervisor had a good understanding of the management of service delivery. Eight of the respondents agree that their supervisor has a good understanding of the management of service delivery. However, three of the respondents provided qualifications that indicate their views concerning the action of their supervisor and not the understanding of service delivery management by the supervisor. These responses assume that issues such as the supervisor ensures that whatever is requested is addressed, plans are validated, and the supervisor has the capacity and experience. One response also criticises the supervisor by stating that he lacks people skills, which often results in a lack of cohesion among employees indicates that the problems lie with the processes and systems that are in place. This response refers to management tools by stating that there are clear targets and that there are processes to ensure targets are met, which are discussed at planned meetings. This response shows the understanding of the respondent, as well as the actions of the manager. It also deals directly with the controlling actions which should be found in managers and in the systems they approve.

### *5.1.3. Employees' Understanding of the Management of Service Delivery*

Respondents were asked if there is a general understanding by employees at all levels of the management of service delivery in the Limpopo Department of Public Works. There were three positive responses. Only one official qualified his/her response. The qualification does not refer to the level of understanding but it confirms the investment that has been made towards human capital development. Two of the respondents provided explanations. One highlighted that the problem is with communication, which leads to confusion. The other response stated that departmental moral is an inhibiting factor and there is a distinct lack of belonging within the Department. Some respondents felt that there is no general understanding of the management of service delivery by departmental employees. Qualifications by respondents ranged from officials only looking at their own area of work to the failure of the performance management and development system (PMDS). These responses only confirm the findings derived from the previous two questions, namely, that the management of service delivery is not well understood within the Department. Secondly, this lack of understanding extends from individuals to the team, and at an institutional level. It is worth noting that some of the respondents do find the action of their supervisor to be motivating, providing and enabling, which shows the leading role of a manager.

### *5.1.4. Improvements in Understanding the Management of Service Delivery*

This question to respondents asked what they thought should be done to improve the understanding of the management of service delivery in their branch and/or programme. One

respondent made a comprehensive submission by suggesting that soft issues such as employee benefits need to be addressed; secondly, that team-building should be undertaken, as well as a drive to eliminate the fear of victimisation from employees. The submission concludes by stating that leading by example and inculcating the spirit of *Ubuntu* and professionalism into management should also be considered. Another set of suggestions came from an official under corporate services who stated that there is a need for an objective implementation of the PMDS; secondly that performance measures need to be discussed in unit meetings, and lastly that there is a need for the promotion of unit meetings. One official stated that there is a need for officials to be inducted into the civil service. Further, this question solicited suggestions such as continuous training, as well as continuous research and development towards innovative methods to improve service delivery. A final submission states that through the appointment of the right people with the right skills, effective decision-making processes should be introduced which could impact positively on service delivery. From the above responses, it appears that there is a good understanding of the improvements that can be considered and made in managing service delivery. However, this observation is made on the background of some uncertainty on the management of service delivery.

## ***5.2. Service Delivery Functionality***

There are six aspects to service delivery functionality that were asked of respondents and they are as follows: The level of service delivery functionality; what influences there may be in terms of service delivery adjustments; the question concerning the support that is rendered in terms of service delivery; and the skills that have an impact on service delivery.

### ***5.2.1. Level of Service Delivery Functionality***

The respondents were asked whether they would attribute as poor or good the level of functionality of service delivery in the Department in the past three years (April 2009 to March 2013). All of the respondents confirmed that the level of service delivery functionality over the past three financial years has deteriorated and now stands at poor. One respondent stated that it can be attributed to an unwillingness of the workforce to change their attitude. It is further interesting to note that the reasoning provided is attributed to a lack of commitment, a poor team approach to problem solving, which in effect points to a lack of motivation and ineffective management leadership. Another respondent used the auditor general's report as a base in advising that the level of functional service delivery is poor. It was also stated by another that the slow rate of service delivery was affecting the service delivery of schools, clinics and hospitals, and further that shoddy workmanship is due to ineffective project management and supply-chain processes.

### 5.2.2. *Does Service Delivery Functionality Improve Service Delivery?*

Respondents were asked to state if service delivery functionality could contribute to the improvement of service delivery in the Limpopo Department of Public Works. The respondents to the questionnaire were generally in agreement with the statement. Functionality provides priorities and it also focuses on relevant issues that matter. For example, if systems were working well and functioning, then service delivery backlogs would be minimised. There are two responses which highlight contrary views. The first one is in the affirmative while the second one is in the negative, each qualifying their responses. The first approved of the postulation and stated that functionality contributes to improvement, as it is crucial to implement service delivery improvement. Secondly, management should be monitored and evaluated on a continuous basis. Finally, management should be reviewed to accommodate innovative methods. Some responses which were negative highlighted that service delivery improvement interventions is not seen as overall departmental activity but is often relegated to the directorate service delivery improvement. Approvals are always late and the implementation of initiatives is most often ignored by programme managers. The last two responses, although not agreeing, together provide the justification behind a service delivery improvement programme. Their response includes warnings of implementation challenges and the accommodation of innovative methods that can be monitored and evaluated. This observation agrees with one of the respondents who states that functionality will lead to improvement if all systems are in place and if everyone knows their roles within the Department.

### 5.2.3. *Service Support to Service Delivery*

The question that was posed to respondents is whether the Department renders enough service support to ensure effective functionality of service delivery by the Department and if yes, how so? Answers from respondents show that the majority of the support services do not render enough service support. Supply chain management (SCM), and human resource management (HRM) processes are singled out as some of those who are not performing their support functions adequately. Responses in support of service support justify their claim by stating that there is a lack of resources and that communication level between core and support directorates is failing. Another response states that there is sufficient, although initiatives are not considered to augment available support systems. One respondent supporting service support goes into detail on many problems, from the availability of resources to human, physical and finance, to poor leadership and poor people-management skills and human relations. Most of these problems reflect the presence of silos, and separate management layers, which give an impression of a sense of disorganisation and the inability of management to communicate coherently within itself and with its staff.

#### 5.2.4. *Infrastructure Operations Skills*

Respondents were asked if they believe that officials attached to the infrastructure operations branch have the necessary skills and capacity to provide the minimum standard for functional service delivery. For example, this question was revised in view that this branch is expected to provide the minimum functional standards required for service delivery. The majority of respondents believe that officials within the branch infrastructure operations possess the required skills and capacity. However, most respondents point to the vacancy rate and the alignment of skills to job description as problem areas. One respondent further argues that there is a lack of commitment among this group of officials. One respondent points to the fact that the majority of officials within the branch are not registered. There is also a point made that certain officials cannot actually apply their learned competencies in the work environment and to work assignments. Another respondent stated that most of the work of the Department is outsourced therefore efforts of those officials to take over responsibility and accountability for the work is not clearly evident. Other respondents reflect on similar elements where they state that the skills are inadequate when considering the infrastructure delivery management system (IDMS). These respondents state that capacity challenges, shoddy work and the lack of contract management skills, which are all elements detailed and addressed within the infrastructure delivery management system (IDMS), and which are being compromised, often lead to poor performance, poor quality and delayed service deliveries. It can therefore be concluded that the skills of officials within the branch of infrastructure operations, together with the vacancy rate, are below the minimum threshold thus leading to the ineffective and inefficient delivery of services.

#### 5.2.5. *Improvements of Service Delivery Standards*

In closing, regarding questions on service delivery, respondents were asked what they would recommend the Department do to improve its minimum level of service delivery standards. This question provided numerous suggestions, which are listed below:

- Provide resources (human and financial): The pressure of work, number of officials able to undertake tasks and their financial support in equipment and travelling.
- Recruit skilled and competent personnel: There is a shortage of technically qualified and experienced staff.
- Employ and promote qualified and skilled staff: There is a shortage of technically qualified and experienced staff as well as career path opportunities.
- Standards for employment quality: These should be reviewed and link with performance management and development system (PMDS).
- Functional structure: The Department's structure does not often speak to its service delivery objectives.

- Manage and remunerate the performance management and development system properly: Performance bonuses are paid across the board and not only awarded to deserving and qualifying officials.

## 6. Concluding Remarks

This paper has endeavoured to consider issues found in the Limpopo Department of Public Works. In addressing the problem of service delivery management within the Limpopo Department of Public Works, it became clear that in general, this Department remains embattled in the discharging of its responsibilities. This is despite the fact that there is some degree of capacity where relevant skills necessary for the Department to function are not always recognised and subsequently are being underutilised. Therefore some pertinent recommendation to improve practice needs to be considered. These include that issues of under-performance of the Department can be corrected if performance measures are restored through the objective implementation of the performance management system. The support services of the Department should also be restructured in line with the service delivery model and performance management system. Often, the root cause of the Department's service delivery problems is management, which includes the institutional activities such as its technical direction, capability, capacity and resources. Without technical management capability, capacity and leadership, the Limpopo Department of Public Works will not enable solutions. The main recommendation suggests that the Limpopo Department of Public Works move from an environment of control and compliance to one of order and the development of a shared vision.

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## DELIVERY OF SUSTAINABLE HUMAN SETTLEMENTS IN URBAN SOUTH AFRICA: ACHIEVEMENTS AND CHALLENGES

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### Abstract

In response to the deeply entrenched socio-spatial divisions in South Africa's geography, the democratic government introduced an inclusive visionary housing programme called the Comprehensive Plan for the Development of Sustainable Human Settlement, commonly known as the Breaking New Ground (BNG) programme, in 2004. Central to this housing plan is the notion of moving beyond the provision of basic shelter towards achieving the broader vision of sustainable human settlements and more compact cities, towns and regions that support country-wide spatial restructuring. To achieve this vision, various public institutions, in partnership with the private sector, are obliged to play a significant role in the housing market. Whereas these institutions are fully geared towards the achievement of the objectives of this housing plan, several challenges, including increasing urbanisation, mushrooming of informal settlements, land invasion and weakly integrated planning between the stakeholders, have persistently slowed-down the delivery of human settlements. It is against this background that this paper seeks to discuss the achievements and challenges relating to the delivery of sustainable human settlements. The paper proposes measures for enhancing the achievements together with those for overcoming attendant challenges.

**Keywords:** Sustainable Human Settlements; Breaking New Ground; Housing Market; Informal Settlements; South Africa

### 1. Introduction

In addressing the deeply entrenched socio-spatial divisions in South Africa's geography, in 2004 the democratic government have introduced an inclusive visionary housing programme called the Comprehensive Plan for the Development of Sustainable Human Settlement, commonly known as the Breaking New Ground (BNG) programme. This human settlements plan seeks to reinforce the vision of the Department of Human Settlement, of promoting the achievement of a non-racial, integrated society through the development of sustainable human settlements and quality housing (Department of Housing, 2004; Osman & Herthogs, 2010). With this housing plan, the discourse of the "rainbow nation" held out the possibility and hope that South Africans would overcome historic divisions and build a common identity and solidarity whilst acknowledging cultural diversity (Muyeba & Seekings, 2010). Despite the optimist vision held in the housing plan, there are some challenges in the processes of housing delivery. The challenges in housing delivery at provincial level can be summarized as: fiscal constraints and delivery, bureaucratic bottle necks, government coordination, bulk infrastructure, land ownership

issues in several areas (rural contexts), capacity constraints of small contractors, capacity issues related to contractors, private sector and government officials, monitoring and evaluation system, different interpretations of policy and legislations by provinces (Ogra1 & Onatu, 2013). While on the other hand, spatial patterns are far more complex in the urban areas, with a growing black and poor population in the inner city; greater racial mix in the middle class north; and new informal settlements and mixed housing developments in the north (Klug et al., 2013). Therefore, this situation seems to suggest that the delivery of human settlement should be a collaborative effort between the public and private sector. That is, inter-departmental and public-private partnerships in housing delivery should be facilitated (Onatu, 2010).

## **2. Inter-departmental and Public-Private Partnerships in Housing Delivery**

A year after the Comprehensive Plan for the Development of Sustainable Human Settlement was introduced, then the Department of Housing organised the Housing Indaba which was held in Cape Town in 2005. At this forum, the government and the private sector, including banks and property developers agreed to work in partnership to accelerate housing delivery in order to address the housing backlog (Onatu, 2010). According to Ogra1 & Onatu (2013), the collaboration between the public and private sectors rekindled Public Private Partnership (PPP) which resulted in the private developers agreeing in principle to set aside a percentage of the total value of the commercially driven housing developments in a certain price range, for investment in the low-cost housing sector. This resulted in the construction of the gap market housing which caters households of income between R3 500 and R10 000 per month (Department of Housing, 2004). In essence, the Public-Private-Partnership approach facilitates the combination of gap market housing, bonded housing and government subsidised low-income housing. However, the PPP deal seems to favour the private property developers as the developer controls the whole value chain. In this regard, Klug, Rubin & Todes (2013) mention four advantageous factors for the private developer. Firstly, the private developer owns the land (which may have been purchased from the municipality). Secondly, the developer is also able to draw on government subsidies for the low-income housing. Thirdly, bulk infrastructure in the housing development is financed through grants from the National Treasury, which enables cross subsidisation of the "gap market" and "free market" housing components. Fourthly, the developer works in partnership with the municipality, reducing risk in terms of service provision.

## **3. Access to Affordable Land for Human Settlement Development**

Land acquisition to facilitate the location of human settlements remains a fundamental and decisive intervention for the government, given the divided South Africa's socio-spatial geography. Land acquisition in spatial transitory zones is very expensive for the government because most land in such areas is privately owned. That is, land prices in more desirable

locations near the main transport nodes and employment cores are invariably higher than large tracts of land situated on the metropolitan periphery (Ogra1 & Onatu, 2013). Two years after the BNG programme was introduced, nominal land prices increased by 17.3% to approximately R280, 200 on average during the second quarter of 2006, compared to 22.9% in the first quarter (Brown-Luthango, 2007). The lack of sufficient well-located and affordable land, especially in the face of the rapid urbanisation inexorably leads to competition for land and increased land value of suitable land. The land scarcity make it very difficult for low-income households to access land, unless invaded illegally, or for the state or developers to acquire such land for poorer communities, which poses a serious challenge to government to provide affordable housing on expensive land (Landman, 2010). Thus, the Breaking New Ground guarantees that

“a strategy will be developed in conjunction with the Department of Land Affairs to finance and guide the acquisition of private land for human settlement purposes. All land will be acquired by municipalities in line with Municipal Integrated Development Plans (IDPs), Spatial Development Frameworks (SDFs) and will be made available for housing development in line with the Housing Chapter of IDPs” (National Department of Housing, 2004: 23).

Therefore, it is against this background that the Housing Development Agency (HAD) was established and mandated to acquire suitable land for sustainable human settlements (National Department of Human Settlement, 2010).

#### **4. Financing Human Settlement Development in South Africa**

Access to quality, affordable housing in South Africa's cities has been an ongoing challenge for the poor people (Onatu, 2010). To a large extent, this challenge can be attributed to the fact that, as stated by Wekesa et al. (2011), most financial institutions and commercial banks in developing countries quite often exclude the majority of the urban poor population from their products and services such as housing mortgages. The main reason for the exclusion of the poor from the primary housing market is that the poor often lack the requirement of collateral property because of the nature of their employment. It is against this background that the National Department of Human Settlement established various housing subordinates to facilitate the financing of the sustainable settlement projects in South Africa. As such, in the 2012/13 financial year the National Department of Human Settlement has spent more than R23 million on human settlements related services. The department has channelled the expenditure through various subordinate financial institutions. This includes the National Urban Reconstruction and Housing Agency (Nurcha) in particular, which is mandated to facilitate the flow of finance from financial institutions into low-income housing development. To this end, it is mentioned that the Nurcha issues guarantees for both bridging finance and end user finance loans, and also administers the saving programme for housing (National Department of Human Settlement, 2010). In

addition, the National Housing Finance Corporation (NHFC) is another subordinate institution of the department which was established to search for new and better ways to mobilise finance for housing service delivery.

Moreover, the human settlement is also being delivered under the Financial Services Charter (FSC housing) and credit-linked housing programme in partnership with the private commercial banks (Landman & Napier, 2009). The generic approach in this regard is that a private developer constructs a mixed-income housing development that includes some combination of fully subsidised low-income housing, rental housing/rent to purchase housing for the 'gap' market, and affordable housing for the private market (Klug et al., 2013). Thus, the establishment of all these housing financial avenues could be regarded as a significant progress towards decentralisation in human settlement service delivery. However, more needs to be done given the high demand for housing in the country's urban areas.

## **5. Demand and Stress for Urban Housing**

The rapid urban growth in the country is seen to be the major factor that contributes to the demand for housing infrastructure. As such, about more than two million people in South Africa are in transit between rural and urban areas in search of employment and housing which poses increasing expectations among the people (Ogra<sup>1</sup> & Onatu, 2013). Similarly, Goebel (2007) also assert that South Africa has a higher proportion of urbanized dwellers than elsewhere in Africa as a result of its relatively high level of industrialization and role as economic powerhouse of the continent. This means that there is a high demand for housing service in the urban areas of the country. The big South Africa's cities has typically experienced persistent annual urban growth rates of 56% per annum, while some small towns have seen annual growth rates in excess of 10%, implying population doubling every decade (UN-Habitat, 2004: p. 3). This scourge of migration places enormous strain on the already stretched infrastructure, housing and services, resulting in proliferation of informal settlements.

## **6. The Scourge of Informal Settlements in South Africa**

According to the Stats SA (2011), about 1.1 million people in South Africa live in the informal settlements. These informal settlements are generally located illegally, in places of poor environmental quality, such as railway setbacks, dumping sites and marsh land with no basic services provision. As Wekesa et al. (2001) state, the informal settlement often lack basic infrastructure such as potable water, sewerage and storm water drainage. Apart from that, these informal dwelling units are constructed of building materials that are not of standard. They use materials such as metals or tins, cardboards, plastics and other materials that offer scant protection against the elements and frequently collapse (Wekesa et al., 2001). Perhaps the building material may be not a major concern to the dweller because, as asserted by Onatu

(2010), informal settlements are not simply dormitories for employed households which need to be improved as mere shelter, rather they are places of residence and socio-economic activities, in which the inhabitants pursue a variety of livelihood strategies. To some extent, this assertion illustrates the scourge of poverty prevailing in the informal settlement. The majority of the people in the informal settlement rely mostly on informal economy for subsistence, and their incomes are irregular and uncertain and generally, unemployment is very high (Wekesa et al., 2001). However, given that most of the informal settlements are found on the more remote zones of the cities, they possess some strategic spatial qualities in a sense that they become a transitory land use on the former buffer zones (Haferburg, 2013).

**Table 1: Transfer Payments by Department of Human Settlement**

Organisations to whom transfer payments have been made by the Department of Human Settlement in the 2012/13 financial year			
Organisation	Amount R'000	Remarks	
1	Provinces - Human Settlements Development Grant	15,395,032	This is to fund the national and provincial housing Programmes.
2	Accredited metros and cities: Urban Settlements Development Grant	7,392,206	This is to fund human settlement related infrastructure development
3	UN Habitat Foundation	1,280	Annual contribution to the forum
4	National Urban Reconstruction and Housing Agency	120,000	This is to fund recapitalisation on entity
5	Social Housing Regulatory Authority: Operational	21,096	In terms of legislation
6	Capital Restructuring Grant	647,401	
6	Rural Housing Loan Fund	31,975	In terms of legislation
7	Housing Development Agency	92,336	
	<b>Total</b>	<b>23,701,325</b>	

Source: Department of Human Settlement, 2013

## 7. Dimensions of Sustainable Housing and Human Settlement

Adebayo & Adebayo (2000) identify several dimensions of sustainable housing which are considered in building the sustainable human settlement in South Africa.

### 7.1. Incremental Housing Subsidies

This dimension refers to the intervention made by the government in terms of subsidising the development of the sustainable human settlement. In this regard, the authors claim that the South African housing policy has formulated enabling approach themes as a result of the failure of private and public sector in the provision of sustainable human settlement, where the state act as the guider rather than the provider of sustainable housing (Adebayo & Adebayo, 2000). Thus,

the state provides assistance in a way of providing capital subsidy grant to households within a predetermined income range to enable housing affordability.

### ***7.2. Housing Affordability***

Housing affordability is central in ensuring a mixed-residential development. Basically, affordability ensures the inclusion of the poor households in the housing market at the same location with the affluent. As such, there are numerous strategies put in place to ensure housing can be affordable and accessed by the poor, and to mention the few; more realistic building codes, shelter standards and the use of indigenous material and technology (Adebayo & Adebayo, 2000).

### ***7.3. Location***

The location of human settlement should allow the residents, particular the poor, to have access to the socio-economic opportunities in the urban areas. The poor people see urban residential space as more than just a family dwelling space but it's also seen as piece of land that has more economic potential and an area to secure livelihoods (Adebayo & Adebayo, 2000). The location of settlements should be in a manner that will allow dwellers to integrate economic activities in order to secure opportunities and ensure sustainability. In recent years there has been an increasing focus on the location of housing projects and their proximity to greater socio-economic opportunities. Many of the recent movements such as Smart Growth and New Urbanism have highlighted the importance of housing location to promote densification, more compact cities and greater socio-spatial integration (Landman, 2010).

### ***7.4. Health and Affordable Housing***

The health of the residents is considered as a continuous concern in settlements, most likely in the informal settlements because of poor living conditions such as poor sanitation, poor waste disposal water and air pollution. Furthermore, there could be numerous diseases that can be traced back to the dweller's poor living conditions (Adebayo & Adebayo, 2000). Therefore, the government should ensure that there is adequate provision of basic services like water and sanitation in the human settlement projects.

### ***7.5. Design Implementation in Practice***

The physical design of the sustainable human settlement should vary in terms of layout and design. Unlike the low cost incremental housing in which place more emphasis on cost saving alone rather than focusing on the design and layout that recognize human environment. Fixed settlements patterns and houses, together with informal settlement reveal a common courtyard and cluster of houses including the operation of space that integrates economic, social



and climatic conditions as factors that determine basis of conceptualizing such housing (Adebayo & Adebayo, 2000).

## **8. Policy Frameworks for Delivery of Sustainable Human Settlement in South Africa**

There are several policy frameworks which informs the delivery of sustainable human settlement in South Africa. These policy frameworks includes the National Housing Code, 2009; Housing Act, 1997; Upgrading of Informal Settlement Programme, 2009; National Spatial Development Perspective, 2006; Breaking New Ground (BNG), 2004; Development Facilitation Act (DFA), 1995; Social Housing Act, 2008.

### ***8.1. National Housing Code, 2009***

The National Housing Code, 2009 has implemented nine strategies in support of sustainable human settlement: Supporting the entire residential housing market; moving from housing to sustainable human settlements; applying existing housing instruments; adjusting institutional arrangements within government; building institutions and capacity; enhancing financial arrangements; creating jobs and providing housing; building awareness and enhancing information communication; and, implementing systems for monitoring and evaluation (Department of Human Settlement, 2009). These strategies are meant to create an enabling environment in course of sustainable human settlement delivery.

### ***8.2. Housing Act, 1997***

According to the Housing Act of 1997, it is important to provide the facilitation of sustainable housing development process (Republic of South Africa (RSA), 1997).The main idea of Housing Act of 1997 is to place down general principles that are applicable to housing development in all spheres of government in respect of housing development. That is, the national, Provincial and local government jointly collaborate their effort towards the housing provision service.

### ***8.3. Upgrading of Informal Settlement Programme***

Upgrading of Informal Settlement Programme is used to improve the living conditions in informal settlements (Department of Human Settlement, 2009). Furthermore, this initiative is a crucial programme as it improves living conditions of million South African's by providing secure tenure and access to emergency services as well as basic service and housing Department of Human Settlement (2009). In essence, this programme has played a crucial role in addressing the huge backlog of quality housing in the country.

### ***8.4. National Spatial Development Perspective (NSDP), 2006***

According to National Spatial Development Perspective (NSDP, 2006) it is crucial to overcome metropolitan, town and city spatial distortions between where people live, work and more focus is placed on medium-density settlement closer to their workplace and improve transportation networks (RSA, 2005). In this regard, NSDP place its focus on ensuring sustainable human settlement by ensuring that people live close to their work place for easy access for transportation and low transportation fees.

#### ***8.5. Breaking New Ground (BNG), 2004***

The government still believes that fundamentals of policy continue to be significant and sound, there was a need for a new plan that will redirect and add value to existing mechanisms for more approachable and effective delivery of sustainable human settlement. The Department of Housing had a new vision that will lend a hand in promoting a non-racial, integrated society through the development of sustainable human settlement and quality housing Department of Human Settlement (2004).

#### ***8.6. Urban Development Framework***

Townships and informal settlements characterize an underutilized resource for the future, these townships and informal settlements should be altered into sustainable, habitable, productive, environmentally healthy and safe urban environments Department of Housing (1997). Reconstruction of townships cannot take place in the absence of integration of strategies Department of Housing (1997).

#### ***8.7. Development Facilitation Act (DFA), 1995***

The DFA introduced extraordinary measures in order to speed up the process of implementation of reconstruction and development programmes related to land. This include ensuring suitable residential settlement taking into consideration its location in relation to been next to areas of economic opportunities or employment and transport facilities (RSA, 1995). The objective is to allocate the human settlement along main road corridors and in close proximity to economic nodes.

#### ***8.8. Housing Development Agency Act, 2008***

The purpose of this legislative framework is to provide guideline in identifying, acquiring, developing and releasing state and private owned land for residential and housing development service for the purpose of creating sustainable human settlement (RSA, 2008). This policy seems to suggest that land availability is a fundamental factor in the provision of the sustainable human settlement.

### **8.9. Social Housing Act, 2008**

The main aim of Social Housing Act, 2008 is to create and promote a sustainable social housing environment which is one important aspect of human settlement. Furthermore, the Social Act defines the role played by the national, the provincial and the local spheres of government in ensuring social housing. Thus, sustainable housing leads to sustainable human settlement (RSA, 2008).

## **9. Conclusion**

Cocktail of policy frameworks have been implemented, one policy after the other in order to address the multi-problematic issues related to the delivery of housing and sustainable human settlement. In transforming the deeply entrenched social and spatial segregation in South Africa's geography (Lemanski, 2006), in 2004 the democratic government have adopted the Comprehensive Plan for the Development of Sustainable Human Settlement, commonly known as the Breaking New Ground (BNG) program, with the key objectives of ensuring that property can be accessed by all as asset for wealth creation and empowerment, promote social cohesion and improve quality of life for the people through the development of sustainable human settlements and quality housing (National Department of Housing, 2004). Thus, there are programmes, projects and frameworks that complement the Breaking New Ground program. There are loads of challenges in delivering sustainable housing and that includes the demand of urban housing and informal settlements.

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## WATER SUPPLY IN SOUTH AFRICA: A KEY ELEMENT OF SERVICE DELIVERY

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### Abstract

It has long been established that water is a fundamental and indispensable natural resource for survival. Concomitantly, no regional or national development plan can take shape without giving primary consideration to water service delivery. Delivering water is essential for life to man, plants and animals, hence it is seen as a resource that is critical to the survival, integrity and wellbeing of humans as well the environment. Providing a better water services can significantly improve the quality of life. It is worth noting however that water is scarce commodity in many developing countries including South Africa. These countries experience high levels of water shortages with negative consequences for the wellbeing of their citizens. The paper uses the literature on the discourse of water provision to argue that problems associated with access to water services can be attributed to issues such as inadequate maintenance of water infrastructure and the reluctance of Municipalities to plant communal taps for the purpose of affording contracts to individuals pertaining delivery of water to the community. The paper concludes that without significant improvement and efficient management water infrastructure, the problems associated with shortage of water services will continue unabated. To this end, the paper proposes some interventions that could be implemented to ensure that there effective and efficient management water service provision to rural communities.

**Keywords:** Water supply; Municipalities; Community; Socio-Economic; South Africa

### 1. Introduction

Poor service delivery is a key element that affect people's lives. Water supply is one of the elements that is very important in respect of service delivery. Water is essential to life for man, plants and animals. According to Louise (2008) inadequate water supply is an issue in terms of availability for domestic use, drinking, industrial use for producing manufactured goods and services, amenity use, and in the production of food. Access to water is important in improving health, relieving risks and vulnerability as well designing the effective implementation of poverty alleviation strategies (Kaliba & Norman, 2004). The effect on level of demand for water in terms of the environmental impact on river systems, groundwater and the sustainability of water resources is an issue as well (Louise, 2008). Subsequently, countries placed duties and rights for the constituency to access water with the beneficiary to exercise rights and also under an obligation to use own resources to fulfil their rights (Tluczek, 2012). Conversely, access to water still remains a fundamental challenge for citizens. In South Africa, the ineffective water supply could be viewed as basically affected by the colonial segregation regimes, particularly the spatial design that makes it difficult to connect separated areas. During the colonial and apartheid

regimes, water was supplied based on the ethnics in Local governments, where service of delivering water compromised black people to access adequate water (O’Laughlin, Bernstein, Cousins & Peters, 2013). Water supply is a source of and the condition for a socio-economic development. In that context, it can be perceived that water is a fundamental and indispensable natural resource for survival. In many countries water is scarce or contaminated. Water is a resource that is critical to the survival, integrity and wellbeing of humans and the environment, this means that water is life, so what could be more appropriate survival than having this fundamental resource and its vital role in our existence (Hope, 2006). Water is recognised as having an economic value and is increasingly being priced at a rate which reflects its value and scarcity (Earle, Goldin & Phemo, 2005).

The paper argues that water as a fundamental resource need to be taken into consideration in terms of its usage in all different aspect. The paper therefore highlight that problems associated with access to water services are attributed in issues such as inadequate maintenance of water infrastructure and the reluctance of Municipalities to plant communal taps for the purpose of affording contracts to individuals pertaining delivery of water to the community, hence that lead to the benefit of individual and corruption particularly. Furthermore, rainfall pattern in South Africa constitute certain percentages. The theoretical argument is that water uses on agriculture and landscape irrigation, groundwater recharge, industrial use, wastewater reclamation and reuse, and other miscellaneous uses need to be taken into consideration for trade-offs of the compromised areas to access water, particularly rural areas. The main argument of this paper is that municipal water supply are misused for other aspects or activities that can be managed through using non-portable water and that compromise access to areas affected. However, alternative ways of ensuring water effectiveness should be taken in consideration in order to enable the compromised rural areas to access adequate water.

## **2. The Importance of Water (Supply) in South Africa**

Globally the demand of water is influenced by factors, which are demographic trends and patterns of consumption (Khaleq & Dziegielewski, 2006). South Africa forms part of the countries that faces and experiences the issues of water supply not because of scarcity but of access. South Africa’s crucial elements are in the battle against poverty and the cornerstone of achieving prosperity (Oliver & Brümmer, 2007), hence, the main issues to be tackled rely on water supply because lack of water compromises activities. With the dawn of democracy in 1994 the government emphasis shifted toward water services being made available to all South Africans, in order to improve their standard of living. The desire to achieve universal access to water services in the country has been placed in a politicized environment where environmental sustainability and economic efficiency guide national-level water policy (Goldin, 2005). This reflect water as an undoubtedly one of South Africa’s most valuable resources that plays a pivotal

role in the achievement of prosperity. Despite the apartheid spatial patterns areas, water remains a crucial resources that everyone must have access to in South Africa. South African Constitution safeguards the citizens about rights to access basic needs such as clean water (Tluczek, 2012). The right to basic water is not an absolute right but it is the subject matter to the state taking reasonable legislative and other measures within its available resources to achieve the progressive realisation of these rights (Department of Water Affairs, DWAF, 2002; Goldin, 2005). In that context, South African government has taken a responsibility to provide water and services to all the citizens after the ascension of power in 1994 from apartheid regime (DWAF, 2002). Accessibility of water service during the apartheid era in South Africa was inferior to black populated areas and enjoyed by the white communities. Although, there are rights to basic water; the status of water determine the accessibility of water for South African citizens.

In the South African context, basic water supply is defined as 25 litres per person per day, considered to be the minimum for direct consumption, for the preparation of food and for personal hygiene (Earle et al., 2005). It is a fundamental right for all people to access basic water. Therefore, advocating the equitable access is pivotal for the citizens as estimated by DWAF (2002) that 6000 litres of clean water should be accessed by households every month free of charge. Water supply in South Africa is defined as 25 litres per person per day which is considered as minimum direct consumption for the preparation of food and personal hygiene (Earle et al., 2005). Water as a basic need is for different and certain purposes including domestic use that encapsulate drinking, washing, bathing and to some extent to earn income by cultivating land or practicing gardening, field crops and livestock, brick-making in the rural and semi-urban areas (Letsoalo, 2012). Louise (2008) asserted that drinking water equated to around 10 per cent of the water usage of a community whereas the rest would be used for agriculture and food production.

South Africa treat water as social and economic aspect, and once the social needs are met then water is managed as an economic good, particularly as an appropriate for scarce natural resource (Tluczek, 2012). Thus, the government proclaimed that the goal is to ensure that all South African have access to essential basic water supply at a cost that is affordable for both household and to the country as a whole (DWAF, 2002). On the other hand, free basic water policy was introduced with an aim of zero marginal price where households pay fixed fee for first units of water (Szabo, 2013). That has turned attention to the equitable distribution and responsible use of resources such as water during the World Summit on Sustainable Development held in Johannesburg September 2002 (Oliver & Brummer, 2007). Concomitantly, since South African ascension of power in 1994 from the apartheid regime, water is still a challenge in most part of the areas. Subsequently, the problems derives in the reluctance of providing a better service to deliver water to the citizen.

### **3. South African Municipal Water Service Delivery**



Most of South African municipalities are facing challenges in respect of service delivery, among others is water supply. The sustainable provision of basic services on a fair and equitable basis has been the most critical municipal priority in post-apartheid South Africa (Jaglin, 2008). Conversely, in an effort to fulfil their constitutional mandate of providing water services to the population while treating water as a scarce resource many municipalities and their water service providers have entered into partnerships with private companies (Earle et al., 2005). Therefore, corruption is reflected because of affording tenders and contracts to private companies and individuals that serves their own interest than striving to achieve the mandated objectives. In that context, most of the South African citizen still experience shortage of water, although water supply has been perceived to be a critical Municipal priority. To certain extend, water supplies and water-borne sewage services were provided to wealthy Municipalities and towns along clearly designated racial white lines (Marais, 2001; Goldin, 2005: 83). Water services provision to the black populated areas was inferior to that enjoyed by the white communities (MacKay, 2003: 65). Although, Carmichael & Midwinter (2003) highlighted that access and delivery of water to white, even white local authorities, were considered inefficient. On one hand, government focuses on the trade-offs of fair distribution of water supply as a key element of service delivery. The government emphasis on addressing fundamental issues in the water sector which is inequality of adequate accessing water between rich, poor and race (Earle et al., 2005).

On the other hand, since democracy, the government emphases that water services must be available to all South African to improve their standard of living. Concomitantly, according to the Municipal System Act 32 of 2000, Municipalities are given the power to move progressively towards social and economic uplift of local communities and ensure universal access to services that are affordable to all. As a results, that depicts corruption in the country because tender entrepreneurs are afforded contracts for supplying water in attempting to achieve the governmental objective of delivering service to the citizens of the country. It is not a problem to afford contracts, but the issues comes with a question of are the citizens provided water effectively? That give a sentiment that the afforded contractors are serving their own interests than serving the communities, and therefore the issue of corruption comes to picture. Furthermore, population growth, urbanisation and industrialisation demand for municipal water services continue increasing and it place pressure on the ability of the natural system to provide a sufficient quality and quantity of water (Khatri & Vairavamoorthy, 2007). Thus, the responsibility is allocated to the Municipality to provide water to the community (World Bank, 2011). Municipalities are constitutionally obliged to ensure water is delivered to their constituency and the responsibility for water services provision is often times shared by a number of additional role-players including DWAF, water boards and community based organisation (Tluczek, 2012). Therefore, it could be argued that Local government are the major key role player in serving the communities with basic needs such as access to water. Mostly, in rural areas water is supplied

by the water boards on behalf of the DWAF since from 1994 to 2003, however, that compromised an adequate access to water. Although, it is perceived that the assets transferred to local government can still play a role to support municipalities (World Bank, 2011).

#### **4. Urban and Rural Patterns in Relation to Water Supply in South Africa**

Urban and Rural South African patterns are geographically arranged with segregation on the basis of race, wherein the spatial arrangements make it difficult to connect water infrastructures from one area to another. The kind of arrangements make it difficult for poor people to access adequate water, particularly people in rural areas. Most of people in townships and rural areas throughout the world lack reliable water source which becomes more common effect (Hope, 2006). Conversely, urban areas access more water as compared to rural areas. Furthermore, problems of rural dwellers in accessing water is exacerbated by failure to maintenance, thus linkages, or rather water infrastructures in general. Income is one of the challenge for rural people to access commercial water provision as compare to urban dwellers. Mostly, urban dwellers pays tariffs that propels Municipalities to manage and provide adequate water supply. However, because urban dwellers pays water, it then compromises rural people to access water due to low-income where some relays on remittance. Furthermore, urban areas use water supply for various activities such as irrigation on land scape, gardening among others. It is not a problem per se for using water for various activities but the issue is that they should be considerate and use of other methods that are recommended to save water for others. In that context, the paper highlight various methods in the recommendations that can be utilised in order to save water for the sake of rural or disadvantage people to access water supplied. The enabling environment for water supply in rural areas is generally sound with good policy and planning; with the local government financial report identify the spending and expenditure of water as a whole (World Bank, 2011). Although, local government are financial supported there is still no enough access of water, particularly for rural dwellers. That gives a portrait of financial maladministration to serve the citizens with basic services in particular delivery of water.

It is also stated that basic water amount cannot be withheld due to non-payment of past accounts (Earle et al., 2005). That is because of Free Basic Water policy that has been implemented, with an aim of accommodating low-income to access water. Free Basic Water (FBW) is funded using a combination of the equitable share of local government revenue and internal cross-subsidies from appropriately structured water tariffs (Szabo, 2013). Although, there is free basic water policy, problems in rural areas to access water still persists and lack of provision of water supply is still a challenge. On one hand, Szabo (2013) articulated that free basic water policy has been the centre of some controversy, with analysts arguing that promise of 6 kilolitres of water per household per month offers little respite. On the other hand, without considering low-income households that use more than the estimated kilolitres due to number

of occupants and also because of old and leaky infrastructures. To exacerbate the situation the government kept the separate native revenues accounts for black townships that were under their control and left out the rural areas (MacKay, 2003). Urban areas have most residents who have access to piped water supply or rather people are either connected to the water supply network through house connections (Bahri, 2001).

However, urban areas in developing countries are facing challenges of water scarcity which is a major concern. Population growth and urbanization are most challenges in the urban areas and these lead to people facing acute problems, particularly access to adequate water that can remain a challenge in the next few decades (Khatri & Vairavamoorthy, 2007). Cities are facing enormous backlogs in shelter, infrastructure and services which lead to insufficient water supply. The larger the population, the larger the demand of proportions of water while as the same time decrease the ability of ecosystems to provide regular and cleaner supplies (Khatri & Vairavamoorthy, 2007). Therefore, the municipality should adopt the an integrated plan that will reflect an assessment of existing levels of development of the areas that do not have access to clean water and community should be involved in the implementation of plan (Letsoalo, 2012).

#### **5. Reasons for Inadequate Access to Water for South African Citizens**

Generally they are few aspects that depicts the constraints of accessing adequate water for South African citizens. Historical spatial arrangements, rainfall patterns and tender irregularities are major aspects amongst the other that plays a significant role in becoming obstacles to access adequate water. It could be perceived that these issues related to inadequate water supply have a huge impact on access to water for most South African. The apartheid spatial design has affected the programme of distributing water as areas has been separated, particularly amongst black population (O'Laughlin et al., 2013). With industrialisation, urbanisation and population growth the demand for municipal water services will continue increasing, placing pressure on the ability of the natural systems to provide a sufficient quantity and quality of water, sustainably (Earle et al., 2005). South Africa is a country with marked spatial and temporal variability in the rainfall it receives (O'Keeffe et al, 1992: 278). The natural variability in the rainfall coupled with the high rates of potential evapotranspiration has placed the gathering, storage and reticulation of water high on the planning agenda from colonial times up until the present. In South Africa only around 10 percent of rainfall is converted to runoff, largely due to the high rates of evaporation experienced in the country (Earle et al., 2005). South Africa shows a good progress in access to a piped water supply within 200 meters starting from a low base (World Bank, 2011). The pace of delivering in rural areas has also slowed and there are concerns related to the functionality and sustainability of rural water supply (World Bank, 2011). Concomitantly, there is no enough rain in most part of South Africa where one can rely on to ensure utilization of

rainwater. That is the reason why South African citizens need to consider methods (recommended in this paper) to ensure the effectiveness and efficiency of utilization of water.

According to the Municipal System Act 32 of 2000, Municipalities are given the power to move progressively towards social and economic uplift of local communities and ensure universal access to services that are affordable to all. Water is one amongst the others where there is a policy that highlight Free Basic Water, meaning that all citizens must have access to free water services. Conversely, the policy seem not to be practiced because there are still tariffs that are paid for water, particularly in urban areas. Therefore, urban areas utilized water in anything without considering misusing due to the perception that they pay. Subsequently, for some of rural areas to access water they have to rely on delivery of water services through trucks, where municipalities outsources companies to perform the task. As a result, tender entrepreneurs are afforded contracts for supplying water in attempting to achieve the objective of delivering service to the citizens of the country. It is not a problem per se to afford contracts, but the issues comes with a question of citizens being provided water effectively? The issue of accessing water in South African is still persisting because of lack of proper and adequate maintenance; and the reluctance of Municipalities to plant communal taps but instead afford individuals or companies contracts to supply water through Truck water tanks. That give a sentiment that the afforded contractors are serving their own interests than serving the communities, and therefore the issue of corruption comes to picture. It could be perceived then that the contracted basically serves their interests for benefits and that lead to corruption because delivery of service is compromised.

## **6. Effects of Water Supply on Community Development**

DWAF (2013) highlighted that national water policy still need to be reviewed to determine any unintended oversight and gaps in the water policies in order to pave the way to overcome water challenge and access efficiently and sustainably. It is therefore questionable that how long is going to take government visiting policies time and again rather than implementation while communities are still experience shortage of water? That is a problem because most communities rely on water for success in practicing livelihoods such as gardening to produce products for survival. According to literature, too much water throughout the world is used in agriculture (DWAF, 2013; Earle et al., 2005; Gleick, 2000). Furthermore, survey reveals that access to water in the communities have a positive effect on gardening production (Barnidge, Hipp, Estlund, Duggan, Barnhart & Brownson, 2013). Therefore, this depict that access to water supply propels community members, households and schools to initiate or establish garden projects. Water is a tool for stimulating economic development through the agricultural sector, as well being a necessary input to the mining sector (Earle et al., 2005). However, lack of water in the developing world is felt mostly by rural and townships dwellers where they become vulnerable in terms of their productivity when it comes to their garden projects to enhance their standard of

living as well escaping food scarcity by ploughing vegetables. Water supply is a problem in most areas where water is needed the most, looking at agriculture and farming that are not only supporting food but also creating employment opportunities (Bharwani et al., 2005). According to Louise (2008) farmers often experience the effects and impacts of water scarcity since they are in charge of the irrigation for the vegetables on gardens projects and they are the main users of water. Therefore, gardens are unable to produce much food no matter how rich the land or how hard they work if they experience water shortage or rather if water supply is inadequate. Problems in agriculture in most countries are because farmers face a shortage of natural resources, in particular water. As a results, limited resources like water negatively affect the production in garden projects of the communities.

Due to lack of water supply many countries have to import more than a half their food needs because they do not have enough water to grow more food (Hope, 2006). But in United State of America (California) as an example, water recycling, or the beneficial use of reclaimed water, involves the reuse of treated wastewater for non-potable or indirect-potable uses in order to grow more food (Arlene & Gleick, 2009). According to Khaleq & Dziegielewski (2006) the total renewable freshwater resources in Jordan are estimated at 850 million cubic meters per year, however the presence of groundwater mining and wastewater reuse in 2002 indicates that the demand already exceeds the availability of renewable water during that year. Domestic water supply in Australia presents a particular problem due to the limited supply of water and the high spatial and temporal variability in climatic conditions (Louise, 2008). Districts in California are increasingly turning to recycled water as a source of supply as access to new supplies of fresh water becomes more constrained (Arlene & Gleick, 2009). Agricultural irrigation and groundwater recharge continue to be the largest volume uses for recycled water; recycled water use has grown in volume in nearly all other categories of use.

Water is life and in South Africa is regarded as a crucial element in the battle against poverty (Oliver & Brummer, 2007). Furthermore, water is a fundamental and indispensable natural resources that should be taken into consideration for empowering communities. World Bank (2011) noted that neither regional nor national development plan can take place without giving primary consideration to this natural resource (water). That is because water supply is not only used for cooking, washing or for the household's activities but water is used as well for irrigation. Provision of clean water to the community can reduce the outbreak of water related diseases such as cholera, since people will refrain from using water drawn from streams and contaminated rivers (Masibambane, 2006). It can as well be added that provision of water to the community can help to fight poverty and this can be possible by introduction of community gardening projects such as fruits and vegetables.

## **7. Conclusion**

It is therefore perceived that Local governments should be the key role players to adopt integrated plans that radiate the valuation of development in the Municipalities which cannot serve the interest of the constituency regarding access to basic needs. Conversely, the Local governments are reluctant to provide better services to the communities due to consideration of serving their own interests, and that lead to corruption. Subsequently, the government should take into cognisance the other measures that can preserve water so that the supply can be sufficient to all. However, the national government prioritized investment to water services but the local governments see as an opportunity to help themselves and serve their own interest without considering basic level of services. The increased demand on water resources may result in wide ranging shortages if a responsible attitude is not adopted in the management and use (Oliver & Brummer, 2007). Consequently, it could be perceived that without taking into consideration other aspect and significant improvement in the efficiency of the use of water supply as a critical resource could add in shortage of water throughout the country. It is therefore concluded that strategies recommended will aid in reduction of using too much water supply for other activities such as irrigations, car washing amongst the other. Water is life, therefore it needed to be respected, conserving and enjoying it.

## **8. Recommendations**

It is not only the problem of local government that is exacerbating the issues of water supply but even poor awareness in respect of irrigation by the citizens takes part. According to Oliver & Brümmer (2007) the increased demand on water resource may result in wide ranging shortages if a responsible attitude is not adopted in their management and use. It is therefore known that no regional or national development plan can take shape without giving primary consideration to water supply. Gleick (2000) argued that access to a basic water requirement is a fundamental human right implicitly and this right could also be considered more basic and vital than some of the more explicit human rights already acknowledged by the international community. Because water is a crisis in the world, therefore water supply in townships should be used carefully. However measures and other strategies must be considered because any other way of irrigation can give a positive production in the garden projects even if water supply in townships is seen as a source of making a good production. The argument is that water supply cannot be only a way of providing positive results in the garden projects or any other activities that can use non-portable water, but any other reliable water source can lead to a good and positive achievements. The water crisis is only going to end when we all work together with each other, with other NGOs and with the communities that seek to be served. Only through deep commitment and collaboration, will we be able to solve the water crisis and enhance the water strategies for irrigation.

- Infrastructures should be considered in order to connect segregated areas;



- No contacts should be afforded to companies or individual for delivering water in the community rather consider the sustainable long term infrastructure for facilitation of water supply, that will help to avoid and reduce corruption; and,
- In terms of Irrigation.

One of the biggest challenges is that not all people know about water crisis, hence some initiate the garden projects and use water supply for irrigation. The solution to the water crisis is not simple particularly in the process of irrigation in the gardens. Irrigation continues to be the largest volume of usage of water for agriculture that encompasses gardening, landscape amongst the other. There is need to take into cognizance irrigation as part of the issues to access water. In that context, the following are recommended in reduction of water usage in an effective and sustainable manner for production purposes. The following need to be considered in the process of tackling the crises of water provision:

*Using Rainwater for Irrigation:* If people could be aware that using the provision of water from the street pipes and as well in households tap systems for irrigation is increasing the crisis of water that is faced throughout the world then the reduction of water crisis will declined. The recommendation is that people must at least have 2500 litres tanks to store rain water for example "JoJo Tanks" for the purpose of irrigation that will still make a good production in the garden projects. Furthermore rainwater runoff from driveways, roofs and parking lots could be used as the opportunity to be absorbed to reduce too much water for irrigation.

*Recycling Water:* Water recycling or the beneficial use of reclaimed water, involves the reuse of treated wastewater for non-potable or indirect-potable water. It is important therefore for government to consider recycling water as one of the strategies to aid in supplying adequate water for the community. It as well vital to turn focus to recycled water as a source of supply, as access to fresh water for all activities either for essential and non-essential becomes more constrained.

*Localized Irrigation:* There are three (3) methods that are encapsulated in localized irrigation which are: Drip irrigation, Spray or Micro-sprinkler and bubbler irrigations that will help in reduction of using too much water specifically for irrigation. Localized irrigation is a system where water is distributed under low pressure through a piped network in a pre-determined pattern and applied as a small discharge to each plant or adjacent to it. Drip irrigation or trickle irrigation is recommended in this paper because it saves water as compare to the other irrigation systems such as sprinkler irrigation and manual irrigation using buckets or watering cans. Regardless of an area where garden projects constitute smaller hectars, these methods can still be accommodated with an aim of saving water.

*Awareness Campaigns:* Awareness campaigns about irrigating landscape, gardening inter alia must be conducted to ensure proper usage of water. This will help in a process of supplying adequate water to the community at large. Citizens should be aware of what to use for



irrigation and when to use in order to save water. And lastly government should encourage people to use water effectively and efficiently; and also encourages the strategies that are recommended in this paper for irrigation to avoid crisis in the process of ensuring optimum water supply.

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## LEADERSHIP AND MANAGEMENT IN PUBLIC ADMINISTRATION: REFLECTIONS ON THE MANDELA ADMINISTRATION IN POST-APARTHEID SOUTH AFRICA

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### Abstract

The distinction between politics and administration plagued the field and the practice of public administration for years. It is not amazing that today public administration still has to deal with the paradigms of Leadership and Management. As South African democracy turns 20 years, how do we reflect on its leadership and the management of the State? When we try to audit or profile the skills required to run organisations effectively, we are often put in the middle of what exactly should a leader possess or what skills are required of a manager. Again, we always find mixed answers on the prospects of whether a leader should have management skills or whether a manager should have leadership qualities. In South Africa post 1994, various conflicting issues in municipalities between managers of those entities and their Mayors made beneficiaries to suffer non-delivery of services and, it remains a daunting situation as the third decade beckons. This article is grounded on understanding the relevance of these dichotomies in the current democracy and in the teachings of Public Administration. The most fundamental point that needs to be understood in this article is the distinction between Leadership and Management in public administration. It is envisaged that in South Africa, the Mandela administration from 1994 to 1999 would form the basis of this observation and perhaps provide a ground for the practice and study in the development of the discipline. It is against this backdrop that the topic "The significance of understanding Leadership and Management in public administration: Reflections of Mandela Administration in post-Apartheid South Africa".

**Keywords:** Leadership; Management; Public Administration; Post-apartheid; Mandela Administration; South Africa

### 1. Introduction

On 27 April 1994 South Africa cast aside centuries of discrimination and oppression to form a new society built on the foundation of freedom and democracy. It marked the end of apartheid rule and an introduction of a new Constitutional order, wherein all work towards a united, non-racial, non-sexist, democratic and prosperous society. However, we must never forget that our road to democracy was not easy and was achieved because of the unyielding sacrifice of thousands of patriots. The year 2014 presents an opportunity for the people of South Africa, the continent and rest of the world to join us in celebrating the South African story, 20 years of Democracy.

## **2. Background and Context**

This year South Africa celebrates 20 years of freedom and democracy. This momentous occasion presents an opportunity for us to reflect on how our freedom and democracy were achieved; the progress we have made over the past 20 years; and on how South Africans are going to work together to implement Vision 2030. South Africa is indeed a country that is better off since its first democratic elections. As we approach the 20 years landmark, South Africans must be afforded an opportunity to recall the momentous events leading up to 27 April 1994. Nelson Mandela has become South Africa's first black president after more than three centuries of white rule. Mr Mandela's African National Congress (ANC) party won 252 of the 400 seats in the first democratic elections of South Africa's history. The inauguration ceremony took place in the Union Buildings amphitheatre in Pretoria, attended by politicians and dignitaries from more than 140 countries around the world

## **3. Inauguration Ceremony**

As part of the ceremony Mr Nelson Mandela pledged his allegiance to South Africa and his determination to continue his work for reconciliation. "I do hereby swear to be faithful to the Republic of South Africa and do solemnly and sincerely promise to promote that which will advance and to oppose all that may harm the republic... and to devote myself to the well-being of the republic and all of its people." Jubilant scenes on the streets of Pretoria followed the ceremony with blacks, whites and coloureds celebrating together. When the new president, flanked by First Deputy President Thabo Mbeki and Second Deputy President FW de Klerk, appeared on the Botha Lawn beneath the Union Buildings the crowd went wild. More than 100,000 South African men, women and children of all races sang and danced with joy. Addressing the crowd President Mandela paid tribute to outgoing president Mr FW de Klerk: "He has made for himself a niche in history". "He has turned out to be one of the greatest reformers, one of the greatest sons of South Africa." He also spoke of the "human disaster" of apartheid. Following the inauguration ceremony, President Mandela entrusted his deputy, Thabo Mbeki, with the day-to-day business of the government. Mandela himself concentrated on the ceremonial duties of a leader, building a new international image for South Africa. Mandela stepped down as South Africa's president after the ANC's landslide victory in the national elections in the summer of 1999, in favour of Mr Mbeki. It is against this backdrop that this article seeks to relate the Significance of understanding Leadership and Management in public administration: Reflections of Mandela Administration in post-Apartheid South Africa. There is the age old question of what is the difference between a manager and a leader? Most people will say that you cannot be a manager without being a leader. In this article, discussions in detail

tends to look at, what is it that leaders and managers do, can leaders and managers be one and the same, as well as, explain the difference between managers and leaders.

#### **4. Mandela's Presidency**

The newly elected National Assembly's first act was to formally elect Mandela as South Africa's first black chief executive. His inauguration took place in Pretoria on 10 May 1994, televised to a billion viewers globally. The event was attended by 4000 guests, including world leaders from disparate backgrounds (Sampson, 2011: 490) and (Meredith, 2010: 510-512). Mandela headed a Government of National Unity dominated by the African National Congress (ANC), which alone had no experience of governance, but containing representatives from the National Party (NP) and Inkatha. Under the Interim Constitution, Inkatha and the NP were entitled to seats in the government by virtue of winning at least 20 seats. In keeping with earlier agreements, de Klerk became first Deputy President, and Thabo Mbeki was selected as second (Sampson, 2011: 492). Although Mbeki had not been his first choice for the job, Mandela grew to rely heavily on him throughout his presidency, allowing him to organise policy details. This was the time it was realised that Mbeki was basically being assigned the role of management, thus, managing public administration. This is perhaps the role, to many, that Mr Thabo Mbeki played excellently well.

Moving into the presidential office at Tuynhuys in Cape Town, Mandela allowed de Klerk to retain the presidential residence in the Groote Schuur estate, instead settling into the nearby Westbrooke manor, which he renamed "Genadendal", meaning "Valley of Mercy" in Afrikaans. Retaining his Houghton home, he also had a house built in his home village of Qunu, which he visited regularly, walking around the area, meeting with locals, and judging tribal disputes (Sampson 2011: 502). This was clearly an attribute of a leader who would constantly be concerned about his/her people, hence Mr Nelson Mandela was viewed the world over as a great leader. Presiding over the transition from apartheid minority rule to a multicultural democracy, Mandela saw national reconciliation as the primary task of his presidency. Mandela oversaw the formation of a Truth and Reconciliation Commission to investigate crimes committed under apartheid by both the government and the ANC, appointing Archbishop Desmond Tutu as its chair. Mandela's administration inherited a country with a huge disparity in wealth and services between white and black communities. Of a population of 40 million, around 23 million lacked electricity or adequate sanitation, 12 million lacked clean water supplies, with 2 million children not in school and a third of the population illiterate. There was 33% unemployment, and just under half of the population lived below the poverty line (Meredith 2010: 518-520).

Under Mandela's presidency, welfare spending increased by 13% in 1996/97, 13% in 1997/98, and 7% in 1998/99 (Houston & Muthien 2000: 62). The government introduced parity in

grants for communities, including disability grants, child maintenance grants, and old-age pensions, which had previously been set at different levels for South Africa's different racial groups (Houston & Muthien 2000: 62). In 1994, free healthcare was introduced for children under six and pregnant women, a provision extended to all those using primary level public sector health care services in 1996. By the 1999 election, the ANC could boast that due to their policies, 3 million people were connected to telephone lines, 1.5 million children were brought into the education system, 500 clinics were upgraded or constructed, 2 million people were connected to the electricity grid, water access was extended to 3 million people, and 750,000 houses were constructed, housing nearly 3 million people (Herbst 2003: 312). Tsheola & Sebola (2012:229) states that, the African National Congress-led state has since 1994 passed a variety of legislation to put into pragmatic effect the service delivery constitutional mandate of local government (Smith, 2004: 382).

The Land Restitution Act of 1994 enabled people who had lost their property as a result of the Natives Land Act, 1913 to claim back their land, leading to the settlement of tens of thousands of land claims. The Land Reform Act 3 of 1996 safeguarded the rights of labour tenants who live and grow crops or graze livestock on farms. This legislation ensured that such tenants could not be evicted without a court order or if they were over the age of sixty-five. The Skills Development Act of 1998 provided for the establishment of mechanisms to finance and promote skills development at the workplace. The Labour Relations Act of 1995 promoted workplace democracy, orderly collective bargaining, and the effective resolution of labour disputes. The Basic Conditions of Employment Act of 1997 improved enforcement mechanisms while extending a "floor" of rights to all workers; the Employment Equity Act of 1998 was passed to put an end to unfair discrimination and ensure the implementation of affirmative action in the workplace. All these were basically the works of public administration, wherein Mbeki was playing a fundamental management or administrative role during Mandela's Presidency or Leadership. Kanyane (2007: 321) also note that, from the advent of a new democratic dispensation in 1994, the national government paid lip service to capacitate the local government, especially rural municipalities, whereby municipal mayors, councillors, traditional leaders and municipal managers struggle to relate to each other.

It should be noted that, even though there were noticeable improvements in South Africa, the issue of housing the nation in sustainable human settlements is one of the most demanding challenges facing the post-apartheid state (Mokgadinyane, Maserumule & Khalo, 2012: 453). This is arguably a management space. However, Phago (2010: 148) highlights a number of possible reasons for this crisis, which, among others, include population growth, influx of illegal foreigners, unemployment and urban migration.

## **5. Leadership and Administration**

The dilemma of discerning the differences between leadership and administration has been around for some time. As early as 1957, a distinguished public administrationist related leadership to levels of political and social interaction. Leaders were those who coalesced and molded elements of the society at an institutional level, and were rather grandiose figures. Administrators, by contrast, performed the mundane but necessary chores of a bureaucratic and technical nature that kept the organization running on a day-to-day basis (Henry, 2001: 129). In recent decades, public administrations were led largely through legislation and the allocation of resources (Madue, 2007: 163). Later, in the 1960s, Henry argues that, efforts were made to relate what leaders did and what administrators did in a way that connected them with the appropriate hierarchical level of the organization. Among the more famous of these efforts were Daniel Katz and Robert Kahn, who argued that different levels of the organizational hierarchy required different kinds of leadership and administrative talent. At the top, leaders were needed to “organize” -that is, to make political and strategic decisions of large magnitude, and executing this responsibility required a far-ranging knowledge of the organization, its surroundings and a stylistic “gift of grace.” At the middle levels of the organization, managers functioned largely as lawyers and teachers, interpolating and interpreting directives and explaining them to other members of the organization. Here human relations skills were paramount because these middle managers had to integrate the top and bottom strata of the organization’s hierarchy. Finally, at the organization base, administrators dealt with the organization as it existed and required technical knowledge of how it worked (Henry, 2001: 129).

These early approaches are the basis of a new appreciation of the mutually complementary roles of leadership and administration. Increasingly, it is becoming recognized that leadership and administration are of equal importance to the success of organizations. And-again increasingly-leadership is seen as *dealing with change*, whereas administration is viewed as *coping with complexity*. The relative importance of these functions of leadership and administration to the organization depends on the conditions of the time. In periods of slow change and a placid environment, management is of greater significance; in times of rapid change and a turbulent environment, leadership is (Henry, 2001).

## 6. Politics-Administration Dichotomy

In *Politics and Administration (1900)*, Goodnow contended that there were “two distinct functions of government,” which he identified with the title of his book. “Politics,” said Goodnow, “has to do with policies or expressions of the state will,” while administration “has to do with the execution of these policies.” Separation of powers provided the basis of the distinction. The legislative branch, aided by the interpretive abilities of the judicial branch, expressed the will of the state and formed policy; the executive branch administered those policies impartially and nonpartisanly. This is the role in question vis-a-vis management. During Mandela’s era of



leadership in South Africa, especially between 1994 and 1999, Mbeki was more involved with the day-to-day administration of government. Mafunisa (2010: 545) contends that, we must be clear about the definition of a politics-administration dichotomy as it applies to local government. Maserumule (2007: 156) states that the dichotomy model propagates the view that politics must be separated from public administration Mafunisa (2010: 554) further argues that the political-administrative interface is the grey area within which politics has to be distinguished from administration. This situation applies to the executing authority and the management cadre as well. Respective responsibilities must be clearly defined and clarified. It should also be stated that to be able to separate the political and administrative functions to some extent one has to assume that sufficient educated and talented people are available to fill both offices (Cameron, 2003:58). Maserumule (2007: 162) argues that conflict between the directors-general and their ministers was caused largely by the introduction of the new model for state administration, which gave directors-general more latitude and extensive power in terms of the management of their departments. He further argued in Mafunisa (2010: 556) that, conflicts between the elected representatives and their administrators are caused mainly by the contradictory nature of policies regarding the management of the public service. Both elected representatives and appointed public servants agree that there is an overlap between the 'world' of the public service and that of the elected representative (Maphunye, 2001: 316-317).

Leadership and management are of equal importance to the organization because, each system of action involves deciding what needs to be done, creating that work of people and relationships that can accomplish an agenda, and then trying to ensure that those people actually do the job. But each accomplishes these three tasks in different ways. Leadership's way of accomplishing these tasks is to set a direction; create a vision-for the organization; align people in a way that they can implement leadership's vision and communicate that vision to them; and motivate and inspire people to attain the vision. In other words, keep them moving in the right direction set by leadership. Ultimately, one of the most important reasons to study leadership is to enable the development of leaders. Yet, leadership scholars are still confronted by the old age question: Are leaders born or made? Or, to put it differently: Is leadership innate or can leaders be developed? Most authors of Leadership come out on the side that leaders are made or developed, although they acknowledge that people may start with different levels of inherited or innate leadership capabilities. However, there are subtle differences across the board that suggest another leadership duality (Henry, 2001).

Some scholars who study leadership development focus on what Snook and colleagues have called the "knowing" and "doing" dimensions of becoming a leader. Knowing highlights the cognitive capabilities, or the multiple intelligences, the leader requires (Gardner, 1993; Riggio et al., 2001) analytical intelligence, practical intelligence, social intelligence, emotional intelligence, and contextual intelligence are among the most commonly cited. Doing emphasizes the

behavioural or skills dimension of becoming a leader-developing better problem solving, communication, conflict management, or adaptive skills, for example (Mumford et al., 2000). In contrast to knowing and doing, scholars who focus on “being” highlight that leadership is perhaps more importantly a matter of developing the identity of a leader – self-concept that enables someone to think of himself or herself as a leader and to interact with the world from that identity or sense of being. The whole world today is able to attribute Mandela to a Martyr; they identify him as a reconciler, a leader with humility and so on. Most people would perhaps not even remember if and when he faulted but, it is perhaps very easy to remember when those who are responsible with day-to-day activities of organisations make flaws. It was actually not expected for Mandela after spending 27 years in prison to enter into the administrative fray and do good in terms of managing a country as diverse in history like South Africa. However, and perhaps, unfortunately for Mbeki as an Economist, expectations were very high for him to lead and manage efficiently and effectively. This is something that came back to overwhelm Mbeki as people even went as far as deeming him “a visiting president” because, he tried too much to balance the two when he came into power. Thus, trying to stay in and manage the affairs of running government administratively and, forge linkages with international/foreign worlds, to create economic ties, bring peace and stability and, fostering democratic initiatives. At this time, South Africans at large were mainly concerned about themselves and, they expected a leader who only does that without spending too much effort on other worlds. For South Africans, it was about changing almost everything that apartheid did to them than what the future should hold with regards to international trade, continental links and world acceptance. The anxiety was just too much for the general population.

## **7. Leadership Revisited**

Through the 1960s, leading organizational theorists regarded the concept of leadership to be worthy of serious intellectual inquiry. Scholars such as Weber, Barnard, and Selznick believed that one could not fully understand what those in organizations believe or how they behave without reference to the presence (or absence) of organizational leaders. Leaders are the source of institutionalized values which, in turn condition the actions of organizational members. Yet, for at least the past thirty years, the concept of leadership has been subject to criticism and marginalization by the dominant organizational paradigms and perspectives (Podolny, Khurana & Besharow, 2010). These criticisms have largely followed two related lines. One is that leadership, as a concept, is too loosely defined and is ultimately an amalgamation of behaviours and attributes that can be more readily defined and linked to performance when they are analytically decoupled (Pfeffer, 1977; Kerr & Jermier, 1978; Meindl, Ehrlich & Dukerich, 1985; Hackman, 2002). While this particular criticism has been made forcefully by scholars who have sought to de-emphasize the leadership construct in the study of organizations, the criticism

actually can be traced to advocates of the leadership construct in the 1960s and 1970s. Scholars such as Bennis (1959) and Stogdill (1974) bemoaned the lack of any agreement as to the defining elements of the leadership construct.

## **8. Leadership and Management Perspectives**

The terms leadership and management are often used interchangeably. While some writers argue that there is a clear distinction between leadership and management, others argue that leadership is simply a function of management. In today's world effective leadership and management is essential in order to achieve success. Terms of leadership and management are being seen as synonyms and often used interchangeably. Some people think that there is no close relationship between leadership and management, while others persuade us that leadership is simply one of the characteristics of the manager. Leaders must be able to establish confidence of subordinates. Leaders must have followers, without them they would never reach their goals. Most successful organisations usually consist of a team of successful managers. Note that in order to be a manager it does not require a person to be a leader. Managers often ask you "how" and "who" questions in an organization. Managers are about appealing to the head through planning, organization, controlling, and directing. They are mostly concerned about authority. Leaders are also important in the success of a business. Leaders value flexibility, innovation, and adaptation; they care about the people as well as the economic outcomes, and they have longer-term perspective with regards to objectives. Now, it should be remembered that, Mandela differed a great deal with most of his comrades whilst still in prison with regards to negotiations with the apartheid government. He was immediately viewed as "selling-out". The same view is realised when he was now in power post 1994, there were decisions that he will take without necessarily consulting others, namely; meeting wives of the former Apartheid generals who put him into prison, interactions with Libyan and Cuban leaders which was viewed negatively by the West. Interestingly, though, for Mandela, there was a bigger objective, even though most did not realise. Mandela, largely believed that, South Africa will be a better place if all people could reconcile and learn to live in peace with each other.

Leaders and managers, two terms that are often confused by many people. Some feel that they are one in the same and others feel that they are completely different. In my opinion, you have to view the argument in a certain way. I feel that some managers are leaders but you don't have to be a manager to necessarily be considered a leader or you can even be a leader and not have to be a manager. Let's examine some of the synonyms and descriptions associated with both of the terms. A leader is a person that takes charge, encourages followers, communicates its vision to its followers, takes risks, has some kind of intelligence, and usually contains a strong charisma. A manager by most corporations is someone who is in a leadership type role but doesn't exactly have to exhibit the characteristics of a leader even though desired

by the organisation. They can either be considered a manager of people or products. They are delegated with specific tasks that they have to carry out on the job which gives them the opportunity and flexibility to become leaders if they so desire. There are really good managers that exist and unfortunately really ineffective managers. A leader is usually a person that is creative and comes to the table with an idea. They might see a way to improve an existing situation or have a vision for a new type of product. I would consider most to be change agents. They are coming to change an existing situation to make everything run smoother. A manager is hired to be that type of person but might not always deliver. The reality is that not all managers need to inspire, motivate, or come up with valuable changes if they do not want to go that route. Many managers view that if it is not in their job description then they do not have to proceed. It is often argued around the political circles in South Africa that Mbeki never felt it important to win over the masses through charisma, ululations, slogans and promises that could not be fulfilled. For him, it was his work that should be counted and make him get counted as a leader than rhetoric. It is also often seen as perhaps a true reflection that, during his reign, with Jacob Zuma as his deputy, management and leadership phenomena suffered vis-a-vis who should perform which role. It was at this time, that Mbeki was supposed to be playing a leadership role, something that is very close to the heart of Zuma and which Mbeki was not fashionably know for and, Zuma playing a management role which many view as a challenge that people always had with Zuma and/or continues to have even today 20 years into democracy. Basically, the view is that, the management of the affairs of government, through, arguably, Guptagate and Nkandlagate under Zuma administration has compromised the political mileage of the African National Congress, the ruling party in government. Matshabaphala (2007: 242) argues that, the concept of leadership is closely related to the concept of ethics, as there is a confluence of both in the area of human behaviour. Now, during Mandela administration, the leadership and management roles were easily paved and played out. This basically means, Mandela with his leadership responsibility and Mbeki managing government between 1994 and 1999. In retrospect, Mandela was fortunate to have a manager in Mbeki and another way round. Shafritz 7 Russels (1999) argues that, we need to distinguish between leadership and management. The two functions and roles overlap substantially. Management involves power (usually formal authority) bestowed on the occupant of a position by a high a higher organizational authority. With the power of management comes a responsibility and accountability for the use of organizational resources. In contrast, leadership cannot be bestowed upon a person by a higher authority. Effective managers must also be leaders, and many leaders become managers, but the two sets of roles and functions differ.

The subject of leadership raises many complex issues that have plagued the behavioural sciences for generations. For example, what gives a manager or leader legitimacy? Simply put, legitimacy is a characteristic of a social institution, such as a government, a family, or an

organization, whereby it has both a legal and a perceived right to make binding decisions. Thus manager's presumably have legitimacy because of the legal and perceived rights that accompany their organizational positions. In contrast, the legitimacy of a leader-separate and distinct from the legitimacy of a manager-cannot be addressed without introducing the concept of charisma, leadership based on the compelling personality of the leader rather than on formal position (Shafritz & Russels, 1999: 332-333).

## 9. Conclusion

Despite the differences and the unresolved questions, two things are evident. First, leadership involves a relationship between people in which influence and power are unevenly distributed on a legitimate basis; and second, a leader cannot function in isolation. In order for there to be a leader, someone must follow. There is a difference between leadership and management: management involves power (formal authority) bestowed on the occupant of a position by a higher organizational authority; leadership, in contrast, cannot be bestowed by a higher authority-it must be earned. The Mandela administration has proven to be a very good case study within which the local government conflicts between Mayors and Municipal Managers could be addressed. This would also be the case between Director-Generals and Ministers who are political heads of various Ministries. We also note that appreciating the roles that both Mandela and Mbeki played as they unleash their potential in their respective responsibilities of Leadership and Management. In Conclusion, this article, would then deduce that, perhaps in the practice and teachings of Public Administration, there is a need to encourage that, future leaders in government should have management skills and, managers in government should possess leadership qualities. So, the significance of management and leadership is essential in public administration.

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## EXPLORING AFRICA'S DEMOCRATIC TRANSITIONS AND ECONOMIC DEVELOPMENT POLICY: SOUTH AFRICAN AND NIGERIAN EXPERIENCES

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### Abstract

This paper contends that the new *"Africa Rising Narrative"* will not lead to the majority of African citizens attaining prosperity under the current democratic transition. This paper argues that Africa lacks appropriate Pan-Africanist theorization for the African development agenda if the continent were to attain socio-economic prosperity. South African and Nigerian democratic transitions and economic development policy experiences in the late 1990s and 2000 affirm the observation of this paper. To this extent, this paper asserts that the notion that Africa is the future centre of commerce and development is not founded on appropriate theorization of the relationship between democratization and economic policy.

**Keywords:** Democratic Transition; Economic Development Policy development; South Africa; Nigeria

### 1. Introduction

This paper's contends that the political transition narrative currently extolling the African economic growth narrative is a short sighted narrative and one lacking in a theoretical explanation of how to create meaningful socioeconomic development. Through exploring selected aspects of economic development policies of both the South African and Nigerian government during the 1990's and 2000's eras, this paper contends that the current African political transition will not rival either the Asian Developmental State or South American social democratic narrative. This papers final argument will explain that in order for socioeconomic development to occur, the current ruling classes and technocrats of Nigeria and South Africa need to participate and explore different forms of theory building to capture the 22<sup>nd</sup> century.

### 2. Methodological Construction

This paper will argue its point through analysing both government's policy positions and work, furthermore where necessary the assessment of both governments will include the work of academic texts. In addition to this the democratic transition process, will be done utilising socioeconomic policies and economic aspects as a means of arguing that democratic variables and processes i.e. elections, legalisation, functional parliaments (in both South Africa and Nigeria) are only enhanced through correct socioeconomic policy adoption and practices. This paper has chosen both countries due to their large economic presence on the continent and economic influence they carry in their respective regional bodies, Southern African Development Community (SADC) and Economic Community of West African States (ECOWAS). The importance of both States is even qualitatively emphasised through Foreign Direct Investors narratives and studies (UNCTAD 2013).

This paper contends that the problems this paper will explore, are neither unique to these African States only but are systemic African government problems. This paper will also use the time periods of the late 1990's and early 2000's, for two reasons. Firstly, both States were in the experimental stage of developing their democratic institutions and law making abilities, during this period. The African National Congress (ANC) having won a first ever democratically held

election and assuming policy and institutional authority (Gumede 2014) and the Nigerian State had again embarked on yet another democratisation journey post military rule (USAID 2006). Secondly, the commodity cycle in the case of South Africa (precious metals) and Nigeria (energy and selected metals) were not high (Adler and Sosa 2011) in the nineties and the prices of these commodities started to improve during the early 2000's (Erten & Ocampo, 2012).

### 3. Explaining Euphoria and Building Theory

The first argument this paper puts forward is that the current narrative extoling the rise of the African continent based on its sudden economic or political development is a short-termism approach to understanding Africa's socioeconomic situation. The extoling of Africa's new growth path using such examples as,

“The shops are stacked six feet high with goods, the streets outside are jammed with customers and salespeople are sweating profusely under the onslaught. But this is not a high street during the Christmas-shopping season in the rich world. It is the Onitsha market in southern Nigeria, every day of the year. Many call it the world's biggest. Up to 3m people go there daily to buy rice and soap, computers and construction equipment” (*The Economist*, 2011).

The extoling though technically correct, as noted admitted by institutions like the African Development Bank (AfDB, 2013), doesn't fully explain whether African citizens in countries like Nigeria, Ghana and the like are tangibly benefitting from high gross domestic product (GDP) figures. In exploring the socioeconomic policy experiences of both South Africa and Nigeria, who have experienced epochs of high GDP growth, yet still struggle with numerous socioeconomic and political problems like poverty, unequal redistribution of wealth and poor spatial planning development Africa (Adelegan, 2000; The Presidency, 2008).

Therefore, when this paper refers to theory building and the poor application of it being a hindrance to both Nigeria and South Africa, it alludes to the fact that government technocrats and Pan Africanist inspired political classes need to practice and apply nuanced thinking to socioeconomic and political development. It is this papers contention that South Africa (failure to create productive middle class) and Nigeria (poor usage of energy sector) technocrats and political classes have failed to build or explore nuanced means to attempt to undo social ills and problems. When this paper argues for a 22<sup>nd</sup> century theory/agenda for Africa's development with particular emphasis on RSA and Nigeria it is calling for technocrats and political classes to actively engage with socioeconomic and political policy ideas and ideals. This process of theory building might at a policy level or political education challenge citizens to consider ideas of socioeconomic development, that are neither rooted in liberal or western ideals of modernity (Briggs, 2007).

The idea of a 22<sup>nd</sup> century theory/agenda emanates from the work of Gumede & Pooe (2014), who argue that the 21<sup>st</sup> century is already the century of the Asian Development States and South American Social democratic States. Thus, through exploring how both Nigeria and South Africa engaged with their respective socioeconomic developmentalism (Wallerstein, 2005) at a theoretical level this paper contends that both States democratic transitions will be better understood and enhanced. Through exploring the economic developmental policies and

aspects of both South Africa and Nigeria, this paper argues that the democratic transition process will be enhanced and will no longer be premised on whether the continent's government or economic system simply (1) exports raw materials (2) panders for non-African Foreign Direct Investment-FDI, but rather one that rests on the socioeconomic welfare of Africa's citizens.

#### 4. Nigeria and South Africa

The Nigerian experience will be done through exploring how it misused its energy sector advantage, and did not invest in key sectors like agriculture and manufacturing (textile in particular). The South African analysis will explore how the African National Congress (ANC) government failed to create a black (and more importantly African population) productive middle class.

##### 4.1. Nigeria

Nigeria as a State has never lacked the ability to become a major economic power; this is mostly due to its considerable energy sector. However, the natural and God-given endowments e.g. oil, gas, fertile agricultural land, large population size Nigeria possesses have been unable to shield it from major socioeconomic and political problems i.e. poverty, unequal redistribution of wealth, military dictatorship (Adeloye, 2007). This experience has meant that the Nigerian democratic transition experience is one that is neither stable nor able to allow its citizens the quality of life its natural resources should afford such a State. This paper argues key to this state of affairs is the Nigerian government's inability during the 1990's and 2000 period to foster and implement socioeconomic policies to leverage its energy sector, to expand upon other economic generating sectors like manufacturing. The experience of the Gulf Cooperation Council (GCC), which comprises of the States of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates, supports this paper's argument. These Arab economies though politically and historically different to Nigeria, have been able to use their energy sectors to invest into other sectors and grow their population's prosperity. As Hvidt explains,

"Economic diversification is, however, not a new strategy among the GCC states. It has been on the political agenda since oil and gas became the main and almost sole source of income in these countries some half a century ago...Notable projects like aluminium smelting in Bahrain, the industrial cities of Yanbu and Jubail in Saudi Arabia, and the ports in Dubai were established in the 1970s with the specific aim of diversifying the economies by means of investing oil money in productive assets" (Hvidt, 2013: 2).

Another example of this paper's argument for the Nigerian government in the 1990's to have started rethinking the makeup of their economic sectors, utilising the energy sector is Norway. Lie explains

"The Norwegian Government Pension Fund Global is the world's largest sovereign wealth fund. At present, it has a market value of about 4 600 billion NOK (770 billion USD), which is around 140 per cent of Norway's GDP. This is a result not only of high levels of petroleum revenue, but also of a solution whereby government revenue is channelled straight into the fund and invested abroad" (Lie, 2013: 2).

As stated in the previous segment regarding theory building, this paper argues for Nigerian and South African government technocrats and the political class to not “cut and paste” policy experiences of other States and governments, but to rather learn and where possible use the practices of government like Norway or GCC. While the exact amount of money garnered from the energy sector during the 1990's is not fully known, certain experts like P Collier argue that as much as \$100 billion (as of 1996) was generated during this period (Collier, 1996).

However, what transpired during this time when the energy sector was experiencing low commodity prices was not a rethink into how to boost other sectors like textiles and agricultural, but rather a steady decline of these sectors. The concern over Nigeria's agricultural sector was raised as far back as the 1970's by Joseph, who worried that “Today, agriculture is stagnant if not regressive, and the population is increasingly fed by imports” (Joseph, 1978: 224). It is this paper's contention that the lessons or warnings given by analysts like Joseph regarding the agricultural sector were not taken into much consideration by Nigerian technocrats and the political class. What the result of this poor planning and policy consideration has been is explained by the International Food Policy Research Institute. It states, “Though the growth rate in the agricultural sector in Nigeria increased from an average of about 3 percent in the 1990s to about 7 percent in mid-2000, the food security/sufficiency status of Nigerians continued to decline”(IFPRI, 2009: 5).

While this paper acknowledges the fact that the agricultural sector could be seen as an unattractive sector for the political class, it does not understand how the both the Nigerian technocracy and political class ignored the textiles sector. This is particular true when the 1990's period saw the decline of the energy sectors high prices (Adler & Sosa, 2011). Yet, what transpired was the reverse of what this paper encourages during the 1990's and 2000's period the Nigerian textiles industry was severely underfunded and unemployment levels rose to alarming levels among people in the Okada region (Adeloye, 2007). What instead occurred this paper argues is that the Nigerian hierarchy and policies, allowed the Chinese textiles industry to capitalize on the Nigeria's large population and purchasing power. This point is expressed more articulately, by Akinrinade & Ogen (2008: 161) who contends that, “Like other predatory capitalists, China deliberately encourages the free flow of raw-materials and mineral resources from Nigeria to fuel Chinese industries while at the same time ensuring that the large and dynamic Nigerian market remains open for the sale of Chinese manufactured goods”. This observation and argument by Akinrinade & Ogen (2008) clearly illustrates this paper's argument regarding Nigeria, that there were poor technocratic policy choices and non-nuanced ideas and participation levels from the political class, in this sector. The central argument in this segment has sought to highlight the fact that Nigeria though garnering over \$600 billion since 1960 from oil (Watts 2009) did not see fit to construct theoretical or developmental ideas to bolster other sectors. However, this peculiar phenomenon is not unique to Nigeria as the example of South Africa will argue.

#### ***4.2. South Africa***

The South African experience will be argued in a nuanced manner, this paper contends that non-imaginative economic development governmental policies in the Post-1994 era, failed to create an undefined private sector black middle class (BMC). More crucially though this paper

argues that the civil service/public sector BMC that was formed is a non-transformative and unproductive one. The reference to a productive BMC builds on the G Williams idea of theory building for socioeconomic developmental purposes, as he stated a "Utopia, a set of ideas to inspire the transformation of the existing order" (Zaira et al. 1985: 286).

#### 4.2.1. *Middle Class-ism*

It is important to firstly explain that defining constitutes being middle class is both challenging and ever changing (Goloboy, 2005). However, using Weber work certain middle class characteristics can be agreed to be universal, key among them is use of property and employment type (Weber, 1978). Subsequent academics building on Weber's work like Sterns started to complain that trying to create a definite criterion for who is middle class, was starting to be influenced by political correctness and not Weber's previous models and methodologies (Sterns, 1979). This paper therefore bases its understanding on a Weberian model, which seeks to link being middle class with white-collar employment i.e. doctors, lawyers, lecturer, teacher and educational attainment (Archer & Blau, 1993). The experience of the African American middle, serves to validate this paper's position due to them only being recognized as middle class after entering white collar professions and gaining the requisite privileges they bring "...the black middle class along the dimensions of education (college educated), occupation (white-collar workers), household income (ranging between \$25,000 and \$50,000), and wealth (for example, home ownership and other assets" (Jackson & Stewart, 2003: 443).

Another criterion for being middle class this paper gravitates towards is one arguing that part of being middle class is to be entrepreneurial in nature (private sector) and be a generator of societal developmental ideas (civil service). Archer & Blau (1993: 26) explain that, "...by mid-century a middle class dominated by entrepreneurs and salaried non-manual workers had emerged, distinct from both urban elites and labor in economic circumstances and social experience and perceptions". What is crucial concerning this entrepreneurial character for the United States American (USA) and private sector middle class people is that the majority of them were classified as being entrepreneurs or self-employed in urban areas (Archer & Blau, 1993). Finally and most crucially to this papers continued argument is the experiences of the German/European (Hickox, 1995) and the Chinese middle classes (Wu & Cheng, 2013) in the civil service. In these regions the middle class is sometimes judged differently, due to one being a middle class of the civil service (public sector) or private sector (entrepreneur). The civil service middle class values, namely the need to create critical ideas regarding socioeconomic development and institutions will be a strong feature of this paper.

#### 4.2.2. *First Generation: Black Middle Class (BMC)*

This paper strongly contends that the BMC, in South African needs to be understood as spanning two epochs; pre-1994 and post 1994. The pre-1994 BMC this paper argues was a true middle class, comparable even to the international narrative of what it means to be middle class. This papers contention is drawn from the experiences of a group of individual or class of Africans who came to be referred to as the *Amakholwa*. The construction and operation of this African middle class is explained by Mokoena who says,

“For the indigenous communities it was the missionaries, both before and after colonial incorporation, who had the greatest impact by introducing writing simultaneously with the Christian gospel...By the end of the nineteenth century one could talk of an incipient class of educated and literate Africans...” (Mokoena, 2011: 12).

The importance of the *Amakholwa* lies in the fact that they gave rise to another form of African middle class, which would lay the ideas and foundations for South African liberation thoughts and institutions like the ANC-Youth League and Pan-Africanist Congress of Azania. This African middle class are considered middle class by virtue of their educational achievements and employment attainment. It is for this reason individuals like Pixley Ka Seme, who would assist in founding the African National Congress after having qualified as a lawyer from both Columbia University (USA) and Oxford University (Britain) (columbia.edu). Or other notable figures like Charlotte Maxeke, the first African female graduate and noted educationalist who also studied abroad (sahistory.org.za) and other historical figures. The value of this class is seen in the intellectual contribution they left behind in political leaders such as Anton Lembede (lawyer and historian), Robert Sobukwe (lecture and scholar), Oliver Tambo (teacher and lawyer) and countless others that would lay the foundations for African people to understand their liberation as a return to their own glories history through ideas like Pan-Africanism, Black Consciousness and nationalism (Mashamaite, 2011).

Another class that did exist alongside the aforementioned African middle class was the African merchant business class (of the early 1970's and late 1980's) encapsulated by business entities like the National African Federated Chambers of Commerce (NAFCOC) and Foundation for African Business and Consumer Services (FABCOS). The ideals of this merchant class is best illustrated this paper argues in the original ideal of Black Economic Empowerment, articulated by Joas Mogale, who argued for

“...the need for members (black) to support each other and to ensure that the 'black rand' circulated for longer in the townships. For example, the South African Black Taxi Bank Association leveraged the purchasing power of its members to start Future Bank, a joint venture with Wesbank in the early 1990's” (Gqubule, 2006: 3).

Therefore, when this portion of the paper argues that a first generation BMC (mostly African) did exist, it does so with three aims. Firstly to argue that seminal standards to judge the BMC existed. Secondly, illustrate how an actual BMC did contribute socioeconomic ideas and ideals for development. Finally, to theoretically ponder whether the governmental socioeconomic policies of the ANC in government during the 1990's and 2000's aided this existing history or counteracted its long history-this paper believes policies failed to build on them and created new problems for the emergence of a productive civil service middle class.

#### 4.2.3 *Second Generation: Black Middle Class*

The Post-1994 middle class was assisted in its creation by policies like Black Economic Empowerment (BEE and later Broad Based-BEE) and Affirmative Action (AA). It is important to firstly argue that the Post 1994 BMC is an elusive class to categorise according to certain studies (Southall, 2004; Visagie, 2013). This paper argues that the confusion or elusiveness emanates from an obsession with trying to measure the BNC according to two categories (1) income levels



(2) lifestyle and affluence. The evidence of this is seen when studies like (The Bureau of Market Research, 2011; Visagie, 2013) often attempt to frame discussions around the income levels of the so called BMC. It is not this paper's contention that this is an incorrect or inappropriate manner of exploring the BMC. Rather, this paper contends that this form of analysis is always a precursor to discussing how the post-1994 BMC has either shaped or affected the consumption landscape of the Republic and never attempts to explore whether this BMC are contract workers or permanent workers, have investments and saving or spend on educational products. One of the drivers of this form of analysis is the Unilever Institute of Strategic Marketing, which has come to refer to the post-1994 BMC as "black diamonds" and analysis their consumption levels (*Management Today*, 2008). This form of analysis it is contended has simply built on the previous delineation (income levels), to highlight how the BMC spend their earnings and then smartly positions this information to assist marketers (Nieftagodien & Van Der Berg, 2007).

It is this paper's contentious argument that the post-1994 BMC, in the private sector and public sector more crucially has yet to seriously be explored to assess if it is a productive or transformative middle class. This point is augmented by one of the biggest beneficiaries of BEE and ANC governmental rule, Saki Macozoma. Macozoma says

"What characterises the black middle class and why talk about it? ...But the black middle class is a conceptual construct; there is really no black middle class in the true sense of sociology or Marxism. This is because it is not an organised group, it is a group or groups of people characterised mainly by income, it is mainly a category of people; this is because it lacks class consciousness" (*Management Today*, 2007: 1).

This is the main crux of this segment's argument, namely that the policies of the 1990's and 2000's did not create a middle class in the classical sense, or even comparable sense when factoring in the Pre-1994 BMC. Rather these policies created a class of black people who participate in a capitalist economic system through monthly salaries and wages (*Management Today*, 2007). The argument being advanced in this section is supported by lack of Black (African in particular) industrialist, technologist or commercial inventors in the private sector (DTI, 2013).

The civil service or public sector BMC benefited from policies like Employment Equity Act of 1998 and the White Paper on the Public Service of 1995. Southall refers to this papers defined BMC as the "government class" (Lodge, 2002), by explaining

"the governing class"- the president, premiers, members of the cabinet and provincial governments, as well as senior civil servants, plus (I would add) the senior executives of parastatals. As well as being the key political decision-makers, this small, relatively tight group is bonded together by an ideology of public service and, for the majority, by loyalty to the ANC" (Southall, 2004: 532).

It is this paper main contention that the BMC in the civil service has been slow or unable to produce transformative theories/ideas and policies constructive enough to change South Africa's socioeconomic development trajectory. When this paper refers to transformative type policies or ideas it uses framework of "utopia", as explained previously Williams. The previous BMC like Steve Biko and Robert Sobukwe contributed their "utopian" ideas in the form of Black Consciousness and Pan-Africanism, without having governmental apparatuses like policies and institutions and yet the current civil service has yet to do likewise.



While the majority party in the National Assembly the ANC, might counter by explaining that they function under the National Democratic Revolution (NDR). Southall says of the NDR and its importance to the ANC that it,

“... (i) legitimates the historic role of the party in leading South Africa; (ii) validates the needs for an interventionist state to radically transform society within the context of a mixed economy; (iii) justifies the existence, expansion, wealth and function of a black bourgeoisie, so long as it plays by the rules laid down by the party; and (iv) endorses the need for close cooperation with white capitalists of the old order, whose objective interests (for instance in political stability) may eventually lead to their incorporation into the patriotic bourgeoisie...” (Southall, 2003: 4).

This paper argues that the NDR as the ANC governments “utopian” idea or policy inspiration has failed to create the type of BMC in the civil service the Republic needs. Evidence, of this is found in the failure of policies like (1) Growth Employment and Redistribution to see value in keeping entities like Sasol, Mittal Steel public entities, especially when a decade later the metals boom (Adle and Sosa 2011) would have added more money into South Africa’s national treasury. Secondly the poor ideas thinking around the matter of land reform and distribution, the technocracies inability to make bold decisions during the late 1990’s when State ownership of all land would have been able to assist African ownership of land.

Thirdly, the political class and technocracies continued obsession with celebrating a comprised Constitution, which is at odds with implementing the type of Fabcos inspired BEE plans. Fourthly, the NDR has been unable to compel the ANC towards bringing in a newer and fresher cadre or technocracy that is able to understand the changing global and continental developmental narrative in much the same way the Asian Developmental State leaders did (Ha-Joon Chang, 2008). It is therefore, this segments contention that much like in the Nigerian situation the democratic transition in South Africa will remain a precarious one. The much celebrated narrative of South Africa moving from white doctoral rule to multi-party democracy will not be able to survive a political class that is unable to produce new and nuanced socioeconomic ideas and policy contributions. Furthermore, the current technocracy will end up being slowed or cannibalising itself worried about short-term matters as increasing their salaries and building a better socioeconomic situation for their immediate family.

## 5. Concluding Remarks

As has been shown throughout this paper the continent (using South Africa and Nigeria as case studies) requires new policy thinking and ideas around the issue of economic development. Where the first President of Ghana the great Pan-Africanist intellectual Kwame Nkrumah stated, “Seek ye first the political kingdom, and all else shall be added unto you...”, this paper counters by arguing that the current political class and technocracy need to “seek workable theories of socioeconomic development that have citizens at the heart of economic development in order to have successful democratic transitions”. The need to rethink and start approaching the issue of economic development and ideas/theory building differently as opposed to the previous era, is needed to ensure past mistakes like solely basing economic development on natural resources never happens again. It is this paper’s contention “emergent

ideas of development” must have Pan-Africanist aspirations and ideals but factor in international experiences of other developing States. This African developmentalist idea/s or the African 22<sup>nd</sup> century agenda will center on (1) African owned small to medium enterprises (2) government developmental institutions aiding new forms of urban planning and agricultural systems (3) a Pan-Africanist and continental education curriculum/system that seeks to ensure African human capital and not minerals are at the heart of socioeconomic development. As Frantz Fanon (1963: 311) stated, “We (Africa) must shake off the heavy darkness in which we were plunged, and leave it behind. The new day which is already at hand must find us firm, prudent, and resolute...” However, key to this new day being the African day, is the need to search out and explore new theories of development, which will ensure the democratic transitions currently occurring are not short term expressions of blind-faith, but solid expressions of expert policy planning.

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## THE ROLE OF MINORITY RELIGION IN THE LIBERATION OF SOUTH AFRICA FROM A LIMPOPO PERSPECTIVE, 1970-1994

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### **Abstract**

The paper discusses the role of minority (Islam and Hinduism) religions in the liberation of South Africa. Though the paper relies on extensive desktop document analysis, it also supplements it through interview results. An equal number of Polokwane-based Hindu and Muslim respondents were interviewed. The findings revealed that members of these two religions in Polokwane are few; and, that as distinct racial and religious minority groups, they did not escape the adverse effects of apartheid. From the findings and by their own admission, these groups confined themselves mostly to business and other cultural and religious practices. As the liberation struggle unfolded, they realized the fortitude of lending their material resources to the campaign and victims alike. Whereas written accounts of these activities in Limpopo are sparse and insufficient, the paper finds adequate evidence to justify further in-depth research on the role of religion in liberation politics.

**Keywords:** Liberation Politics; Religion; Islam; Hinduism Limpopo Province

### **1. Introduction**

Religion has always been contested in South Africa (SA), functioning both as an instrument of subjugation and a means of resistance. The colonizers rejected the religion of the indigenous people as pagan and promoted Christianity as a vehicle of conquest and hegemonic control. The colonized in turn drew on their indigenous religions as a way of resisting domination, affirming self-dignity and pursuing political liberation. The 1970's were a period which saw various community formations escalating their opposition to the apartheid regime. Many of the activist and religious figures involved in these formations experienced grassroots solidarity with each other across religious lines and saw the need to overcome the negative impact which Group Areas Act (GAA) had on religious communities where racial lines often overlapped with religious lines. Hindus for example were seldom exposed to Christians as neighbours, Muslims to African Traditionalists or White Christians to Muslims or Hindus. The formation of the South African chapter of an international interfaith organisation, the World Conference on Religion and Peace, (WCRP) organisation in 1984 served to provide a forum to deepen this solidarity and to explore the theological diversity which comes along with it. In many ways WCRP came to symbolise the commitment of a number of religious people to transcend their own community barriers and to reach out to others through interfaith involvement in the struggle against apartheid.

### **2. South Africa: A Republic**

On 31 May 1961 SA became a Republic after a whites-only referendum. The newly established Republic comprised of four provinces, namely; the Cape Province, Orange Free State, Natal and Transvaal. After 1994 the latter was divided into the present Gauteng, Mpumalanga and North-West provinces, respectively. A large part of Limpopo derives from the northern region of Transvaal which was formerly known as the Northern Province. Numerous factors characterized the intensification of the freedom struggle against the Nationalist party (NP) government between 1970 and 1990. Those two decades witnessed an increase in the armed struggle combined with the mass politicization of the oppressed people. Infiltration of guerrilla forces into SA by the Umkhonto we Sizwe (MK) and Poqo specifically increased. With more resources and sophistication these forces of liberation stepped up their attacks aiming at symbolic military targets and thereby rallied the oppressed (Karis & Gerhart, 1997: 200).

The Dutch Reformed churches were instrumental in spreading the Christian faith and became a powerful element of cohesion and conformity among Afrikaners. But as the liberation struggle intensified they lost their ability to give their members political guidance. The three main groups of the Dutch Reformed Church were the NederduitseGereformeerdeKerk (NGK), the NederduitschHervormedeKerk (NHK) and the GereformeerdeKerk in SuidlikeAfrika commonly known as the Dopper or Conservative. These churches differed on several points of theology but were united in their support of apartheid for which they found justification in the Bible.

According to Leatt (1986: 67) this perspective helped Afrikaners to shape an "Old Testament vision of themselves as a chosen people". That is people created or willed by God to fulfil his mission on earth. As a result they developed a feeling of superiority over and contempt for those they viewed as "damned" (Buis, 1975: 8). This led to their estrangement from the World Council of Churches (WCC) and other international religious organizations (Ottaway, 1993: 38). Muslims had been active in anti-apartheid organisations for a long time and several of their leaders had called their followers to join with persons of other faiths to oppose the apartheid system of government. In a speech in 1983, Imam Gassan Solomon urged listeners at his mosque to take an active part in the liberation struggle and oppose the Tricameral Constitution Bill. Which he viewed as a creation of apartheid and separate development (VOC Comradio Vital in Struggle 2 March 2012). Muslim groups such as Al-jihad and Call of Islam joined the United Democratic Front (UDF) in the 1980s, while other groups such as the Muslim Youth Movement (MYM) and Qibla also became more socially and politically conscious and drew inspiration from universal peace movements and emphasized the essential oneness of human-kind. In 1988 UDF launched a nationwide defiance campaign in which religious activists of all faiths were prominent, in spite of the threats of banning, intimidation, torture, criminal prosecution and even death (VOC Comradio Vital in Struggle March 2012).

Mahatma Gandhi was one of the Hindu religious leaders who mobilized a cross-section of the Indian community through his Satyagraha movement. He helped establish the Natal Indian Congress (NIC) in 1894 and the Transvaal British Indian Association (TBIA) in 1903 and prepared the way for the SA Indian Congress (SAIC). SAIC was established to oppose growing segregationist policies and in 1947 entered into an agreement with ANC under the leadership of Dr G. M. Naicker and Y. M. Dadoo (Pahad 1979 Personal interview, 1 August Pretoria). SAIC together with ANC organized the Defiance Campaign in the 1950s. Along with other liberation activists, Yusuf Dadoo helped mount pressure on government which eventually led to the first direct negotiations between the ruling National Party (NP) and other leaders in 1990 (VOC Comradio Vital in Struggle 2 March 2012).

### **3. Formation of the Congress Alliance**

The leaders of minority religions (Hinduism and Islam) signed a Joint Declaration of Cooperation (the Three Doctors Pact) with ANC on 09 March 1947. This Declaration was signed by Dr Xuma, President of the African National Congress (ANC), Dr Naicker, President of the Natal Indian Congress (NIC) and Dr Dadoo of the Transvaal Indian Congress (TIC) after realising the urgent need to cooperate in order to fight for human rights and full citizenship for all sections of the SA population (Joint Declaration of Cooperation 1947). The three Doctors declared their conviction towards building a united and free SA. Their pact was meant to promote the realisation of equal economic and industrial rights, removal of land restrictions against non-Europeans and the provision of adequate housing for all. Today the Pact is seen as epochal and played a key role in the liberation struggle. It set the scene for the Congress of the People which adopted the Freedom Charter at Kliptown on 25-26 June 1955.

### **4. Resistance Campaign by Muslims and Hindus**

The first passive resistance campaign was started in Johannesburg in 1907 by Mahatma Gandhi with and for the wealthy South African Indian merchants whom he had repeatedly represented in court. Gandhi's first passive resistance campaign began as a protest against the Asiatic Registration Bill of 1906. The bill was part of the attempt to limit the presence of Indians in the Transvaal, confining them to segregated areas and limiting their trading activities (South African History Online 2011). Gandhi's passive resistance had huge consequences not only for SA but also for the entire world. The campaign forged a new form of struggle against oppression that became a model for political and moral struggle in other parts of the world (Bhana & Mesthries, 1984: 118). Indians first arrived in South Africa in 1860 as indentured labourers. Most had come from Calcutta and Madras. After 1890 they began to work in railways and coal mines. By the turn of the century and before the Anglo-Boer War a few thousand had moved to the



Transvaal (South African History Online 2011). By the 1880s some had begun to open shops or trade as hawkers, a development perceived a threat by whites. After Natal was granted self-government in 1893 the government passed a series of laws discriminating against them. Among others they required them to undergo literacy tests, keep accounts in English and denied them the right to vote (South African History, 2011).

Those workers who had completed their terms of indenture had to pay a tax of about £3 a year per each family member if they wanted to remain in the country. These measures were aimed at pushing them back into indentured labour or return to India (SA Hindu Maha Sabha, 1999: 202). After 1904 Indians were no longer allowed to work in the gold mines of the Rand and opportunities to earn money to pay tax were thus severely limited. By the middle of the decade many were in debt and went back into new contracts as indentured labourers. They Chronic diseases and death rates among them were high (SA Hindu Maha Sabha, 1999: 202). By comparison working conditions were better in coal mines and on the railways. In sugar plantations there was stringent control which practically prevented them from organising themselves into unions. Workers could not leave their work places without written leave as permission to do so was rarely given. Strikes were thus frequent but short-lived. This then forced workers to resort to other forms of resistance like absenteeism, desertion, petty theft or sabotage (Chakrabarty, 2006: 64). While Indian elites (made up mostly of Muslim businessmen) already existed, new elites also emerged from among the Tamil workforce, most of them were the children of freed indentured labourers. This new group numbered 300 in the 1904 census. Most of these were salaried white-collar workers, teachers, small farmers and entrepreneurs, lawyers, civil servants and accountants (Chakrabarty, 2006: 65). By the late 19th century Indians had spread to the four colonies that would later become the Union of South Africa in 1910. Wherever they went whites perceived them as a threat and governments of respective colonies enacted laws to limit their rights. Among others they were required to carry passes and forbidden to walk on pavements (Chakrabarty, 2006: 66).

#### ***4.1. Satyagraha: The First Campaign***

In August 1906 the Transvaal Government gazetted a draft law which made it compulsory for all Indian males above the age of eight to register and their fingerprints taken and recorded. Gandhi said the law would spell absolute ruin for Indian South Africans (Von Dehsen and Harris, 1999: 72). This development gave him the opportunity to clarify the rationale for passive resistance. He subsequently coined the word "*Satyagraha*", meaning "truth force". It required adherents "to be strong not with the strength of the brute but with the strength of the spark of God" (Bhana, 1984: 122). *Satyagraha* is accordingly 'the vindication of truth not by infliction of suffering on the opponent but on one's self' (Bhana & Mesthries, 1984: 122). Its intention is to

convince the opponent, to convert him/her and to wean him/her from error by patience and sympathy. On 20 September 1906 the Crown government passed the Asiatic Law Amendment Ordinance No. 29 which became known as the "Black Act" (Birgani, 2014: 173). Before that law could come into force, Gandhi organised a mass meeting at the Imperial Theatre in Johannesburg where 3000 people pledged to defy it. This would later develop into the passive resistance campaign. Though that draft law was vetoed by the British, the Transvaal was given self-government status on 01 January 1907 thus leaving the General Louis Botha administration to re-enact it, this time as the Transvaal Registration Act. The law eventually came into force on 31 July 1907. Afterwards Gandhi announced that Indians would campaign to resist it (Birgani, 2014: 173).

#### ***4.2. The First Passive Resistance Campaign***

Upon adopting the Transvaal Registration Act, Indians were served with official notices to register or leave Transvaal. But only 511 people had registered by the last day of 30 November 1907. A passive resistance campaign was underway with the majority refusing to comply with the newly promulgated legislation. Gandhi was subsequently arrested, in 1908 whereupon he was given a two month jail term (Von Dehsen & Harris, 1999: 72). In jail he was approached with a promise that the said Act would be repealed if he and his supporters agreed to register as required. Gandhi met with Jan Smuts (the Prime Minister of the Union of SA) on 30 January and agreed to formalise the registration of his followers. He was immediately set free and other resisters were released the next morning (Chakrabarty, 2006: 65). At a public meeting Gandhi explained to his community that Smuts was under pressure from whites to limit Indian immigration (into Transvaal) and that voluntary registration would facilitate equal and better treatment of all citizens, including Indians. The agreement also stated that the latter undertook not to bring more Indians into the Transvaal (Birgani, 2014: 175). That Agreement drew a lot of criticism with many passive resisters demanding that the Act be repealed before they could register. In justifying such a controversial tactic he said "a *Satyagrahi* bids goodbye to fear. He is never afraid of trusting an opponent. Even if the opponent plays him false twenty times, the *Satyagrahi* is ready to trust him for the 21st time" In other words implicit trust in human nature is the very essence of his creed (Chakrabarty, 2006: 65). Before leaving SA for India in 1914 Gandhi held talks with Gen J.C. Smuts which led to the passing of the Indian Relief Act. In July 1914 abolished a £3 tax on ex-indentured Indians, recognised Hindu and Muslim marriages while allowing the children of Indians living in South Africa to join their parents. This Act, which Gandhi claimed to be the Magna Carta of Indian liberty in SA contributed to his view that his task in South Africa has been fulfilled (Sparknotes Online 1869).

### ***4.3. The Second Passive Resistance Campaign***

In 1946 Dr Yusuf Dadoo of TIC and Dr Naicker of NIC respectively introduced a second phase of the passive resistance campaign started by Mahatma Gandhi in 1907-1914. As the Pegging Act was due to expire in March 1946 Prime Minister J.C. Smuts realised that something would have to be done to replace it. The Asiatic Land Tenure and Indian Representation Bill were introduced on 15 March and became an Act in June 1946 (Muller 1981: 459). The Act restricted the rights of Indians to own or occupy land in the entire Union of SA. Practically it sought to confine Asian ownership and occupation of land to clearly defined areas of towns. Prohibit them from owning or occupying property without a permit when such property had not been owned or occupied by Asians before 1946 and deprived them of the right of direct representation in the national Parliament. Instead they were henceforth to be represented by three Europeans in the lower and two Europeans in the upper house. One of the Europeans in both houses was to be nominated by government. While totally depriving Indian women of the right to vote, Indian men were to gain representation by two of their kind but only in the Provincial Council (Reddy, 1997: 25).

### **5. The Black Consciousness Movement (BCM) and South African Student Organisation (SASO)**

In the 1960s a powerful new voice emerged in the form of Black Consciousness Movement (BCM) which was initially a philosophical movement rather than an active political programme. BCM filled the vacuum created by the banning of ANC and PAC. It originated among black university students frustrated by the white dominated National Union of South African Students (NUSAS) which considered multi-racialism a solution to racism and apartheid (Franklin, 2003: 200). BCM emerged in 1969 under the banner of the South African Students' Organisation (SASO) led by Steve Biko a medical student at the segregated School of Medicine of the University of Natal. Founded at the University of the North (now called Limpopo, Turfloop Campus), SASO attracted large numbers of black, coloured, and Indian youths (Franklin, 2003: 204). Biko argued that black liberation had to be both mental and physical and urged black students to run their own organizations rather than rely on white liberals. Though faced with many obstacles SASO started many different community projects to address the needs of poor communities for clean water, shelter and health services. Some of those projects entailed the building of schools and community rehabilitation schemes for uprooted and relocated people. These did not only benefit students but opened new doors for future generations (Hirschman, 1990: 20). Strini Moodley and Saths Cooper were two of the BCM's most visible faces in Durban. Being members of NIC as well, they urged other Indian activists to embrace the BCM philosophy (Franklin, 2003: 204). At what later became the Limpopo province SASO was led by, inter alia,

Onkgopotse Tiro. Before a predominantly white audience, he gave a seminal graduation ceremony speech fearlessly attacking the segregated education system in SA. Tiro was subsequently expelled from Turfloop. This development was however soon followed by sympathetic nationwide lecture boycotts organised by SASO (Diseko, 1976: 34). Subsequently SASO was outlawed on many campuses around the country and its leaders were arrested. In 1974 nine of the SASO members were tried for conspiring to overthrow the state by unconstitutional means. The so-called "SASO Nine" included Saths Cooper, Strini Moodley, Aubrey Mokoape, Mosiuoa Lekota, Nkwenkwe Nkomo, Zithulele Cindi, Muntu Myeza, Pandelani Nefolovhodwe and Kaborane Sedibe. All were convicted and sentenced to between 5 and 10 years on Robben Island. SASO remained active until 1977 when it was banned (Badat, 1999: 55).

## **6. The United Democratic Front (UDF)**

From 1983 to 1991 popular resistance to apartheid swelled in reaction to the NP attempts to improve its support among SA Coloureds and Indians through constitutional reforms. Resistance took form of a new political organisation introduced by Rev Allan Boesak at a conference of Transvaal Anti-SAIC Council (TASC) on 23 January 1983. UDF spearheaded that resistance (Jeppie, 1991: 3). In his speech Boesak had called for a united front of churches, civic associations, trade unions, student organisations and sports bodies aimed at making SA ungovernable. UDF was launched officially on 20 August 1983 in Mitchell's Plain, Cape Town (Jeppie, 1991: 5). It served as an umbrella structure for grassroots organisations of all orientations, including several Islamic groups in quest for a non-racial, non-sexist and democratic South Africa. UDF also created the space in which Muslims could enter the national anti-apartheid struggle (Jeppie, 1991: 5). In heeding a call by Reverend Allan Boesak to form a 'united front' against apartheid, the national Anti-South African Indian Congress (Anti-SAIC) had also sought to mobilise resistance against the Indian Council elections. In this endeavour the Transvaal Indian Congress was revived in 1983 (Siccard, 1989: 207). It also set up a committee to determine the feasibility of joining forces with Boesak. Within days the Committee outlined the process of organising and joining a national front (Farid, 1989: 20). Led by prominent activists Valli Moosa and Ismail Momoniat Muslim organisations pledged to mobilise support for the establishment of UDF affiliated branches from 1983 onwards as long as they were non-racial and non-collaborationist (Tayob, 1995: 169). These efforts gave rise to what later became known as the "mass democratic movement" led by UDF.

UDF and its affiliates promoted rent boycotts, school protests, worker stayaways and boycott of the tricameral system throughout the 1980s and 1990s. It also mounted and supported campaigns for the return of all exiled anti-apartheid activists and the release of all prisoners including Nelson Mandela (Ballard et al 2006: 119). In the late 1980s Govan Mbeki was released

from prison. He was soon followed by Walter Sisulu and others. ANC and other organisations were unbanned in January 1990. The release of Nelson Mandela was a crowning moment of those efforts. This was soon followed by the release of other prison inmates and return of exiles. Throughout these tumultuous times UDF and BCM were at loggerheads. By this time several BCM aligned organisations had been established namely; the Azanian People's Organisation (AZAPO), and Azanian Students Congress (AZASCO). BCM had been founded on the principle that the liberation struggle should be led by black people whereas UDF welcomed anyone willing to commit to the struggle irrespective of their skin colour (Badat, 1999: 55). Effectively the two organisations were at loggerheads about the inclusion of white people into the fold of anti-apartheid formations which BCM-affiliated organisations opposed. UDF was also seized with the question of whether to disband or not after the unbanning of liberation movements and subsequent release and return of national leaders from prison and exile. There was consensus that continued existence would only cause duplication and confusion (Van Kessel, 2000: 3). Consequently in 1991 UDF decided to disband.

## **7. In Limpopo Province**

In the Limpopo province many people were faced with widespread hunger and drug abuse. Many were being thrown on the streets because they were unable to pay their rents and municipalities were cutting off their lights and water services. As people were losing their self-worth and respect, various religions promised them all kinds of worldly goods in exchange for changing their faith. Some demoralized Indians were unable to resist and fell prey and converted to other faith(s), mainly Christianity (Bunting, 2981: xv). Various organisations sprang up throughout the country to co-ordinate programmes to address these challenges in the 1980s. In Polokwane these organisations included the Pietersburg Hindu Seva Samaj and Mahila Mandal (Bunting, 2981: xv).

## **8. The Truth and Reconciliation Commission (TRC)**

The SA Truth and Reconciliation Commission (TRC) were established in 1995 as a court-like restorative body to facilitate a peaceful transition to democracy. Its mandate was to investigate human rights abuses that occurred between 1960 and 1994 and to prosecute the perpetrators accordingly. Those who fully disclosed the truth were granted amnesty whereas victims were variously assisted in rehabilitation as well as reparation (Taylor, 2007: viii). It invited thousands from individual victims and perpetrators alike from every corner of the country. After that phase was completed, representatives of special interest groups, including the medical fraternity, lawyers, media, big business, academic institutions and others were also invited to make their respective submissions to the body. The last of hearings were devoted to the faith

communities. The Hindu and Muslim religious faiths were amongst the latter group (Taylor, 2007: viii). Muslims in Limpopo made submissions under the auspices of Jamiatul Ulama-Transvaal, an organisation administering to the spiritual needs of Muslims in Gauteng, North West, Mpumalanga, Limpopo Province, Free State and some areas of the Northern Cape (Taylor, 2007: xii). In their submissions Hindus made it clear they were opposed to human right violations of any kind. As members of these religious groups were deeply involved in the struggle for liberation, they did not offer support to those who took up positions in the apartheid structures of any kind. The low voter turnout was a sufficient indication of the lack of support given by the community to that system (Trikamjee, 1997: 298).

## **9. Data Collection**

Field research was undertaken and data was collected through a questionnaire instrument. Interviews were also conducted to clarify some questionnaire questions and to generally supplement the collected data. Data collected from field research was conducted over a period of several months in and around the city of Polokwane, Limpopo. The findings were essentially responses to questions posed in the questionnaire and interviews. An interview guideline was not the only data collection instrument. Muslims were interviewed individually whilst Hindus were interviewed as a group, kindly arranged by the Chairperson of the Hindu Seva Samaj, the official Hindu body in Polokwane. While the interview guideline ensured that the same questions were asked to both religious groups, Hindus were invited to meet at the house of the chairperson of the Hindu Seva Samaj. They are very few and this was done to save time and energy for house to house interviews. The study is thus divided into three (3) sections. The first section focused on the biographical profile of the respondents. The latter were required to disclose information about their gender, race, age, educational status, marital status and occupation. The second section focused on responses of Muslim respondents while the last section focused on the Hindu community of the said research area.

### ***9.1. Biographical Information***

Respondents were mainly from Nirvana and Polokwane and consisted of people who were in the liberation struggle in Limpopo and those who were not directly involved in the liberation struggle but know or knew of someone who was. Five respondents were drawn from the Muslim community and six from the Hindus.

### ***9.2. The Polokwane Muslim Community***

The majority (70%) of Muslim respondents were between the ages 36-55. There were twice as many male respondents than females. This was so because in those days it was

unthinkable for Indian and Muslim women from conservative homes to take to the streets with pamphlets and placards calling for consumer and other boycotts. Majority of the respondents were self-employed and preferred to teach their children how to run the family business in preparation for their imminent death or retirement. That way the family business could be passed from one generation to the next. Children from such families preferred to acquire the grade 12 (matriculation) certificate after which they went back home to manage family business/s. This explains why only one (1) out of five (5) respondents had tertiary education.

### ***9.3. How they Responded***

In the interviews the study wanted to establish (1) how the Muslim and Hindu community in Limpopo (Polokwane in particular) contributed to the liberation struggle, (2) the challenges they faced in doing so, and (3) whether they felt that their role and contribution was acknowledged by SA's new rulers.

#### ***9.3.1. Contribution to the Liberation Struggle***

Mention has been made of the fact that Muslims were first brought to SA as sugar-cane indentured labourers in Natal. However some of them later crossed over and settled in Transvaal and opened shops and small businesses. Naturally some opened businesses in Pietersburg (now Polokwane). But in that town as elsewhere their operations were severely affected by various apartheid laws. Such legislation as the Group Areas Act (GAA) defined where they could open and operate their businesses and reside as a racial group. Since the education system in Louis Trichardt (now Makhado) allowed Muslims to enrol up to standard five (5) only, a family of one of the respondents decided to move to Polokwane as they wanted their children to continue with their studies. High school education at that time was available only in Nirvana, a suburb of Polokwane reserved for Indians. That family opened businesses there as well. However under the aegis of GAA, they were relocated to another part of town and their business taken away. Various influx control laws and regulations strictly controlled the movement of people (especially black) between urban and rural areas. This practically meant it became mandatory for towns to become white while blacks were there to administer to their domestic needs. In Nirvana the police would patrol from about 17h00 every day to ensure that black people go home after work. They would go from house to house in search of violators of the curfew. Sometimes these offenders would be fined R100 or beaten up. Indians were also not allowed in town after certain hours, usually after 21h00.

Political consciousness was further awakened in those who went to tertiary institutions through interaction with other students. Thus many resolved to get involved in the anti-apartheid struggle. As students their political education was buttressed by books and other materials they



read. Leading liberation figures like Malcolm X also inspired them to stand up to the apartheid system and government. Standing up to any form of oppression and injustice came naturally to Muslims as the religion itself inspires and exhorts adherents to do so. As an exclusive religious and racial group Muslims could only enrol at Durban-Westville University which was reserved for Indians. They were not allowed to study anywhere else unless they acquired Cabinet consent to do so. Upon returning to their respective homes from study they formed anti-apartheid organisations. In Polokwane an organisation called the Landros Mare Street Workers' Committee was formed to defend the rights of Indian entrepreneurs. Similar anti-apartheid structures were later transformed into the Pietersburg Youth Movement (PYM) to conscientize the youth. PYM was formed in Nirvana in 1979 to make people more aware of the evils of apartheid and mobilise them to join and raise funds for the liberation movements. In the 1980s the apartheid government established the Tricameral system which enfranchised Coloured, Indian and White South Africans to the exclusion of Blacks. Muslims under the banner of UDF actively took part in the struggle against that new system by going from house to house and from town to town discouraging people to participate in its activities. UDF also came to Nirvana to educate people about apartheid and the community was always eager to contribute something to the organisation. And campaigned for the release of Nelson Mandela and other political prisoners. These efforts bore fruit as only 20% of the people of Nirvana voted in the subsequent elections.

### *9.3.2. The Challenges Muslims Encountered*

In Nirvana most Muslims were entrepreneurs and did not want to openly oppose apartheid for fear of losing their businesses or indefinite detention. Instead many opted to either silently support the anti-apartheid struggle financially or keep their distance. Some were hopeful (and prayed) that change would come even though they were not certain where and how that change would come about. In spite of these challenges Muslims were very successful in mobilising large numbers of people to join the liberation struggle. That is so because many in Nirvana are in professional occupations and were eager to assist in every way they could. They collected money and food to support families of the breadwinners who were incarcerated. That way the local anti-apartheid movement organisations like PYM and the Muslim Youth Movement were successful in organising campaigns for the release of anti-apartheid prisoners and recruiting more people to join the liberation struggle.

### *9.3.3. Is their Contribution Recognized in a New SA?*

Muslim Indians in Nirvana were involved in the liberation struggle through the UDF and to a lesser extent AZAPO. After 1994 they joined ANC. The interviewed participants strongly believe that their role was recognised and acknowledged when South Africa became a

democratic state. Some recognisable liberation struggle leaders in the area like Abu Dada, Charles Latieb, Hafiz Sheikh and Bashier Baker are still active in ANC. At some point after 1994 they served as mayors and ward councillors in Nirvana. Nirvana has since been merged with Westernburg (a predominantly Coloured Polokwane township) and Mr Hafiz Sheikh has indicated that, at some point, he served in the local ANC branch as Treasurer and Deputy Secretary. Though MYM was very active as a civil organisation during the liberation struggle today there are no Muslim-specific civil organisations in Nirvana and the youth is no longer as active as before.

#### ***9.4. The Polokwane Hindu Community***

The first Hindu families to settle in Polokwane comprised of about eight families amongst them were those of Shree Jagjivanbhai Vithalbhai Mistry, Shree Bhagoobhai Dayabhai, Shree Bhagoobhai Vallabhbai, Harkhorben Daya, Kantibhai Makambhai, Jerambhai Bhana, Jayaben Anand and Balooobhai Calien. Though some have since moved to other parts of SA, the Pietersburg Hindu Seva Samaj (a Temple-based nongovernmental organisation) continues to serve as a civic organisation for Hindus in Polokwane. Hindu Indians arrived in SA as merchants and traders and most settled in Natal (now Kwa Zulu-Natal). Some however crossed the border and settled in Transvaal (Limpopo). As time went by some settled in Polokwane in Market Street and Nirvana where they also opened businesses. Six respondents from the Hindu community were interviewed. And majority were between the ages 36-55. An equal number of men and women were interviewed i.e. three (3) women and three (3) men. This is so because Hindus in Polokwane are very few and as a result they encourage each other to improve and empower the community for the sake of their children and for future generations. Hinduism is not so much a religion but a way of life for this community. During apartheid families used to send their children to India for tertiary education, to learn more about Hinduism and their language as they could not do so anywhere but at the university of Durban-Westville which was reserved for them.

##### ***9.4.1. Contribution to the Liberation Struggle***

Like other Indians the Polokwane Hindus were affected by the apartheid laws. For instance with the implementation of the Group Areas Act (GAA) the community (comprising only of eight families) were overlooked in the allocation of land for religious purposes. They thus could not build a place of worship on their own and were therefore forced to source and seek financial assistance from other Hindu communities in SA. But after extensive representations, correspondence and years of struggle they were eventually allocated land in the late 1970s at a cost of R15 000 in Nirvana by the Polokwane Municipality. In 1979 the Pietersburg Hindu Seva Samaj began their countrywide fund raising. The women were mobilised by the strong

leadership of Mrs Harkhorben Daya and began catering at weddings, sports days and preparing sweetmeats and savouries during festivals to raise money for the temple. Other denominations paid a token R1 towards that fundraising effort. To create awareness about Hindu culture and religion, Gujrati was taught by Jayaben Anand and Manjuben J. Mistry. The Pietersburg Hindu Seva Samaj Temple was finally completed in 1992. From data collected no one from this Hindu community was involved in the liberation struggle in the conventional sense. But for the reason that the community was so small, they focused their energies in raising funds to build that Temple where they could worship together, preserve their identity and religion in Limpopo.

#### *9.4.2. The Challenges Hindus Encountered*

The interviewed respondents said they were not involved in the liberation struggle because of the smallness of their community. Instead they focused on creating awareness of their culture and religion and taught their children Gujrati, their language. Mobilising them to get involved and participate in these activities was never a problem.

#### *9.4.3. Is their Contribution Recognized in a New SA?*

Though the Polokwane Hindus were never active during the struggle, this does not however mean that this was the case nationally. Their role in the liberation struggle has been documented. Nationally Hindus continue to serve in government in various individual capacities. In Polokwane some of them belong to ANC even though they have not been elected to leadership positions yet.

## **10. Conclusion**

The research investigated the role of minority religions in the liberation of SA with the focus on Limpopo province. Just like many other South African members of these religions were directly and indirectly affected by apartheid. But together with other racial groups they established mass based political formations which ultimately triumphed over that system.

## **11. Recommendations**

Emanating from the study, the following recommendations can be made:

- Extensive research still remains to be done on the role the two religions played in the liberation of SA. Although literature is plentiful on this topic much still needs to be done about the role these religions played in shaping the Limpopo province.
- Those who were involved in the struggle and their descendants should be encouraged to record their accounts (written or orally) of the struggle. These should then be archived or published.

- Schools and tertiary institutions should be encouraged to develop interest and teach their students about the role which minority religions played in the liberation of SA. After all this will accord with the Post-Modernist perspective adopted by this study.
- The foregoing can only be achieved when resources have been availed for extensive and in-depth research. The information unearthed that way will not only be important to the Limpopo Muslims and Hindus but also to the preservation of the province's heritage and culture.

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## EFFECTS OF STRATEGIC MANAGEMENT AND LABOUR UNIONS IN ORGANIZATIONAL PRODUCTIVITY FOR THE SOUTH AFRICAN BROADCASTING CORPORATION

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### Abstract

The relationship between strategic management and labour unions has proven to be significant towards organisational productivity. This relationship has the power of influencing the employees positively or negatively depending on its nature. For this reason, Labour Relations Acts are instrumental in shaping the relationship between strategic management, labour unions and employees. On their part, labour unions form an integral part in the employment sphere and towards the goal of achieving equality and democratization in the workplace. The basic function of Labour Unions is to represent members in the workplace by advancing their interests through collective bargaining and strategic management processes in order to maintain good industrial relations and to promote efficiency. Ineffective collective bargaining due to lack of good faith affects organizational productivity, employee morale and trust in labour union leaders. The paper examines these ideas within the South African Broadcasting Corporation (SABC) to determine the extent of the relationship between strategic management and labour unions as well as its role in organisational productivity. It holds that strategic management tools reduce employee strike action and increase job satisfaction. The paper recommends that measures be devised to strengthen strategic management and labour unions in order to enhance organisational productivity at the SABC, specifically, and in such other public sector organizations, in general.

**Keywords:** Strategic Management; Labour Unions; Job Satisfaction; South African Broadcasting Corporation

### 1. Introduction

In 1936 an Act of Parliament created the South African Broadcasting Corporation (SABC, 2006: 69). The SABC today has established itself as a notorious public broadcasting service with its main public commercial service being available in the English language. SABC TV reaches 92% of the total television viewership market and reaches the increasingly lucrative black market audience through its three TV networks as well as the popular SABC Africa channel, 18 radio stations, SABC Mobile and SABC Merchandise (Dicey, 2006: 7). The changes in the employment relations in South African organizations have continued to experience drastic changes over the past two decades. Since people work not only to earn a living, but also to achieve personal fulfilment labour laws affect both their physical and psychological well-being (Hepple, 2005: 13). Pearce & Robinson (1997: 3) define strategic management as the set of decisions and actions that result in the formulation and implementation of plans designed to achieve a company's



objectives. Strategic management and labour unions should establish a common goal towards organisational development and effective employee productivity within the SABC. Recognition agreements have also proven to be a critical aspect towards organisational productivity because it's an agreement between a trade union and employer. In terms of this agreement the trade union is recognised as the representative of all or some of the employees of the employer who are members of the union, in so far as this representation is detailed in the agreement (Piron, 1984: 46).

Corrupt practices within the SABC have been reported which have left labour unions in a position of questioning the authority of strategic management. Corruption is caused by a diversity of factors, including poor governance, political instability, government reshuffles, weak legislative system, a weak judicial system, bureaucratic red tape, inadequate compensation, greed and moral deficiency, and lack of professional counsel (Kyambalesa, 2006: 108). The emerging issues of corrupt practices within the SABC have also begun to affect employee morale and productivity and labour union intervention becomes a common feature. The Media Workers Association of South Africa (MWASA) has continued to be one of the most vibrant unions representing the employees of the SABC working hand in hand with the Communication Worker's Union (CWU). MWASA and CWU continue to strive for equity between its members and strategic management to help foster and promote organisational productivity. Other procedures, such as the disciplinary procedure and code, the grievance procedure, the retrenchment procedure, the contract of employment and the various other procedures that govern both the individual relationship between worker and management, as well as the collective relationship between the worker representative body and the management, are also important sources of the equity provisions that govern the industrial relationship (Piron, 1984: 8). It is very critical that a co-operation relationship between strategic management of the SABC and the union leaders is established. Since the late 1980s, when management in South African companies began to introduce new human resources management practices, there has been a trend towards developing closer co-operation between unions and employers (Webster & Buhlungu, 2004: 240).

Social justice in the workplace should be achieved by the strategic management and labour unions to help establish and create an environment which promotes organisational productivity amongst the SABC employees. Although numerous pieces of legislation have been put in place to achieve greater social justice, progress in redressing unfair discrimination in the workplace has been slow and uneven (Booyesen, 2007: 47). Managers within the SABC have also focused their attention on building strong systems of co-worker support amongst its employees and labour union leaders. Employees are also encouraged to effectively articulate their concerns to strategic management and labour unions to help foster an environment of participation and effective communication.

## **2. Meaning of Concept Strategic Management**

Pearce & Robinson (2003: 3) define strategic management as the set of decisions and actions that result in the formulation and implementation of plans designed to achieve a company's objectives. Strategic management strives to guarantee that respective employees are developed in the most beneficial way, for the long-term success of the institution. On the other, strategic management also involves being creative and testing the parameters of existing thought systems, predominantly right brain action known as strategic thinking (Rozyn, 2005: 37). Strategic management also continues to support strategic thinking which involves being responsive towards dynamic realities within the institution. According to Azhar (2008), strategic management can be viewed as the dynamic process of formulation, implementation, evaluation, and control of strategies to realize the organisations strategic intent. Thompson & Martin (2010: 11) define strategic management as the process by which organizations determine their purpose, objectives and desired levels of attainment; decided on actions for achieving these objectives in an appropriate time-scale, and frequently in a changing environment, implement the actions; and, assess progress and results. Strategic management literature has long emphasised the importance of promoting creativity during the conceptualisation and planning phases of strategy (Rozyn, 2005: 37). Strategic pricing has also been a topic of discussion in the South African Broadcasting Corporation and the labour union leaders have called for effective strategic management. The strategic management of pricing is important in order to empower customers to afford the products, minimize the effect of competition, and finally increase the rate of sales of the products (Odunlami & Ogunsiji, 2011: 49).

## **3. Understanding Labour Unions**

Rust (2001: 59) defines labour union as an organization with the potential to protect the rights, interests of its members and to mobilise labour in a collective unit to decrease the extent of the decision making autonomy of the employer. For labour unions/ trade unions to survive and continue to be relevant in South Africa they require power. Power is primarily founded in membership numbers, but also in members' potential, and the influence that they are able to exercise over the employer (Rust, 2001: 60). Condrey (2010: 384) defines labour unions as an organization which addresses constant employee complaints about inefficient work processes and procedures, work quality, evaluation systems, pre-selection for promotions, award amounts and methods of award allocation. Botes (2012: 59) defines labour unions as an organization of workers formed for the purpose of job-security, higher wages and better employment conditions for its members. Labour unions in a democratic South Africa have continued to prosper by having a strong collective voice in terms of achieving what's best for their respective members.

### ***3.1. The Basis for Union Obligations***

Union obligations constitute what members perceive they can expect from their respective unions (Linde & Henderson, 2010: 75). The problem that emerges is most employees do not know nor comprehend their choices and legal standing in a respective union. A further problem is employees do not realize that once they officially join a union, they will be legally bounded to follow the union's internal rules and regulations. We have witnessed in countless occasions where management cannot reach a satisfactory consensus with labour unions, strike action is normally resorted to. In this particular situation of a strike, you find members who are genuinely satisfied with what the management is willing to offer. The disadvantage of union obligation is it will force the other minority group of members who are genuinely satisfied about the offer to strike and effect organisational productivity. The involvement of employees in setting organisational goals would enable them to take ownership in various business units and would give them an understanding of the business imperatives (Mmolaeng & Bussin, 2012: 77).

### ***3.2. Tabling Wage Demands by Labour Unions***

According to Mmolaeng & Bussin (2012: 77) the following are some of the main economic and organisational imperatives that are taken into consideration when tabling wage demands:

- We rarely look at organisational goals but we do look at the general economic conditions and endeavour to use such conditions for bargaining purpose, for example we will often exercise restraint during economic hardships;
- We consider the economic conditions of our government, such as service delivery concerns;
- Socioeconomic conditions are paramount in our demand;
- This might be used as a bargaining tactic by the employer to deny employees what they rightly deserve;
- We also consider the huge savings within departments, coupled with the mismanagement of public funds, corruption, government spending money on expensive cars, and mismanagement of funds in certain provinces; and,
- Request to borrow money and the other projects might not be realised, for example the job creation fund.

Botha (2009: 28) indicates that "Bargaining without proper considerations given to the unintended consequences is dangerous".

### ***3.3. Strategic Management to Help Encourage Peak Performance***

Strategic leadership encourages employees to develop a feeling of confidence to help employees manage and deal with demands within respective time frames. This relieves

employees stress levels and encourages optimum performance within the institution to positively influence organisational productivity. How well strategic management, manages its respective employees will inevitably determine how successful the employees and institution will be. In terms of influencing employee performance, strategic management should always do the right thing. According to (Kemp, 2007:54) some activities that fall into the category of doing the right things include:

- Setting goals and planning for the future-having goals and plans for your job which should include self-development and development of systems/ways of improving your work performance;
- Implementing the plans; and,
- Reviewing your performance and developments regularly.

#### **4. Meaning of Concept Collective Bargaining**

Salomon (1998: 305) defines collective bargaining as "a method determining terms and conditions of employment and regulating the employment relationships which utilises the process of negotiation between representatives of management and employees intended to result as an agreement which may be applied across a group of employees". Goldberg (2007: 7) defines collective bargaining as a negotiation of peaceful and stable environment on the bargaining of wages and conditions of employment. Strikes regarding being paid a minimum wage which is inferior in contrast to what the executives earn have continued to disturb organisational productivity within the SABC. Some of the strikes reported and documented have been linked to some of the corrupt practices which have seemed to fashion in the SABC. The concept of "collective agreement" has also proven to be synonymous with the concept of collective bargaining. Ayinde (2007: 25) defines collective agreement as a form of arrangement where wages and conditions of employment are settled by bargaining in the form of an agreement made between employer association and employees' organization. Employees, who could have been weak in terms of the bargaining processes with the employer on an individual basis can rest assured because of collective agreements.

##### ***4.1. Collective Bargaining and Organisational Productivity at the SABC***

The success or failure of collective bargaining at the South African Broadcasting Corporation has a significant influence on organisational productivity. The general failure of collective bargaining continues to constrain organisational productivity. This has been evident in strikes by the South Africa Broadcasting Corporation's workforce over wage disputes. Strikes of this nature continue to be a common feature, where you witness half of the SABC staff picketing during lunch time and not being involved in overtime. This factor is further reinforced by the loyalty of members to the authority of the union officials in anticipation that the latter (union officials) are

capable of representing and negotiating better wages and other conditions of employment with the employers on their behalf (Samuel, 2013: 256). Some union members still do not comprehend what union obligations entails. This serves as an emerging problem in terms of industrial relations because members do not comprehend their legal obligations or their union leaders' legal obligations towards them.

This is also highlighted and portrayed in the slight decline of union membership. Power through union membership continues to be the lifeblood which strengthens the collective power and voices of unions. But the slight decline experienced by unions in terms of union membership and trust continues to constrain union power in collective bargaining processes. Many workers have renounced their membership of labour unions, a development that is clearly detrimental to the unity and ability of workers to act in solidarity in order to counter massive economic power of the employer (Samuel, 2013: 257). Organizational productivity within the SABC has been hard pressed hit by failures of collective bargaining. Late responses and feedback given to union members by union leaders has also been under scrutiny. The longer the union leaders take to give their respective union members feedback in terms of wage negotiation with the employers, the more the strike action gets prolonged and continues to affect organisational productivity. There are those who believe that poor workers' welfare and insensitivity on the part of employers or their management representatives offer some explanations for causes of conflicts in organisations (Ibietan, 2013: 220).

## **5. Organizational Productivity and Strategies of Reducing Referral of Frivolous Cases to the CCMA**

### ***5.1. Need for Amendment of CCMA Procedures and Processes***

Procedures and processes of CCMA referrals must be amended to ensure relevancy with contemporary industrial issues. These amendments must establish a certain standards of referrals and this will make sure that referrals are not abused and organisational productivity is not constrained by these frivolous referrals. This will also lift the financial burden on the CCMA in terms of the subsidy being paid for dispute resolution. Besides the need to re-examine the structure of the public sector bargaining system, concerted efforts will need to be made to increase the skills of negotiators and the effectiveness of the bargaining process itself (Shane & Bamu, 2012: 240).

### ***5.2. Stringent CCMA Screening Processes***

Developing stringent CCMA screening processes is pivotal towards countering frivolous applications of disputes. This will require skilled dispute resolution specialists who are critical in terms of analysing these cases and not just accept any case and constrain organisational productivity. It can therefore be inferred that the emphasis should be placed on the screening

process and the expertise brought to bear on screening the application rather than on requiring that the individual be present at the time of referral (Leeds & Wocke, 2009: 34).

### ***5.3. Stringent Powers of Respective Commissioners***

Under the current system, a commissioner has the power to dismiss a case at the conciliation stage if he or she determines that the case falls outside the CCMA's jurisdiction (Leeds & Wocke, 2009: 34). The commissioners must also be invested with a lot of knowledge in terms of analysing these particular cases. The commissioners' outcomes in terms of decision making of cases should be always be guided by logical factors and not be biased. The outcome depends on the power relations between the two parties which, in turn are determined by the socioeconomic, political and legal context within which collective bargaining takes place (Maree, 2011: 7).

### ***5.4. Role of Frequent Cost Awards***

Cost awards will be the most effective and fair way of penalising the individuals who continue to abuse the system at the expense of organisational productivity. This will make individuals more conscious in terms of referring a case to the CCMA. This could save time and be cost-efficient at the CCMA and in bargaining councils as well as where private arbitration is involved (Landman, 2001: 76).

### ***5.5. Education Campaign About the CCMA***

Once people comprehend the roles and responsibilities of the CCMA, they will be less referrals of these frivolous and minor cases. If effective it will reduce the number of frivolous cases referred and may prevent the need to explore the more punitive or exclusionary alternatives (e.g. administration fees, qualification criteria) (Leeds & Wocke, 2009: 38). Special attention should also be placed on also educating employees in terms of the negative effects of prolonged strike action have on organisational productivity.

## **6. Development of Co-operation for Organizational Productivity**

Employers and Labour Union Leaders are slowly making the transition into bargaining with good faith. Both parties are slowly letting go of negotiating for party interest by focusing on increased employee performance to help positively contribute towards organisational productivity. Labour unions have also turned for help from works councils to help rebuild trust amongst their members in the SABC. In their day-to-day activities it turned out that works councils could be used very efficiently as a sort of police force for monitoring the implementation of collective agreements (Weiss, 2005: 162). The Media Workers Association of South Africa (MWASA) has continued to be really instrumental in terms of voicing their member's interests to

the employer within the SABC. By working hand-in-hand with the Communication Worker's Union (CWU), MWASA and CWU continue to strengthen the equity between their members and the SABC management. Both respective labour unions continue to put pressure on the SABC executive management, to adopt strategic management and promote organisational productivity. Both labour unions view strategic management as the tool which will counter corrupt practices. Effective strategic management will require a qualified individual to achieve and execute strategic goals and objectives. The right to bargain freely with employers with respect to conditions of work constitutes an essential element in freedom of association, and trade unions should have the right, through collective bargaining or other lawful means, to seek to improve the living and working conditions of those whom the trade unions represent (Kruger & Tshoose, 2013: 304).

### **6.1. Importance of Feedback (Consultation) from Labour Union Leaders**

Labour union leaders should acknowledge the fact that, by providing feedback and information in terms of negotiations with employers can improve employee performance. This only does not improve employee performance but also morale and reduce confusion within the workplace. Effective feedback can also counter the prolonging of strikes which continue to impact organisational productivity. Labour unions should also play a teaching role in terms of helping employees fully comprehend their employee terms and conditions of employment. They must further make their union members aware of the fact that, if they breach any contractual agreement with the employer they can get dismissed. If the employees' terms and conditions of employment are not responsive to the operational requirements of the business and they are unwilling to accept changes to those terms, the employer has the right to dismiss them (Qotoyi & Van der Waladt, 2009: 63). Labour unions should also make the transition into focusing on their member's future instead of dwelling on past labour injustices with the employers. This will also help them provide accurate details in terms of feedback to their members. Positive communication can be vital to the survival of an institution and reduces the possibility of conflict and labour unrest within the institution (Ferreira, 2006: 273).

### **6.2. Specific matters for consultation**

According to the (Labour Relations Act, 1995) Unless the matters for consultation are regulated by a collective agreement with the respective trade union, a workplace forum is entitled to be consulted by the employer about proposals relating to any of the following matters:

- Restructuring the workplace, including the introduction of new technology and new work methods;
- Changes in the organisation of work;
- Partial or total plant closures;



- Mergers and transfers of ownership in so far as they have an impact on the employees;
- The dismissal of employees for reasons based on operational requirements;
- Exemptions from any collective agreement or any law;
- Job grading;
- Criteria for merit increases or the payment of discretionary bonuses;
- Education and training;
- Product development plans; and,
- Export promotion.

## **7. Conclusion**

The research explored the impact of strategic management and organisational productivity at the SABC. The research explored the findings and offered valuable recommendations to improve the relationship between strategic management and labour unions for enhanced organisational productivity at the SABC. The research suggests a way forward in the form of suggested area of further research in the field of how the managerial attitudes towards unions shape employees perception of the industrial relations climate.

## **8. Recommendations**

The following recommendations are offered for improvement:

- The SABC's strategic management should develop strategies to build trust with unions for a collaborative relationship e.g. (providing transparent and open information).
- The SABC's strategic management should not compromise on negotiated settlements with unions to help counter strike action which can affect organisational productivity.
- Unions should continuously educate and train their members in terms of their union obligations and make them fully comprehend their contractual agreements with the SABC to avoid unnecessary dismissals.
- The SABC's strategic management should also educate employees in terms of the negative effects of prolonged strike action on organisational productivity.
- The SABC's strategic management and unions should also create an environment that encourages employee participation by involving employees in decision making.
- Unions should also continuously ensure that the interests of its members are protected by not undermining the strategic management of the SABC.

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## MUNICIPAL RESOURCES FOR ENHANCING COMMUNICATION AND INFORMATION SERVICES

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### Abstract

This paper examines the norms and standards for using municipal resources. Managing resources forms part of internal procedures. The paper specifically analyses the strategies implemented for upholding municipal employees when using land line telephones the element of communication and information devices and services resources. Many of the local government related matters often address the blatant criminal acts such as theft, bribes, fraud in various forms, and manipulation of tendering processes. This study found that misuse of communication and information devices and services resources may seem to be more subtle in nature. Yet, a municipal council remains vulnerable to resource misuse which often leads to significant direct loss to councils and gains to individuals and corporate bodies. Such conduct is unacceptable as it deprives the community whilst paying too much for the quantum and quality of services it is receiving. In this paper the author set out to do three things: the economic impact of resources misuse; to assess the policies; procedures and information and compliance mechanism instigated in regard to resource misuse; and seeks to recommend the methods that can be applied to curtail the dilemmas often encountered by municipal councils. The outcomes of this paper is realised by means of a qualitative analysis and is supported by interviews and a visit to the City of Johannesburg Metropolitan Municipality.

**Keywords:** Municipality; Resources; Information; Communication; City of Johannesburg

### 1. Introduction

This paper examined the norms and standards of using municipal resources in line with Municipal Finance Management Act, more specifically on internal control procedures. This paper examined the internal control procedures for City of Johannesburg (CoJ). The municipal resources referred to are amongst others staff time, materials and supplies, facilities, motor vehicles, fuel, spare parts and accessories, general plant and phones, computer equipment, office equipment and others. The municipal resources above are allocated aimed at improving service delivery at the Municipal level. They are regarded as enabling tools to ensure that services are not affected. According to UMzimkhulu Municipality (UM, 2011), majority of Municipalities are spending a lot of money on the above mentioned resources. Municipal resources like telephone calls are one of the major expenses of the Municipalities and it reduces low productivity resulting from misuse of these resources (UM, 2011). Municipalities developed policies and procedures to control the misuse of municipal resources however less is done in ensuring effective and efficient implementation of the policies and procedures. Whilst a lot of academic research studies have

been conducted, such studies focused mainly on mismanagement of funds due to theft, corruption, colluding during tender and maladministration and less focus on the misuse of municipal resources by employees. Municipalities tend to ignore the misuse of resources by employees and its impact on service delivery is huge. Based on the above, the author's intention was to analyse economic impact of resources misuse in assessing its control measures in place. A brief outline of the municipal resources is discussed in this paper. Sections below examined internal control measures for municipal resources. For the purpose of the study, the author examined control measures for CoJ.

## **2. Methodological Approach**

In this paper the author set out to do three things: the economic impact of resources misuse; to assess the policies; procedures; information and compliance mechanism instigated in regard to resource misuse; and seeks to recommend the methods that can be applied to curtail the dilemmas often encountered by municipal councils. The outcomes of this paper were realised by means of a qualitative analysis and is supported by interviews and a visit to the COJ. This research was mainly qualitative in nature. Desktop analysis was undertaken for gathering insight on the context of telephone policy. In this regard, secondary data collection instrument was used for understanding the legal framework and comprehend the context of municipal resources and resources provision. In using this instrument, scholarly books, thesis/dissertations, articles, were considered. Government/Municipal reports, policy framework and interviews carried out by means of structured questionnaires were part of a primary data collection instrument (Welman & Kruger, 2001: 14). Interviews were scheduled with 28 managers and supervisors in the COJ. The interviews inquired about the processes executed for managing telephone usage in the COJ.

### **2.1. Study Area**

The CoJ is one of the 40 largest metropolitan areas in the world located in Gauteng Province. The CoJ services the following Cities/Towns/Locations/Townships: Alexandra, Diepkloof, Diepsloot, Ennerdale, Johannesburg, Johannesburg South, Lawley, Lenasia, Lenasia South, Meadowlands East, Meadowlands West, Midrand, Orange Farm, Pimville, Randburg, Roodepoort, Sandton, and Soweto. The City has a population of 4 434 827 and consists of 1 434 856 households. The population growth is recorded at 3.18% per annum, whereas the unemployment rate is 25% per annum. The administration of the CoJ is headed by political management and administrative management. The political management is led by the Mayor and other Members of Council. Members of Council Speaker, Chief Whip, Deputy Chief Whip, MMCs: Development Planning; Health and Human Development; Environment, Infrastructure and Services; Public Safety; Transport, MMC: Housing; Community Development; Finance; Group

Corporate and Shared Services (CoJ, 2014). The Administrative Management is led by: Municipal Manager, Chief Financial Officer and the managers responsible for Communications Officer; LED Officer; and Other Senior Management for: Executive Director: Community Development, Executive Director: Group Corporate and Shared Services, Acting Executive Director: Economic Development, Environment, Infrastructure and Services, Group Head: Social Development, Executive Head: Development Planning, Executive Director: Housing Executive Director: Transport, Executive Director: Health, Executive Head: Revenue Shared Centre, Group Head: Treasury and Financial Strategy (CoJ, 2014).

### **3. Background and Conceptual Framework for Municipal Resources**

The Molemole Local Municipality (2009: 4) regards a municipality as a service orientated public entity having legislated mandate to provide services to its residents. Success in accomplishing that mission typically depends heavily upon the leadership of the governing board, local government officials and resources (DiNapoli, 2014: 3). Municipalities are compelled to commit itself to providing the staff with necessary communication “tools of trade” to enable them to deliver on their Key Performance Areas as contracted (Intsika Yethu Local Municipality, 2013: 1). Resources include: staff time; materials and supplies; facilities; motor vehicles; fuel, spare parts and accessories; general plant and equipment; office equipment; communication and information devices and services. Whilst providing services municipalities are also required to be in contact with the community at all times. In doing so a municipality uses various resources for reaching its clientele by means of reliable phone infrastructure, computer equipment, and internet and emails services. A telephone infrastructure consists of two elements, namely: a fixed landline telephone and cell phone (mobile phones). A “landline phone/ desk telephones” refers to the office phone of the user (Government of Newfoundland and Labrador, 2010: 1). A landline phone normally has a fixed phone line however it can be hard-wired or cordless. Landline phone can have a fixed wireless device that is usually derive their electrical power from the utility mains electricity. Whereas the “mobile/cellular phone” refers to analogue and digital cellular phones and it provides data and/or phone communications (Government of Newfoundland and Labrador, 2010: 1). Mobile phones are portable wireless and battery-powered. Mobile or portable, battery-powered wireless systems can be used as emergency backups for fixed systems in case of a power blackout or natural disaster.

The Massey University (2009: 1) identifies three forms of calls that are used by officials, namely: local call, private call and the toll/trunk calls. Telephones are provided to enable staff members to perform their duties and to conduct the business of the institution. Employees use these types to call their constituencies. The calls made on the phones can be for business purpose and for private calls. A business is used to call their constituencies. Private telephone

call refers to use of official telephones for personal or private benefit when calling friends and family members. A telephone resource is paid, owned and controlled by a council.

#### **4. Challenges Experienced in Managing Municipal Resources**

The vision of the City of Johannesburg Metropolitan Municipality is to be “World class African City” in delivering effective, affordable and sustainable quality services to its communities (CoJ, 2014). Councils are vulnerable to resource misuse as well as other forms of corrupt behaviour generally displayed by employees. Institutions are exposed to different forms of opportunistic behaviour of an ill motivated employee and misuse of council resources. The forms of misuse which appear to be relatively common include:

- staff utilising mobile phones excessively for private purposes without re-imburement of costs;
- internet services being used extensively for non-work purposes; and,
- internet and intranet systems being used to distribute pornography and other offensive material (Independent Commission Against Corruption, 2002:7).

The idea of achieving the vision is often hampered by improper management of municipal resources. It is for the above reason that the research will be focusing on analysing control measures in place in managing the misuse of municipal resources. Most organizations spend between 1 to 3% of their budgets on municipal resources and pay little attention on the overall cost of municipal resources (CoJ, 2014). Municipalities are unable to account accurately on the total cost of ownership of their existing municipal resources and it is for this reason that a control measures are devised to realise cost reduction associated with misuse of municipal resources (CoJ, 2014).

The South African Constitution, 1996 enshrines the right of everyone to have access to basic services. The Constitution makes it incumbent upon the State employees to take reasonable measures to control municipal resources that are aimed at improving service delivery. National Treasury Instruction 1 of 2013: Cost Containment Measures is aimed at reducing misuse of government resources. Municipal Finance Management Act and National Treasury also aimed at assisting municipal employees on how best to spend budget on resources and management thereof. Municipalities also developed internal policies and procedures intended to assist managers at all levels to control misuse of municipal resources. Public employees rely on government telephone systems and cellular telephones to conduct daily business and to better serve the public. It is important that managers be proactive in educating employees in the appropriate usage of telephone systems. The lack of a specific telephone usage policy leaves a jurisdiction vulnerable to waste and abuse, such as unauthorized long distance calls and excessive personal calls made by employees. Without a clear policy, jurisdictions may not be able to hold employees accountable for system abuses.



## 5. Findings and Discussions

CoJ was visited to ascertain the level of effectiveness of measures in place in reducing misuse of municipal resources. Interviews were conducted with relevant employees and managers working with the municipal resources and those assigned to manage the resources. Just about 15 000 officials are employed by CoJ. For this research paper only twenty eight (28) managers/ supervisors of the City were interviewed. The researchers also incorporated the discussion of the policy framework developed in the CoJ. The findings discuss the following headings:

- Policy directives;
- Provision of telephone service;
- Availability and compliance;
- Telephone usage control measures;
- Monitoring and evaluation of policy implementation
- Reporting

## 6. Policy Directives

This section provides the policy directives for the telephone policy. The questions asked aimed to discover whether the City had a telephone policy.

### *6.1. Telephone Policy and Purpose*

The CoJ was asked if it had a telephone policy. The responses indicated that the policy was developed although it is a draft policy. The policy is pronounced as the "Telephone Management Policy Framework". The policy name directly distinguished itself from other policies in the City. The policy also identified its status which either specify the policy status, version and the date of approval. The purpose of the Policy Framework on management and regulation of cellular phones, data cards and fixed telephone is:

- To provide guidelines on the management and regulation of cellular phones, data cards and fixed telephones;
- To provide guidelines on the acquisition and use of cellular phones, data cards, and fixed telephone lines by employees and Councillors;
- To provide a fair criteria for the allocation of cellular phone reimbursement for employees;
- To ensure effective utilization of resources; and
- To contribute towards creating a more communicative enabling working environment which is able to respond to the rapid technological developments, and that optimizes service delivery (CoJ, 2013: 4).

### ***6.2. Approving Authority and Policy Custodian***

Under normal circumstances the policy becomes effective from the date of approval by Council by way of Council resolution and after been signed off by the Mayor or hi/her designate. The CoJ policy was approved in 1 July 2013. The policy will remain in force until it is appropriately approved and replaced with another policy. In this case the CoJ telephone policy will be reviewed every two (2) years or when required. Some municipalities review their policy annually. The policy may be amended depending on matters arising or by new governance development. The Policy will be reviewed or reconfirmed as is every twelve months. When asked about the owner/policy custodian, it was indicated that “the management and regulation of the cellular phone, data cards facilities and landline telephones is the prerogative of management assisted and guided by the Administration and Support Directorate (Group Corporate and Shared Services Department)”. Every policy adopted should be understood by all board members, customized to fit the unique needs of each local government, reviewed periodically, preferably annually (even when not required by law), and updated if needed (Dinapoli, 2014: 2).

### ***6.3. Applicability of Policy, Legislation and Regulatory Framework***

This policy applies to all “employees (appointed: permanent and part-time, and Councillors) in the City of Johannesburg and Municipal Entities (MEs) and Political Office Bearers Fixed Lines, Cellular Phones and Data Cards” who are either appointed (permanent and part-time) and Councillors. The telephone usage policy seeks to provide a framework aimed at ensuring that telephones as a working tool is used appropriately and that call charges are kept to a minimum. In terms of the legislative framework, the municipality maintains ethical conduct by applying the prescripts of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998). The City also make use of the Supply Chain Management Policy, Public Office Bearers Act, and Municipal Finance Management Act for implementing the telephone policy. The Constitution of the Republic of South Africa further imposes a responsibility on the municipality to operate efficiently. Section 4(2)(a) of Constitution of the Republic of South Africa and the Systems Act places upon Council the duty to use the resources of the municipality in the best interests of the local community. The managers also indicated that they apply the Code of Conduct for Staff Members. The Code of Conduct regulates against the misuse of municipal property and assets by municipal employees. Sections 62 and 78 of the Local Government: Municipal Finance Management Act (Act No. 56 of 2003) places an onus on municipal officials to take all reasonable steps to ensure that the resources of the municipality are used effectively, efficiently and economically.

### ***6.4. Policy Review***

A cell phone policy should establish guidelines for determining the business necessity for cellular phones and assigning the cellular phones to appropriate users. The policy should also include procedures for periodically reviewing and monitoring usage to assess the reasonableness of the nature and number of calls. The policy should also outline risks, such as liability for damage, loss, and/or improper use, and establish procedures to ensure that phone service plans are appropriate for service needs.

## **7. Provision of Telephone Service**

This section inquired about the processes undertaken for providing telephone lines, monitoring and evaluation mechanism in place on telephone usage. A municipal council has the responsibility to provide all Municipal offices with a satisfactory and reliable telephone service. It was found that the CoJ has a centralized management telephone operating system through which all outgoing and incoming calls are monitored. The Department of Corporate Services through the Senior Administration Officer, is responsible for implementing authority of this policy and also facilitates its annual revision for approval by council. It was noted that CoJ has 1 999 active telephone lines and 307 lines barred.

## **8. Availability and Compliance**

A municipality is required to ensure that telephone contact between staff and other organizations or members of the public is conducted in a professional and efficient manner. The City was asked to speak about the compliance of the employees in terms of the policy developed. The questions posed to the managers also assessed the compliance of the other policies developed in the City. Table 1 presents the responses given by officials during the interviews. The figures presented in Table 1 are not impressive at all, especially when all employees have a responsibility to use the resources to their best advantage and meaningfully. The study found out that employees are aware of the draft policy in place; however they are complying with the policy, however there are escalations of cost associated with telephone usage. The responses above give rise to enhancing the role of public officials whereby they are required to familiarize themselves with their jurisdiction's telephone usage policy. Every staff member, upon being elected to serve on the Council or assuming appointment in the service of the Council, shall be supplied with a copy of this policy and shall acknowledge receipt thereof by signing an acknowledgement form thereof (Intsika Yethu Municipality, 2009: 7).

However the managers indicated that when employees are appointed they are required to sign a consent form acknowledging that they have read and understand the institutional telephone policy. It was indicated that the signed acknowledgement is filed in the personal file of the staff member. It then becomes the employee's responsibility to make sure that they follow these policies. The responses presented in Table 1 also bring about the importance of line

managers roles in any institution. Line managers are empowered to establish a telephone usage policy for their departments and for making all employees aware of the institutional policies. Line managers have roles and responsibilities to manage telephone usage in their units as they do to all other council resources. Line managers are further responsible for: making all employees aware of this policy; ensuring employee compliance with the policy; reviewing and evaluating needs and requests for telephone services.

**Table 1:** Compliance and Effectiveness of the Regulatory Framework

Item	Number of employees interviewed	Agreed	%	Disagreed	%
Transport policy	28	25	89.3	3	10.7
Locomotion allowance policy	28	3	10.7	25	89.3
Printing device policy	28	4	14.3	24	85.7
Telephone policy	28	13	46.4	15	53.6
IT policy	28	14	50.0	14	50.0
CoJ "Condition of Service"	28	18	64.3	10	35.7
Record Management Policy	28	2	7.1	26	92.9
Management of store material procedures	28	15	53.6	15	53.6
Facility Management procedures	28	10	35.7	18	64.3
<b>AVERGARE TOTAL %</b>		<b>Average compliance 41.3 %</b>		<b>Average non-compliance % 59.5 %</b>	

## 9. Telephone Usage Control Measures

This section describes the Control measures applied in ensuring effective financial control at local government level. The researchers also inquired about the control measures applied by the City for ensuring proper usage of telephones. Employees are expected to exercise reasonable discretion in using desk phones for personal use. Control measures are essential for regulating the use of resources in any organisation.

### 9.1. Service Level Agreement

The CoJ applies a Service Level Agreement (SLA) for enforcing control over the use of telephone resources. It was indicated that the “SLA “is measured in terms of turn-around times, achievement of stipulated targets achieved”. The SLA is realised by entering into an agreement with the employees, and the policy consists of five forms that are used for signing such agreements, namely:

- Annexure A - Application and approval for official cellular telephones / data card
- Annexure B- Split Bill Form
- Annexure C - Call Limit / Soft Lock Form
- Annexure D - Employee Declaration and Consent Form
- Annexure D1- Councillor Declaration and Consent Form
- Annexure E- Application and Approval for Re-Imbursements (COJ, 2013:3).

### ***9.2. Pin Codes***

The Council determines which employees may have direct telephone lines to their offices, for use in connection with the performance of their official duties. Therefore, it was indicated that “each qualifying municipal official is allocated a secret telephone access pin code signed for and known to the employee who will be responsible for its protection at all times”. A pin number is required in order to unlock the telephone and gain access to the use of the municipality’s telephone facility (Overstrand Municipality, 2012: 6). The pin code is issued as a form of holding employees responsible and liable for the usage of the pin code for the assigned telephone lines. It was indicated that pin codes pose threats to the institution as someone may spy and commit fraud with the colleague’s telephone set. The managers informed that the pin code may be regularly changed to mitigate fraud risks.

### ***9.3. Direct and Switchboard(s) Lines***

The City also utilises a switchboard as an aid for controlling telephone calls. The switchboard is managed by the Receptionist/Telephonist. A switchboard is used in cases where outgoing telephone calls are directed through the switchboard, it shall be the duty of the Receptionist/Telephonist, before dialling the number required, to enquire from the person wishing the call to be made whether the call is official or private in nature. It was noted that the Receptionist/Telephonist is expected to record all outgoing calls directed through the switchboard in a Telephone Log Book, indicating the number dialled and purpose of the call, i.e. whether official or private.

### ***9.4. Barring of Telephones***

The managers informed that the telephones are also barred for accessing outgoing calls. Call barring is often made for local calls, national calls and for international calls. There are

exceptions for international calls and such calls must be applied through the line officer and it is normally arranged with the Manager: Information Communication Technology (Overstrand Municipality, 2012: 7). Municipalities recognized that there may be some occasions normally due to circumstances or an emergency where it is necessary for members of staff to make private calls. The managers indicated that: access to outgoing calls is a privilege and not an automatic right". With this the managers informed that the telephone calls are timed to ensure that employees are not too much comfortable when making calls. Any such abuse of the telephone system could result in the instances being considered to be of fraudulent nature, which may lead to disciplinary or criminal action against an official. Furthermore when employees commit corrupt behaviours the City withdraws the telephone line allocated.

*Local Calls:* Local calls can be done either by desk telephone or by requesting a connection from switchboard. The City allows its employees to make calls and the employees are expected limit personal telephone calls, in frequency and duration, to the greatest extent possible. The managers also outlined that the personal calls made by staff should not interfere with an employee's duties and should not impact an employee's productivity.

*Private Calls:* The managers pointed that employees also make private calls, however such calls must be used with discretion and restrict private telephone calls to the minimum time. The telephone policy for the Overstrand Municipality (2012: 7) expressed that "the cost of all private telephone calls made shall be recoverable from the salary of the employee at the end of the following month during which the telephone call was made". The mechanism is reasonable as it promotes accountability among public officials.

*Long Distance Calls:* Some employees live apart from their family members. In terms of distant family and friends the City allows staff to call their immediate family members. Institutions do not encourage long distance calls especially when made for personal reasons unless they are made for an appropriate reason and it is approved by a supervisor. The managers also indicated that long distance calls cost a lot to the City. In the meantime it was said that the City does not charge the employees for making long distance calls. However, it was said that the management considered charging employees for such calls as it becomes costly and that employees take advantage of the benefits given to them. The author's thinks that it will be proper for the City to charge the staff based on the general rule which state that the "taxpayers should pay for employee's personal telephone calls".

*Contractors:* Contractors comprise "cleaners, security personnel, and delivery officials. When asked about the access of telephones for contractors, the managers replied that such personnel are excluded from the benefits given to municipal employees. Contractors do not form part of the staff on the municipal payroll. Instead they can also use the handset assigned to their office for making internal calls.

## **10. Monitoring**

Any institution has the right to monitor telephone usage to determine if misuse or abuse exists. The telephone system is an organizational resource and use of the telephone can and may be monitored and an itemized listing of telephone numbers for a period will be produced. During the visit, researcher also evaluated mechanism used in monitoring and evaluation of measures in place to curb misuse of municipal resources. The main reason was to ascertain if the policies, procedures and mechanism in place are effective to reduce or curb misuse of municipal resources. Monitoring is the systematic and continuous collection, analysis and utilization of information on project achievements as implementation progresses. It is an on-going activity, taking place continuously throughout an intervention (Waite, 2011: 10). Monitoring is used to identify achievements and challenges, any variance between targets and what is actually achieved, and facilitate constant improvement modification. Institutions reserves the right to monitor its communication and information systems from time to time for various reasonable and necessary purposes including the ones presented below:

- Checking compliance with all institutional regulations and policies;
- Preventing or detecting crime;
- Investigating or detecting unauthorized use;
- Investigating abnormal system behaviour;
- Resolving a user problem;
- Monitoring standards of service or training; and
- Maintaining or carrying out University business (University of Surrey, 2014: 2).

In the CoJ the monitoring of the policy implementation processes is conducted quarterly in the Core Administration and MEs. The process is undertaken to assess whether management and administrative systems are appropriate, cost effective and meets the set objectives. The SHELA and FCM Central Office shall evaluate the implementation of the Policy, appropriateness, cost effectiveness and efficiency of operational activities by requesting information from executives in both the Core Administration and MEs on a quarterly basis. A management system that records and monitor incoming and outgoing calls for each extension or direct lines and thus makes it possible to generate monthly reports, is fitted in the office of the administration manager (Koukama Local Municipality, 2009: 3).

## **11. Reporting**

When asked about the reporting framework, the managers indicated that a telephone logbook is used for reporting the usage of the telephones. It was also said that at the end of each month the administration manager print out a telephone report and a monthly telephone statements which reflects: Time of calls; Duration and the designation. It was noted that the Central Office of the CoJ compiles and submit quarterly performance reports including on the



work done by ME's. The report is submitted to Council through the appropriate Structures. The policy for the Overstrand Municipality (2012: 7) states that "The Managers of Departments must at no later than the 12th day of every calendar month, or the first working day thereafter, forward the updated telephone statements of every employee to the Section: Salaries and Wages in the Department: Expenditure and Assets in the Directorate; Finance to deduct the costs of any private telephone calls, not already deducted from the salary of the employee concerned". Normally, employees are required to mark all personal telephone calls made from their telephone extensions; add them together, sign and submit the report to the head of department who will inspect such statements for verification and signature. The signed printouts are returned to the Finance Department before the 10th of each month to effect deductions for the next payroll.

## **12. Economic Impact of Resource Misuse**

The study found out that employees are reported to be utilising policies effectively and is working for them to reduce misuse of resources in their work environment. However there is lack in as far as recovering of monies incurred due to misuse of resources. Furthermore, there are no measures in place to deal with misconduct emanating from the misuse of resources. It is based on the findings that similar situation might be occurring in small municipalities across the country. It is highly likely that recovering of monies lost due misuse is high in the lower municipalities as well. National Treasury in 2013 implemented National Treasury Instruction 1 of 2013 to reduce alarming expenditure on resources in the government sector (National Treasury, 2013). In addition, municipalities also developed policies and procedures to assist in managing the resources. Table 2 presents the analysis of economic impact as outlined in the analysis of economic impact 2012/13 and 2013/14.

The relevant policies, procedures and mechanisms were developed by various municipalities in addressing misuse of municipal resources. The following relevant policies were developed by the City to address misuse of municipal resources and will be used as basis for this research:

- Private calls are not accounted for and therefore telephone policy was developed to hold employees accountable in terms of private calls and setting limits of calls made.
- Misuse of transport lead to the development of transport policy to curb fraudulent kilometre travelled and track of official trips.
- Misuse of printing device by printing private matters lead to the development of the policy to control and detect misuse of printers for private purpose.
- Misuse of travelling allowance lead to development of locomotion allowance policy to cap travelling allowance in line with volume of work and responsibilities.

- IT policy was developed to control internet use in order to detent misuse and prevent employees spent more time serving the net than being productive in rendering services to community.
- Record Management Policy was developed to reduce duplicate printing and promoting electronic record management system to limit printing every document and promote instant access of documents everywhere electronically; and
- Management of store material procedures to control issuing of stock in order to prevent theft and loss.

**Table 2: Outcome of Analysis of Economic Impact, 2012/13 and 2013/14**

Item	Policy Status	Narrative Impact	Estimated loss (monetary and none monetary value)
Transport Policy	Draft	-Misuse of vehicle for private use. -Accidents on municipal vehicles. -Unauthorised trips -Cars are found parking at private place during office hours.	-Cannot be determined but amounting to millions of rands. -Accidents. -Costly Disciplinary procedures. -Tracking devices not active.
Printing device Policy	Draft	-Printing own work for private use i.e. invitations for wedding and birthday parties. -Theft of devices.	-No tool to monitor usage. -No monetary mechanism to determine the loss. -Contract and cost: R 130 million and estimated 10% of the value of the contract is lost to misuse.
Condition of Service (CoJ)	Yes	-Inconsistent allocation of resources -Over expenditure on resources allocation as demand exceed budget allocated.	-Over spending on budget -No control measure in place to measure loss but loss is amounting to millions of rands.
Record Management Policy	Draft	-Loss of records -Legal implications -Financial loss	-Financial loss cannot be determine as there is no control measures in place.
Management of stores, and material	No	-No proper issuing of stock. -Loss of stock and results in the shortage.	-Over ordering and less collection i.e. diaries for 2014/15 not collected.
Facility Management Policy	No	-City own facilities not properly managed.	-Loss of rental income. -Facilities loose value.
Locomotion allowances	Yes	-Favouritism in terms of allocation of travelling allowances overuse	-Millions of rands are spend in paying officials who are office based and nature of their job do not require travelling.
IT policy	Yes	-Abuse of internet facilities for private use. -Lack of asset control and tracking the location and custodians. -No disposal mechanism and loss recovery in place	-Monetary loss in millions rands. -Theft of IT related computers possible however no detective mechanism in place.
Telephone policy	Draft	-No payment of private calls -No collection mechanism in place.	-Private calls are paid. -Millions of rands are lost due to no collection mechanism. -Misuse of telephone resources. -Contract cost: R95 million and estimated 5% value of the contract is lost due to misuse.

Source: CoJ, 2014

Management has an obligation to define the rules that apply to staff so that they have unequivocal reference points when it comes to behaviour, decision making and choices. Similarly, policies must be complemented by appropriate procedures (Independent Commission Against Corruption, 2002: 10).

### 13. Conclusion

Control measures are essential for regulating the use of resources in any organisation. Service delivery is affected due to misuse of resources available. Budget allocated yearly is not enough to cater for services to community. The above is contributed by employees of the municipalities who are utilising resources for their own private matters. The need therefore exist to ensure that those scarce resources are utilizing properly to improve service delivery. Municipalities to develop, approve policies, procedures and measures that will help them in managing scarce municipal resources. Monitoring and evaluation mechanism should be put in place in ensuring that policies, procedures and mechanism in related to municipal resources are implemented and none compliance are dealt with. Accountability on the side of Municipal Managers is key in ensuring that misuse is detected and losses are recovered. Millions of rand misused need to be recovered and reported to prevent recurring. It is also important that employees entrusted to manage those resources are trained and well equipped with necessary resources in management of those resources. In addition, resources should be allocated in line with the need for service delivery and not a nice thing to have.

### 14. Recommendations

For institutions bigger as CoJ the need therefore exist to have policies and procedures implemented in order to manage and reduce misuse of resources. Approved policies and procedures are recommended to reduce misuse of resources. Employees found to be misusing municipal resources to be hold responsible and loss emanating from misuse recovered from them. Furthermore, the need therefore exist for audit to be conducted in all municipalities on a frequent basis in identifying the rate of misuse of municipal resources. There is also a need for researcher in doing research on possible policies, procedures and measures to be used by municipalities in reducing and or curbing misuse of municipal resources.

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## VERIFICATION OF ACADEMIC CREDENTIALS FOR RECRUITMENT: A MUNICIPAL RESPONSE TO THE BREACHES OF INTEGRITY

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### Abstract

This paper evaluates the local government processes developed for ensuring the authenticity of educational credentials in the Sedibeng District Municipality. Verification of academic credentials forms part of the internal control in a legitimate institution. The paper finds that academic fraud is on the increase across the world, developing and developing countries alike, and it is a threat to the intellectual integrity on which the advancement of knowledge depends. Globally, a set of laws and regulations have been established to tackle the rise in fake qualifications. However, such measures are inadequate and unreliable, and perpetrators are often detected after a significant number of years. The paper points out that advances in technological communication have facilitated the growth of academic fraud by electronic means. As a result, it drives the public sector recruitment process making it impracticable for recruitment officers to closely inspect individual applications in detail. The paper observes that support staff posed minor risks compared to senior and middle managers, which is a costly threat to societies, to their efficient operation and to public trust in the reliability and security of their institutions. The paper calls for a system that would mitigate the risk of educational fraud often experienced in the public sector. It suggests that means be devised to adopt responsive and enhanced efficient processes for dealing with breaches of integrity.

**Keywords:** Municipality; Internal Controls; Academic Credentials; Recruitment; Integrity; Technology; Sedibeng District Municipality

### 1. Introduction

This paper evaluates the local government processes developed for ensuring the authenticity of educational credentials in the Sedibeng District Municipality. Verification of academic credentials forms part of the internal control in a legitimate institution. Incidences of fraudulent educational credentials have risen exponentially and have a substantial internal impact on any business. This occurs when a prospective employee falsify the educational credentials when seeking employment. Most of the job applicants try to get onto the first rung of the career ladder. Fake educational credentials turned out to be a marketable commodity especially to bring hope to desperate unemployed youth. Senior managers are also charged with fraud for allegedly submitting false educational qualifications when applying for the top job. Such actions impact negatively by lowering the reputation of the public sector and disrupt service delivery. The employer may fire the employee after an investigation. The recent spate of

revelations in the media relating to fraudulent educational credentials is worrying. This serves as a general warning to the executives despite the epidemic skills gap in the public sector. The section below describes the objectives and methodological approach for this paper. The background and conceptual framework for the verification of academic credentials and recruitment for the keys words are explained. The findings and discussion of the processes involved are reported and analysed. The paper concludes with a discussion and offer suggestions for enhanced practices when conducting the verification of qualifications.

## **2. Objectives and Methodological Approach**

The significance and timeliness of the topic are justified not only by pronounced current global trends experienced in the public service, but also, it can be traced back to the fundamental principles of responsible corporate governance in the public sector. The purpose of this paper was to provide a basic reference guide to the statutory and processes implemented for ensuring effective recruitment practices and procedures. The context of academic fraud in the employment sector is briefly described. This paper also analyses the verification of academic credentials and recruitment processes. The impact of the increasing frequency of academic fraud within the employment sector is also discussed. The authors also had an opportunity to interview the SDM about the processes involved in order to comprehend the execution of the processes in the verification of Academic qualification.

This study was limited to the practices of verification of qualifications in the SDM. A qualitative approach was applied for soliciting data about the topic under investigation. The literature review through desktop survey was preferred for understanding the context of academic fraud and the verification of academic credentials. In using this instrument scholarly books, thesis/ dissertations and articles were considered. Government reports, policy framework, legislation and questionnaires were part of the primary data collection instruments. Research ethics were considered during this research. The interviews conducted were arranged with the human resource manager in the SDM for assessing the municipal practices applied for the verification of academic credentials. The paper also deliberated on the appraisal of the strategies applied to enhance the security features of the recruitment process. The paper concludes with the suggestions for enhanced efficient processes for responding to the breaches of integrity.

## **3. Background and Conceptual Framework**

The Columbia Electronic Encyclopedia (2004) defines fraud as the “wilful misrepresentation or alteration of a written document”. Perpetrators normally change information in a form of inserting new information or appending someone else’s signature in order to deceive others. In the United States, forgery in its many manifestations may be considered a state crime (Columbia Electronic Encyclopedia, 2004). The term “staff” symbolises a permanent staff,

temporary staff, short-term; fixed-term or contract employees (Hinds, 2007: 6). Academic fraud in the workplace is defined as “fabrication or falsification of academic qualification or results and conscious misrepresentation of sources” (The University of Chicago, 2011: 1). Academic fraud is evidently just one example of the corruption practices within higher education. The perpetrators include students, educators, parents, educational administrators and others (Eckstein, 2003: 25). The cause of this form of corruption is the easy availability and access to such documents on the internet (Chronicle of Higher Education, 2010). Perpetrators normally use technology to falsify their credentials (Owen & Peek, 2011). The illegitimate behaviour is in a form bribe, stealing and tampering with academic records in order to increase their marks and they represent non-compliance with copyright law (Hallak & Poisson, 2007: 112).

### ***3.1. Varieties of Academic Fraud***

All organisations are vulnerable and have some level of risk (Hinds, 2007: 6). Verification agencies say there is a substantial increase in serious CV fraud. There are numerous types of fraud that can be perpetrated by staff against their employer. Staff fraud can have an ‘opportunistic’ element in that it’s generally undertaken linked to a serious and organised criminal network or terrorist financing. Based on the aforementioned definition one can identify five basic types of illegitimate or fraudulent documents in international credential analysis. Fraudulent documents are characterised by: altered documents, fabricated documents, manufactured in-house, diploma mills, and interpretative translations (Adán, 2006: 3). Fabricated Documents are used as counterfeit documents to represent fictitious institution. Educational qualifications can have altered and inflated grades that are inflated to match the job application requirements. Diploma Mills refers to documents “recreated by market educational experts” and “appropriately designed” (Adán, 2006: 2). Diploma Mills produces bogus products (transcripts/diplomas) that although not defined as a fabrication, the study or qualification they claim to represent is illegitimate (Adán, 2006: 3).

The prevalence of fraud remains unclear (Tobekin, 2011: 36). The search of better professional opportunities and higher pay are increasingly contributing to the traffic of illegitimate documentation and products acquired through the carefully marketed campaigns of the “Diploma Mill” industry (Adán, 2006: 2). People habitually buy phony credentials from diploma mills by merely paying a flat fee to be awarded a degree based solely on “work or life experience” (Federal Trade Commission: Bureau of Consumer Protection, 2005: 1). There are certain regions of the world that tend to be havens for bad actors. General intelligence and specialist research suggests that the number of incidences of staff fraud has been rising for a number of years. Many organisations have been reluctant to admit the scale of the problem due to potential reputational damage. But it has now grown to the extent that, with increasingly obvious links to organised crime, specific counter-measures are required and this has raised the profile of the issue with the



Financial Services Authority (FSA) and law enforcement agencies (Hinds, 2007: 12). Some states in particular, notably Hawaii and California, appear to be the largest fraud havens because they either lack regulatory regimes to prevent fraud or are not sufficiently aggressive in enforcing the laws and regulations that they have (Tobekin, 2011: 35).

#### **4. Problems and Trends of Academic Fraud**

In recent years staff fraud has been identified as a growing threat. The dark and hidden path of fraudulent and illegitimate academic documentation is extensive (Adán, 2006: 1). Broadly, there are three interlinked reasons for this, namely: changes in business and organisational structures; changes in the type of staff employed to service these new structures; and increased targeting of business by organised criminal networks (Hinds, 2007:13). Qualification fraud is caused by aggressive competition which has taken place in the in the job market. It is not just people trying to get onto the first rung of the career ladder who are doing it. There seems to be a burgeoning culture of embellishment even in the highest reaches of government, of corporations and of academic life (Rademeyer, 2014). Some instances of these lies are by individuals who have been in prime positions for several years, and who probably believed that they were simply too “clever” to ever be caught. In recent weeks, the public were shocked no less than three times by news of dignitaries who had lied about qualifications. Prospective and long- term serving employees normally competes to access various job opportunities. There is a small minority who also attempts to gain admission by using fraudulent documents when applying for higher position in a quest to earn more salary that will help them succeed professionally. Adan (2006: 2) further indicated that the perpetrators often have easy access to “academic information through web-based catalogues and institutional web pages, which, in some cases, may include the signature of institutional officials, ready for scanning, copying and reproduction”.

A recent product on the market is the instant educational gratification invented by the rapidly growing “Diploma Mill” industry (Adán, 2006: 1). A fake Matric certificate can be bought for R2, 000 (USD 180) (Rademeyer, 2014). Recently a Chinese couple was found to be in possession of more than 1,000 stamped and signed University of South Africa certificates (UNISA, 2013). Institutions of learning are also vulnerable to the acts of fraud whereby officials are also dismissed resulting from fake educational credentials. Fewer than half of the country's municipal managers and their municipalities' chief financial officers have the skills they need to do their jobs. A poll of municipalities in six provinces by City Press has revealed that only 40% of municipal managers and 34% of their chief financial officers have met Finance Minister Pravin Gordhan's deadline to acquire the appropriate qualifications (Mbanjwa & Yende, 2014). Rademeyer (2014) further indicated that several qualification verification companies pointed out that many South Africans tell lies during work applications. In Limpopo province, the Senior Certificate of the municipal

manager did not reflect neither the date of birth nor identity number when verified by the verification institutions (Myburgh, 2014).

“The main patterns of academic fraud tend to be geographic” (Tobekin, 2011: 36). In Inkwanca Local Municipality it was also reported that the municipal manager was under-qualified (*City Press*, 2012; SABC, 2014). It is claimed that the Buffalo City Metro municipal manager was embroiled in a scandal over qualifications for the coveted job. Hartle (2013) reported that the Buffalo City Metro municipal manager was charged with fraud for allegedly submitting false educational qualifications when he applied for the top job in 2011. In KZN, a municipal manager resigned amid an investigation into allegations she faked her bachelor’s degree and used it to get a top job paying her over R50 000 a month (Hans, 2012). Rademeyer (2014) pointed out that in 2009, the CFO in the Madibeng Municipality in North West was also dismissed because the manager allegedly pretended to have an MBA degree. Recently (August 2014), the *Times Live* (2014) covered a narrative of the former member of parliament who claimed to have acquired a qualification from an international university. Another incident is about the Deputy Director of Public Prosecutions who reported to have obtained the LLB degree, but there is no proof of advocate certificate or a record of her ever being admitted as an advocate (*Times Live*, 2014).

The state-owned enterprises also raised media coverage whereby some of the senior managers are investigated for misrepresenting their qualifications. One of the managers claimed to have obtained a BCom and post-graduate diploma in labour relations from a university in Pretoria. It is claimed that the preliminary investigations confirmed that the qualification was never awarded to the respective candidate (*Times Live*, 2014). Most of the offenders normally had not completed the curriculum of the qualification enrolled for the respective programmes at the time of his appointment. Some submitted their CV by claiming they possess a particular degree/diploma. Interestingly, the offenders normally resigned soon after the institutions started an investigation into their qualifications. Most of the perpetrators resigned within a week upon media coverage. Sadly, one of the officials under investigation stated that the tendered resignation was “because of ill-health and stress caused by infighting at the municipality” (Hans, 2012).

## 5. Qualification Verification

Qualification verification is a very sensitive topic which says and determines a lot about the future of any organisation. Before an organisation can employ a person, it is of vital importance that they verify all submitted qualifications. The Boston Scientific (2006) defines verification as “an act or process of establishing the truth or reality of something”. ETDP-SETA (2013:8) defines qualification process as “a planned and systematic process for validating learner achievements and ensuring compliance to SAQA and ETDP SETA certification criteria. The

verification of qualification forms part of an internal control and quality assurance measures for enhancing the recruitment and selection processes, before an individual is appointed. Ivanyos and Roóz (2010: 375) defined internal control as a “complex process realized by an institution for establishing and defining risks and for obtaining reasonable certainty”. In terms of the recruitment function the process is executed to ensure that the prospective candidates are qualified for the position and capable of holding the position to be offered.

**Table 1:** Internal Control Component

Control environment component	Risk assessment component	Control activities component	Information and communication component	Monitoring component
-Integrity and ethical values -Supervisory body -Management philosophy and working style -Organizational setup -Financial reporting competences -Authority and responsibility -Human resources	-The goals of financial reporting -Risks of financial reporting -The risk of fraud	-Integration with risk assessment -Selection and development of control activities -Policies and procedures -Information Technology	-Information in financial reporting -Information in internal control -Internal communication -External communication	-Regular and individual assessments -Reporting of deficiencies

**Source:** Ivanyos & Roóz, 2010: 376

While quality assurance process seeks to continuously monitor, measure and improve administrative processes with available resources, in order to meet the expectations of both users and providers (Offei, Bannerman & Kyeremeh, 2004: 63). The purpose of internal control supports the organization in the following manner as it helps the institutions to:

- comply with the relevant laws and regulations;
- meet its accounting/reporting obligations;
- undertake the regular, ethical, economic, efficient and effective performance of the operational processes;
- ensure the achievement of its strategic goals, including the protection of the resources of the entity from losses, improper use and damages (Ivanyos & Roóz, 2010: 375).

The process is undertaken through the human resource (HR) department. Institutions are required to develop policies and strategies that will enhance service delivery and support for functional departments. The verification of academic credentials allows the HR managers to prevent risk that “jeopardize the organizational level goals rather than on the risks inherent in the

operational processes" (Ivanyos & Roóz, 2010: 378). Such risks are likely to crop up during the recruitment processes. Managers can apply the internal control components presented in table 1.

The verification of academic credentials is commonly known as the screening phase. The Department of Cooperative Governance (2014: 13) gives the procedure of the screening process. The screening of candidates must take place within 21 days of the finalisation of the shortlisting. The screening phase allows the HR manager to:

- Conduct the necessary reference checks;
- Contact a candidate's current or previous employer;
- Determine the validity of a candidate's qualification; and,
- Verify whether a candidate has been dismissed previously for misconduct or poor performance by another employer (Department of Cooperative Governance (2014:13).

In terms of integrity and ethical values, the Department of Cooperative Governance (2014:14) advised that the mayor/ municipal manager is required to compile a written report on the outcome of the screening process.

## **6. Findings: Qualification Verification Measures**

The responses from the questionnaire on verification of academic qualifications in the SDM resulted in findings which are to be briefly discussed in this section of the article. The dark and hidden path of fraudulent and illegitimate academic documentation is extensive (Adán, 2006: 1). "Qualifications are an important part of the professional credentials and identity of a public servant and they imbue their bearer with a certain degree of value and could guide critical recruitment and selection processes" (PSC, 2007: ii). The verification of qualifications involves various interrelated processes and systems, and requires liaison with external institutions (PSC, 2007: ii). Background checking enables the employer to analyse the details of the prospective candidate(s). The primary purpose of pre-employment vetting should be to verify the identity of applicants, confirm their previous performance and ascertain their integrity by reference to their previous conduct (Hinds, 2007: 21).

### ***6.1. Using Qualification Verification in the Institution***

Verification of qualifications is vital to the integrity of public institutions and also to assure the quality of the workforce it assembles. The SDM was asked if they perform the qualification verification processes. The response by the Human Resources manager indicated that the Municipal Manager is responsible for implementing qualification verification in the municipality. In terms of verification of academic credentials the SDM uses the South African Qualifications Authority (SAQA) as its qualification verification institution, in other words all prospective employees of SDM have their qualifications submitted to and verified by SAQA. SDM also verifies

prospective employees' qualifications with the educational institution they obtained their qualification from. At SDM the process of qualification verification is carried out telephonically or electronically usually on the internet or by email.

### ***6.2. Processes for Verification of Academic Qualifications in the Municipality***

Public Service, the Public Service Commission (PSC) has, since 2001 been closely involved in the verification of the qualification of public servants (Public Service Commission, 2007:ii). Conducting reference checks can be one of the most important steps in the selection process (Vermont League of Cities and Towns, VLCT, 2007). Departments are required to continuously assess employment policies, management practices and the working environment in order to promote representivity, fairness and assist in the identification of barriers that may contribute to inequalities (PSC, 2006: 52). Effective recruitment and retention is critical to meeting the capacity challenge and the processes are supported by regulated requirements for recruitment in the Public Service (PSC, 2006: 52). To assist in developing better understanding and improved use of these, the PSC has developed a Toolkit on Recruitment and Selection on which as reported on in the previous (PSC, 2006: 52).

### ***6.3. Frequency of Verification of Qualifications***

When asked about the frequency of the process in the recruitment phase, the HR manager indicated that the municipality does not have fixed timetable for verifying the qualifications. Verification or updating of the qualifications of long-serving employees in the SDM is conducted annually. The verification of the long-serving employees is a form of reporting as prescribed by the PSC. In terms of the recruitment process, it was indicated that the municipality carries out the verification of qualifications on prospective employees when the appointment is about to be effected. Besides the verification of qualifications for prospective employees the SDM also carries out other checks on its potential employees such as background checks of the prospective employees' financial status when it is related to a finance related position in the municipality and all current and prospective employees are subjected to a criminal record check.

### ***6.4. Alternate Qualifications Checks***

The SDM was requested to describe if there were other checks applied on prospective employees. It was indicated that the SDM also carries out other checks on its potential employees such as background checks of the prospective employees. The checks may seek to determine the financial status of the prospective candidates especially on senior managers and finance department personnel. A criminal check is also applied for ensuring the integrity of the employees. Lack of such policies result in flawed recruitment and selection processes, poor retention of staff, and difficulties in recruiting women and people with disabilities (PSC, 2006: 53).

A Corruption Prevention Policy is used to communicate how an organisation will manage the issues of corrupt conduct and corruption prevention. It was also indicated that officials in possession of qualifications obtained outside the Republic of South Africa will have to submit their qualifications to SAQA for evaluation.

#### ***6.5. Municipality Policies on Verification of Qualifications***

SDM also carries out employment tests and competency assessments in order to ensure they hire capable staff and in accordance with verification and quality assurance. The SDM also adheres to the Guideline for Municipal Competency Levels: Senior Managers Municipal Regulations on Minimum Competency Levels. This guide also complements the performance management regulations issued under the Municipal Systems Act by the Department of Provincial and Local Government (National Treasury, 2007: 1).

#### ***6.6. Irregularities in the Verification of Qualifications***

The SDM was asked to identify the actions undertaken when dealing with irregularities identified with a candidate's credentials. Submitting fraudulent qualifications is not only wrong in the eyes of the employer, but it is also a criminal offence, and if reported by the employer, various actions may be taken towards the applicant/employee. It was indicated that if such actions arise the applicant/employee may be dismissed or disqualified. In terms of the long-serving employees they may be suspended whilst the investigations are conducted. If the investigations found the employee/applicant such individual is charged for a criminal record and may be taken to custody or liable for a bail. Any forms of qualification irregularities or falsification are reported to the police for criminal action to be taken against perpetrators and also reported to the institutions implicated for them to take action as well as this impacts the institutions integrity. In accordance with the requirement of section 62(i)(c) of the Municipal Finance Management Act 56 of 2003, the Accounting Officer of SDM has facilitated a process to determine both strategic and operational risks, set up risk management processes in Clusters through resources and personnel. The Audit Committee Charter was revised to include Risk and Performance Management, established respective subcommittees constituting senior managers and led by an experienced member of the committee (SDM, 2013: 30). The Gauteng Provincial Treasury conducted a Risk Assessment workshop for the SDM, on 15 and 29 October 2012. This was in line with the Enterprise Risk Management (ERM) Coverage Plan. This process enabled the SDM to identify the top 10 risks which requires robust execution of the process for sustained service delivery (SDM, 2013: 30). The SDM has established and closely monitored its Fraud Register. The Human Resources Department is capacitated to handle disciplinary cases related to any form of discipline. The Chief Operations Officer handles all serious cases of fraud, corruption and forensic investigations. The SDM has developed a risk management mitigating plan in order to manage the aforementioned

risks. This process was undertaken in collaboration with the Provincial Department of Finance. Internal Audit Plans were planned and finalized to always include high risk areas like licensing, airport, fresh produce market, finance and supply chain management (SDM, 2013: 30).

### ***6.7. Responsibility and Capacity for Execution of the Verification Process***

The accounting officer is responsible to monitor and take all necessary steps to ensure compliance with the regulations, including regular reporting. Addressing the capacity challenge in the Public Service requires dedicated leadership from the Executive and Senior Management levels. As a point of departure, the executive and senior managerial capacity required for this, must have the ability to build on existing legislative, normative and regulatory frameworks. The verification of qualifications involves various interrelated processes and systems, and requires liaison with external institutions (PSC, 2007: ii). The SDM was asked about the adequacy of human capital in terms of the execution of the processes. It was indicated that the problems encountered by municipalities is the "inadequate capacity to implement programmes" (SDM, 2013: 30). The SDM does not have adequate capacity at the moment to be able to carry out verification of qualification, it is for this reason the municipality depends solely on referring to a third party in this case SAQA. The dependence on SAQA is due to a shortage of staff and the capability to conduct the qualification verification.

### ***6.8. Recruitment***

The authors also inquired about the responsible person/office for the municipality's recruitment process. It was indicated that the Municipal Manager and the Human Resources Department are responsible for the municipalities' recruitment process. SDM executes its recruitment through the use of advertisements in newspapers, career portals as well as head hunting (through services such as recruitment services.) Job applicants for vacancies at SDM are required to fill in a two page application form; this form is not comprehensive and only asks for a minimal amount of information in each field such as personal information, academic history and previous work experience.

## **7. Discussion and the Reflection of Falsified Qualifications**

Falsification of qualification is increasing rapidly within the South African government sector, and this needs immediate attention, as the country will not be able to utilise its resources effectively until the government has deployed only the officials qualified to perform such functions. Verifying qualifications ensures that equitable people are hired. Failure to verify qualifications has results in the public sector being over-flooded with unqualified, unlearned and unskilled personnel. And this has in no way benefited the country; on the contrary, the



government has lost billions of rands on projects and instead of going forward, the institutions are running around a circle, with no progress.

### ***7.1. Analysis of Risks Related to Control Process***

This section aimed to understand the level of threat posed by staff fraud when submitting falsified academic credentials. The literature revealed that there are four main interconnected areas of threat related to academic fraud in the workplace. Hinds (2007: 14) identified the risk factors as they relate to: "financial losses; reputational damage; regulatory implications; and internal impact".

### ***7.2. Financial Losses***

Managers of organizations, who verify qualifications, believe organizations and companies run the risk of making themselves guilty of fraud when employing persons with fake qualifications who are unable to do the job (Rademeyer, 2014). Historically, the financial threat from staff fraud has been considered insignificant compared with the financial threat from other types of fraud (Hinds, 2007: 14). The Department of Basic Information (2013) in response to a PA parliamentary questions stated that about 10725 unqualified or under-qualified teachers were employed in public school last year. In 2012, the outgoing Auditor General, Terrence Nombembe estimated that about 70% of municipal officials were not qualified to perform their duties in particular municipal managers and finance officers. The abovementioned figures are not acceptable and they get in the way of the developmental mandate of the public sector as well as to achieve its vision. These figure(s) makes it impossible for municipalities to perform especially when the positions are occupied by officials who do not deserve to be part of the institution. In most cases non-deserving candidate(s) have an impact results to non-performing municipalities. The financial report by Minister of Finance (Pravin Gordhan) indicated that the fruitless expenditure increased from R4 billion to R15.5 billion during 2011/2012 financial period. Furthermore, it is indicated that municipalities failed to collect R77 billion owed for services and underspent their capital budgets but around R10 billion (Gordhan, 2012).

Corruption of any kind at all levels negatively affects the expenditure, resources, construction and interrupts the progress to move forward (Hallak & Poisson, 2007: 116). The losses resulting from staff fraud can have a considerable impact on a business's bottom line (Hinds, 2007: 14). The recruitment process required the human resource department to either contract or employ temporary staff who will execute the recruitment process. The advertisement also has a cost attached to it. Sometimes the department may work extra hours during the selection process. Working extra hours result to the payment of overtime. The financial loss also refers to the remuneration of the wrong candidates and this can be extended to remuneration increase and bonuses for a non-deserving candidate. In some cases the institutions also incurs

the legal costs whereby they need to appear in the court proceedings as the non-deserving candidate was charged with academic fraud.

### ***7.3. Reputational Damage***

“Fraud undermines the credibility of legitimate institutions” (Tobekin, 2011: 36). Hampered by legal concerns, administrative resource limitations, and fears of bad publicity, many universities decline to pursue legal action against even egregious fraudsters. The education sector together with the human resource managers need to develop strategies for promoting integrity in increasingly demanding contexts. Municipalities are required to identify and develop criteria to evaluate the progress in the implementation of strategies. Furthermore municipalities are also expected to attract investors for their developmental mandates. The trends of fraudulent academic credentials have increased a clear media interest in staff fraud and this created significant impact on the reputation of public sector institutions and customer confidence (Hinds, 2007:14). If staff fraud was identified before any losses are incurred it would be beneficial for the institutions. Staff fraud can cause unquantifiable reputational damage to the image and brand of an organisation, both at local and national level (Hinds, 2007: 14).

### ***7.4. Regulatory Implications***

Qualification Verification company estimated about 15-17% of all qualifications presented are problem matric, in that they are altered, have irregularities or falsified their qualifications (SABC News, 2013). PriceWaterhouseCooper (2013) skills audit found that 60% of state owned enterprises such as SABC, Telkom executives did not meet minimum requirements for strategic thinking and leadership in their work. This explains the many fraudulent activities and failure to perform functions by most of the personnel in the public owned enterprises. Given the complexity of academic fraud, Hallak & Poisson (2007: 116) in association with UNESCO has given guiding principles, aimed at diagnosing and finding the appropriate strategies that will help alleviate the problems and challenges of Qualification fraud. Institutions need more policies that addresses and deals with the issues of accountability, integrity, and quality assurance for eliminating corruption and combating fraudulent activities. The consequences of such activities create unequal and unfair proceeding in the selection process, which in turn results in appointment of non-deserving appointees who lacks the skills to progress.

The executive mayor is also responsible to develop the performance management plan and submit it to council for approval, and should assign responsibilities in this regard to the municipal manager. The principles lay emphasis on that:

- quality assurance policies should contribute to a virtuous cycle;
- sound polities should consider the wide dissemination of the social, financial and ethical costs of fraud; and

- policies should be comprehensive and target not only academic fraud, but also other corruption practices (Hallak & Poisson, 2007: 116).

Governments have established that every official's records must be screened as part of the anti-corruption programme. However, most policies and government attempts regarding this has not been effective. Such policies are of great importance in order to help minimise the manipulation of a single policy in the recruitment processes (Hallak & Poisson, 2007: 116). The University of South Africa has prosecuted 94 cases of qualification fraud over the past three (2010-2012) years (Redelinghuys, 2013). In the UK the **Telegraph** reported that a new degree verification service is being launched to stop graduates from lying on job applications. Now the University of South Africa has started a focussed campaign to root out bogus qualifications and as a matter of policy will be prosecuting all those who have used false qualifications to gain entry to the university (Redelinghuys, 2013).

### ***7.5. Internal Impact***

Incidences of staff fraud are unacceptable and have a much impact towards the staff establishment of any organisation. The main problem with this is that employees with false qualifications are unable to function and progress effectively as they lacked the educational skills and that this is the major reason why certain government departments provided poor service delivery to the public. They are also depriving honest employees who went to the trouble of getting valid qualifications the jobs they are privileged to have. Cases of staff fraud can disrupt the normal daily routines of other employees and can have a negative impact with respect to morale and trust between co-workers (Hallak & Poisson, 2007: 116). For example, the case of there will be an investigation, the involvement of managers and HR in the disciplinary process and the additional costs involved in recruiting, vetting, training and employing a new member of staff. Hallak & Poisson (2007: 16) further denotes that team spirit and morale can be harmed if staff is shocked and unsettled by co-workers being dismissed, arrested in the workplace or prosecuted. Occurrences of staff fraud can also create a culture of mistrust and suspicion (Hinds, 2007: 15).

## **8. Conclusion**

This paper reviewed the existing measures for preventing academic fraud. There has been a recent upsurge in the prevalence of falsified academic qualifications. The application of verification of academic credentials is of great importance because academic fraud is a relatively new area of concern and is a major issue; qualification verification needs to be emphasized in the public sector since this will enable all forms of government to operate effectively and efficiently. It is vital for qualification verification to be done consistently in order to stop incompetence, fruitless expenditure and corruption in government and public institutions as it is

tax payers' money that is abused when these incidents occur. In general there are many useful processes applied in in the public sector to verify qualifications of prospective and current employees, however the increase and regular occurrence of academic fraud calls for more improvements in the field of verifying academic credentials and more attention needs to be drawn to this issue. It is to this end that there needs to be a response to a breach of integrity within the public institution. A number of measures must be implemented concurrently to achieve this. Falsification of qualifications is not only corruption and application fraud, but largely a type of academic fraud with intolerable consequences.

## **9. Recommendations**

Academic fraud appears to be on the increase across the world in developing and developing countries alike. It is a costly threat to societies, to their efficient operation and to public trust in the reliability and security of their institutions (Eckstein, 2003: 12). The recent spate of cases of deceptive and academic fraudulent activities shows that much remains to be done. Stringent recruitment checks are crucial for preventing the occurrences of academic fraud. The following are suggestions for detecting and preventing fraudulent academic credentials.

**Pre-employment vetting checks vs. ex-facto vetting checks:** A study conducted by Managed Integrity Evaluation (MIE) found that 54% of men and 46% of women lie when applying for work (Rademeyer, 2014). The perpetrators are often caught after the appointment stage and in some cases such offences are discovered after three years. There is a need to uphold the educational integrity of institutions in South Africa. In this case the institutions may follow a risk-based approach that allows them to conduct pre-employment vetting checks as this may mitigate the risks of employing illegitimate employees.

**In-house vetting processes:** Institutions usually depend on contracted services to meet the developmental mandate. The authors have confidence in the internal resources and assets owned by institutions. Institutions may develop rigorous anti-fraud internal culture that may promote honesty, openness, integrity and vigilance. The institutions may also develop in-house database which will enhance the internal control processes in order to professionalise the function of HR.

**Use of interns:** The ability of the Public Service to rise to the current socio-economic challenges depends critically on human resource capacity and its management (PSC, 2006: 3). The literature interviews conducted in the SDM indicated that the shortage of staff is often an impediment to most institutions. Therefore the author's recommends that the HR manager may use the interns appointed or law graduates to take part in the verification processes with an aim of reducing the burdens of staff shortages. Such processes will also serve as a transfer of skills for the newly graduates and diplomats.

**Direct receipt of academic transcripts:** Opportunities for fraud are currently been enhanced by economically accessible technology that includes “laser printers, easy-to-program type fonts and designs, colour photocopying, scanning devices” (Adan, 2006: 2). The South African government embraced the notion of cooperative governance. However this is not enforced in the three spheres of government. Verification of academic credentials is a relatively new area of concentration especially in the public sector and there is need to improve on processes. Institutions need to move to an era that promotes cooperative governance. Rademeyer (2014) also suggested that universities can take the lead in this regard, and start acting as whistle-blowers when people claim to have acquired qualifications at a particular institution when it is not the case”. The standard practice among U.S. institutions is to send official academic transcripts directly from one institution to another. The direct transmission of academic transcripts may ensure receipt of authentic documents. Such methods may also apply to enforcing relations with the international academic sector since some credentials are obtained in foreign countries.

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## IMPLICATIONS OF RESIDENTIAL ELECTRICITY THEFT, DETECTION AND ENFORCEMENT: CORRUPTION OF CONSUMERS AND AGENTS

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### **Abstract**

This paper analyses the economic impact of residential electricity theft. Theft and corruption are common in electricity distribution systems worldwide. Electricity theft form part of the revenue protection objectives in the electricity sector. The paper examines the processes adopted for prevention of residential electricity theft in the Sedibeng District Municipality (SDM). Electricity theft in this paper is considered as any kind of fraudulent use of electricity. The irregularities in electricity sector mainly stems from the socio-political structure and institutional governance of the operating utilities. Residential electricity theft occurs wherein consumers (client) and utility employees (agents) collude for their respective gains, thereby causing loss to the utility/government (principal). Consumers dishonesty inhibit the utility from receiving the full price of the power it sold, which harms the financial health of local distribution companies and franchises, creating deleterious effects on future investments in the power sector and local economic growth. Besides examining detection and enforcement processes, this paper argues that corruption not only stifles growth, it also perpetuates or deepens inequality, as the few amass power and wealth at the expense of the many. To this extent, the paper hopes to unpack the anatomy of electricity theft through analyses of pertinent literature and interview survey results from the Vereeniging branch of the SDM.

**Keywords:** Institutional Governance; Residential Electricity; Corruption; Consumer; Agents; Sedibeng District Municipality

### **1. Introduction**

Globally the South African household electricity consumers have been complaining about escalating power tariffs in recent years. Meanwhile ESKOM which is the main power generating company justifies rising tariffs on the need to raise sufficient funds to modernise its ageing infrastructure. Any additional reason for ESKOM to further raise tariffs is therefore considered unwelcome by consumers thus leading to negative behaviours and attitudes. This paper is a modest attempt to revisit the issue of revenue enhancement strategies in the energy sector. Electricity theft is on the global agenda, keeping in mind the importance it holds in the APEC agenda of issues. The focus is on the SDM's experience. The paper first puts some definitions and background on the subject matter in order to provide some perspectives when exploring the context of electricity theft.

### **2. Research Objectives and Methodology**

This paper anticipated to review the institutional, legal and policy measures for combating residential electricity theft. This paper analysed the literature covering the phenomenon of electricity theft and the anatomy of residential electricity theft. The revenue that is lost must be made up somewhere and electricity theft can therefore contribute to increased tariffs and price increases in general. The authors inquired about the financial impacts of electricity theft as related to revenue management. A variety of methods are used to commit crimes in the electricity sector therefore the institutional, legal and policy measures for combating residential electricity theft were also examined. A qualitative approach was considered for the study for the reason that electricity theft is a bottom-up action in the process of electricity governance. A qualitative technique allows researchers to study the behaviour of the community and be able to draw conclusions on the matter assessed. Field trips were also conducted in order to observe the corruption acts pertaining to electricity theft. An appointment with the Customer Service Contact Officer was scheduled for an interview. An open-ended questionnaire was developed for the interviews conducted. The scheduled interview was informative and allowed the authors to have a perspective of the topic under review. The authors witnessed the measures applied by the sector of preventing electricity theft. The visit to the depot was enlightening as it enabled the authors of this paper to be participant observers. The authors witnessed a scene whereby a resident consulted the depot to complain about the meter box that was removed without his consent. During the interview session the Eskom took us through the specimen of the meter boxes that were removed by the technical team from the dishonest households. Electricity theft normally occurs in the households and therefore it was important to verify the statistical reports presented by ESKOM and from the academics dealing with public finance.

### **3. General Overview of the Energy Sector**

Government's goal is to ensure that all South African households have electricity by 2014 (RSA, 2013: 203). The responsibility for the distribution of electricity is attached to Eskom and local municipalities. National government is responsible for ensuring the generation of electricity and its transmission across the country. As a sphere of government, municipalities are responsible for the distribution of electricity to consumers (National Treasury, 2011: 143). Schedule 4 of the Constitution makes electricity reticulation a municipal responsibility but no district municipality is authorised to distribute electricity. Eskom Holdings SOC Limited (Eskom) is South Africa's primary electricity supplier. Eskom's mandate remains to provide electricity in an efficient and sustainable manner. Eskom is wholly owned by the South African government. It has the responsibility to generate, transmit and distribute electricity to industrial, mining, commercial, agricultural and residential customers, and to municipalities, which in turn redistribute electricity to businesses and households (Eskom, 2012: i). Eskom is a critical and strategic contributor to the South African government's goal of ensuring security of electricity supply in the country as well as economic

growth and prosperity. Eskom's values are as follows as summed up in the Eskom's Business Conduct Policy:

- Zero Harm :Eskom will strive to ensure that zero harm befalls its employees, contractors, the public and the natural environment;
- Integrity :Honesty of purpose, conduct and discipline in actions, and respect for people;
- Innovation: Value-adding creativity and results oriented. Lead through excellence in innovation; and,
- Customer Satisfaction: A commitment to meet and strive to exceed the needs of the receivers of products and services (Eskom, 2014).

### ***3.1. Residential Electricity***

Residential electricity refers to the energy consumed by households. Households make use of the pre-paid electricity system which is bought from an authorised vendor. The vendor(s) acts as an agent and they benefit for selling the electricity vouchers. The vendor(s) may include a bank, filling station, mobile network suppliers or a large retail stores or a local supermarket. Electricity vouchers are sold and printed from a pre-paid vending machine in a form of a voucher. The electricity pre-paid system works in the same fashion as the cell phone credit voucher (airtime). A pre-paid electricity meter is installed on the premises of the consumer and is linked to the electrical circuit of the premises (Eskom, 2014: 31).

Results from Census 2011 indicate that 84% of the 51.7 million people in South Africa have access to electricity and 26 % still do not have access to electricity (South Africa, 2012: 650). There are households without access to electricity and have to rely on other energy sources such as firewood, paraffin and dirty coal for their thermal and cooking needs. This has devastating health consequences, with respiratory conditions due to indoor air pollution being responsible for a devastating number of deaths in South Africa every year (Barnes, et al., 2009: 4-13). There are over 4 million prepaid meters installed in South Africa. Eskom has more than 3.2 million prepaid meters installed presently. Eskom is not the only regional domestic electricity supplier, many of the larger cities and towns have their own electricity departments who are also installing prepayment meters (Eskom, 2014). During the past years Eskom installed meters at a rate of between 1000 and 1500 meters per working day. The majority of these meters were going into new customers homes i.e. the previously non-electrified houses in South Africa (Eskom, 2014).

## **4. Nature and Forms of Corruption**

In recent years the fight against corruption has assumed a key place in development policy, as a way of strengthening economic growth and helping civil society and democracy to function. Corruption not only stifles growth. It also perpetuates or deepens inequality, as the few amass power and wealth at the expense of the many. The energy sector lends itself to corrupt

practices (Lovei & McKechnie, 2000: 1). Fraud is when the consumer deliberately tries to deceive the utility (Eskom, 2014: 22-25). Fraud is mentioned as one of the ways through which electricity is stolen. Fraud is committed with the motive to facilitate the theft of electricity, or to conceal the theft thereof. Electricity theft in South Asian countries this practice is quite common in poor residential areas where those wanting electricity may not have lines allocated and may not be able to pay if they were connected (Smith, 2004: 2069). In Pakistan the process is called “the kunda system”. In Soweto, South Africa 6 tons of “spiderweb” cable used for such connections was recovered in 6 months by the electrical authority in raids (Smith, 2004: 2069). The areas of government activities most vulnerable to corruption are: public procurement, rezoning of land, revenue collection, government appointments; and local government (Balboa & Medalla, 2006: 2). Typical features of system prone to corruption are:

- concentration of powers in the executive and weak or non-existent checks and balances
- poor transparency surrounding executive decision combined with restricted access to
- information
- elaborate regulatory systems allowing for discretionary decision making
- weak systems of oversight and enforcement
- soft social control systems/high tolerance for corrupt activities (Balboa & Medalla, 2006: 2).

Common forms of corruption can be grouped into categories according to the level of the public officials involved namely: petty corruption, corruption by company managers and midlevel bureaucrats, and grand corruption. Corrupt management practices may involve both cash and noncash transactions. Petty corruption is most prevalent at the interface with customers and is one of the reasons for the low payment collection rates reported by many gas, electricity, and district heating companies in developing countries (Lovei & McKechnie, 2000:2). Grand corruption is seldom as visible as its two lesser cousins. Corruption characterizes both traditional and modern society and governance. Traditional society in some regions is characterized by patron-client relationships, complex interrelations of patronage and protection that require financial resources for the exercise of power and impose financial burdens for protection. In South Asia, for example, these relationships are reinforced by the vestiges of traditional social stratification, hierarchy, and deferent roles (Lovei & McKechnie, 2000: 1).

## 5. Corruption and the Electricity Theft

The energy sector with its complex mix of public and private actors as well as often enshrined centres of monopoly, power is prone to corruption. The electricity business is currently in a major expansion phase and there is agreement with the government that the committed capital expansion programme continues (Eskom, 2012: 53). This sector generates substantial cash transactions in a form of revenue and it is compared with other infrastructure sectors (Lovei

& McKechnie, 2000: 1). Corruption in energy takes many forms, from petty corruption in meter reading and billing to grand corruption in the allocation of lucrative monopolies (Lovei & McKechnie, 2000: 1).

**5.1. Problems and Causes of Energy and Revenue Losses**

Electricity theft is a complex phenomenon with many facets (Smith, 2004: 2068). Energy and revenue losses emanates from a variety of factors. Eskom (2014) defines energy loss as the difference between energy purchased as measured at the transmission networks and energy sold to all customers. These losses are experienced in the form of technical and non-technical losses. Technical losses refer to the “energy lost in the electrical networks due to the flow of current or energization of the system” (Operation Khanyisa, 2014: 1). Non-technical losses occur mostly as a result of “electricity theft”. Eskom’s energy losses as a result of electricity theft are close to R2 billion annually. The figure for South Africa as a whole which includes losses suffered by municipalities is estimated to be at least double the Eskom figure (Operation Khanyisa, 2014: 1). Table 1 presents the typical causes of energy and revenue losses. Lovei & McKechnie (2000:17) identified the Causes of energy and revenue losses.

**Table 1:** Causes of Energy and Revenue Losses

Descriptors	Examples
Illegal Connections	<ul style="list-style-type: none"> <li>•Affordability compounded by escalating tariffs</li> <li>•Electrification demand exceeding supply</li> <li>•Sense of entitlement, Opportunism</li> </ul>
Meter Tampering	<ul style="list-style-type: none"> <li>•Affordability compounded by escalating tariffs</li> <li>•Sense of entitlement, Opportunism</li> </ul>
Illegal Vending (Ghost CDU's)	<ul style="list-style-type: none"> <li>•Business opportunity spawning criminal syndicates</li> <li>•Affordability; Sense of entitlement, and Opportunism</li> </ul>
Technical Losses	<ul style="list-style-type: none"> <li>•Normal energy dissipation in electricity distribution</li> <li>•Overloaded networks and ageing networks</li> </ul>
Data/Process Issues (Meter, Customer & CNL)	<ul style="list-style-type: none"> <li>•Meter information errors (e.g. meter number, meter constant)</li> <li>•Customer information errors</li> </ul>
Metering Problems	<ul style="list-style-type: none"> <li>•Meters / peripheral metering infrastructure (e.g. CT's) not functioning</li> <li>•Meter programming errors</li> </ul>

Source: Lovei & McKechnie, 2000: 17

Theft arose from manipulation of pre-paid vending machines (Maboe, 2012: 35). The other type of electricity theft Eskom identified is a Ghost CDUs which involves the selling of illegal pre-paid electricity vouchers at a much cheaper price to the public. Seger (2005: 8) states that electricity theft has two types of thieves. The first type is an *honest thief* and the other is a *dishonest thief*. The honest thief justifies his actions by stating that

“Stealing is when you take something you don’t need. But when you take something you need that is not stealing, that is taking”.

The honest thief normally reconnects themselves after being disconnected for non-payment or tampering, they also share this knowledge with friends and neighbours. The second type is the *dishonest thief* who steals naturally, hangs with other criminals (friends or family) and lastly expects to be caught stealing.

Meter tampering is a common practice is to tamper with the meter so that a lower reading of power use is shown than is the case and usually results to electrocution (Smith, 2004: 2068). Smith (2004: 2068) further identifies that electricity theft can be arranged by rigging a line from the power source to where it is needed bypassing a meter. This act was witnessed in Bophelong a township in the SDM. The informal settlement households obtained electricity from the formal house infrastructure. The cables are dug in the soil or attached to a telephone cables. This can be a risky procedure for a layperson, and many cases of electrocution have been reported (Smith, 2004: 2068). The number of cable theft cases is on the increase with individual farmers being targeted along with prestigious installations such as the Gautrain (Maboe, 2012: 3). Copper cable has a commercial value and dealers in second-hand metal provide an illegal and lucrative market for thieves of copper cable to sell their goods. Investigations and prosecutions should also target that market.

Kulas et al. (2007) regards theft at the workplace as a form of workplace behaviour that ultimately revolves around the "climate for theft" (the opportunity to steal based on the employee's attitude). This raises the view that if employees work under unacceptable working conditions and they might be demotivated and demoralised, therefore creating the conditions and dispositions to engage in immoral social behaviours. Notwithstanding the notable claims that most self-respecting and mature adults would know that it is illegal and unethical to steal from an employer. Employee theft which is an "unauthorised appropriation of company property by employees either for one's own use or for sale to another" (Appelbaum et al., 2006) has mounted at a startling rate. Of the 78 287 counts to which the accused was held accountable for, 78 279 consisted of the theft arising from the unauthorised use of the vending machines (Eskom, 2014: 31). In this specific case pre-paid vending machines were stolen and unauthorised vouchers were being reproduced by the illegal vendors who in return cashed in on the entire value of the voucher which was sold (Eskom, 2014: 31).

## **6. Findings: Measures for Combating Residential Electricity Theft**

Energy losses reflect the difference between the quantity of energy sent out from the power stations and the quantity sold to the various customers at the end of the value chain. Losses are categorised as technical or non-technical in nature (Eskom, 2012: 11). Different avenues are undertaken for curbing the losses in the sector. In South Africa anti-corruption policies and measures are in place to deal with the different kinds of corrupt activities and behaviour in the government. In fact, it is even observed that there are too many laws and

regulatory mechanisms that tend to overlap with each other. If executed thoroughly, these laws are sufficient and comprehensive enough to discourage corrupt acts. Municipal by-laws are another avenue for investigators and prosecutors to explore in instances where the municipality is the service provider and by-laws are in place. Although Eskom cannot rely on by-laws to protect their property, Eskom is also indirectly affected by the unauthorised consumption of electricity supplied by Eskom to municipalities. If by-laws are effectively enforced, Eskom also stands to benefit, and the national interest will be served thereby. There is unfortunately a tendency to treat contraventions of by-laws as “petty offences”. It has a low priority rating in the criminal justice system. Civil obedience can only be promoted if by-laws are also vigorously enforced.

### ***6.1. Institutional Arrangements***

Institutional arrangements in Eskom comprises of internal and external processes. Institutions are required to set standards and management implementation systems for internal control. The controls are designed to provide cost-effective assurance that assets are safeguarded, and that liabilities and working capital are efficiently managed. Policies, procedures, structures and approval frameworks provide direction, accountability and division of responsibilities, and contain self-monitoring mechanisms. The controls throughout Eskom and the group focus on those critical risk areas identified by operational risk management and confirmed by executive management. Both management and the internal audit department closely monitor the controls, and actions are taken to correct deficiencies as they are identified (Eskom, 2012: 2). External processes refer to reactionary measures undertaken externally.

*Loss Estimation:* Estimating the loss incurred by any utility through this process one must make a few assumptions. In Eskom we looked at two sources of information to establish a range for the loss incurred.

*Eskom Customer Care and Billing System:* One source is the Eskom Customer Care and billing system, where we can track which prepaid customers are not purchasing their electricity from Eskom legal vendors.

*Revenue Protection Audits:* The other data used for this came from Revenue Protection audits (both desk top and field) conducted within the prepaid environment. By matching data from the desktop and field audits, to the customer database, we established that out of the roughly 4 million prepaid customers about 310 000 were not purchasing their electricity from the legal Eskom vendors. That translates into a revenue loss to Eskom of about R342 million per annum if one takes the average monthly electricity purchase of roughly R92 for prepaid customers. There is a very high probability that these customers are purchasing from illegal vendors.

*Audit and Risk Committee:* The authors has reviewed the effectiveness of Eskom and the group's internal controls and considers the systems appropriate for the effective operation of



Eskom and the group (Eskom, 2012: 2). The audit and risk committee reports that it has adopted appropriate formal terms of reference as its audit and risk committee charter, has regulated its affairs in compliance with this charter, and has discharged all of its responsibilities contained therein (Eskom, 2012: 3). External processes consist of reporting electricity theft. Reporting refers to a process and facility whereby external parties and/or Eskom employees report incidents and/or suspicion of the theft of electricity by individuals or organisations (Eskom, 2012).

*Educating Customers:* Whilst the search is on for the stolen CDUs, the institution continues with the policing initiatives and educating customers about the risk of the so called unscrupulous vendors. Education process involves clearing unexplained credits from customers' meters to ensure that customers can also feel the real loss.

## **7. Detection**

In all instances management has considered instituted preventive and corrective measures as appropriate for including disciplinary action. To date, Eskom has made use of detection/audits and reactive compliance measures such as disconnections and fines to deal with electricity theft. Whilst this approach has had its successes, a combined approach is needed to drive behaviour-change where South African society as a whole rejects electricity theft and works with Eskom and other power utilities to ensure a safe, sustainable power supply (Eskom, 2014: 2). The financial losses are critical to many electric power organizations. Lost earnings can result in lack of profits, shortage of funds for investment in power system capacity and improvement, and a necessity to expand generating capacity to cope with the power losses (Smith, 2004: 2067). Systems are designed such that tamper is easily detectable but checks must be performed regularly and corrective actions instigated immediately. The manager should outline that the first thing to do is to locate the stolen CDUs, confiscate them and criminally prosecute the perpetrators of such crime. The following are the detection measures initiated by Eskom for safeguarding its revenue and for sustainable service delivery.

### ***7.1. Conductor Theft***

Losses due to conductor theft (including theft of copper, cable, transformers and tower-related structures) totalled R63.3 million (2011: R38.7 million), and involved 9 584 incidents (2011: 4 933 incidents). Actions to combat these losses are managed by the Eskom Network Equipment Crime Committee in collaboration with affected state owned enterprises and the South African Police Services. The combined effort resulted in 386 arrests (2011: 412 arrests). Stolen material worth R8.8 million (2011: R4.7 million) was recovered (Eskom, 2012: 11).

### ***7.2. Test Case System***

Eskom also introduced a test case system. The system allows Eskom to prosecute customers for buying stolen electricity or when they are in possession of stolen goods.

### ***7.3. Tamper Detection***

Electricity theft can be estimated but not measured exactly. The most accurate estimate of theft is by conducting a thorough analysis of the power system (Smith, 2004: 2070). Tamper detection is applied in household meters. It was said that residents purchase stolen electricity produced from the stolen SDUs. As a result when such electricity is bought and the resident wants to enter the voucher on the system, the machine will reject the entry. Automatically such voucher will be counted as fake as a result a report will be drawn by the Tamper detection system. In such cases, the technical team is sent to the perpetrators houses whereby the meter box will be confiscated by the Revenue Loss Team. The perpetrators will be required to pay a fine of R2000. However, Eskom stated that such detection is difficult to manage and provide little benefit.

If tamper detection is used the meter also enters into tamper mode when maintenance personnel open it to test or correct a fault. The technician must then obtain a token from the vending machine to clear the tamper condition before the meter can operate again. This process is complex and very difficult to control for such a large installed base. In any case, if a meter is tampered to obtain free electricity it will be easy to bypass the whole meter, whether it is in a tampered state or not (Eskom, 2014). **Tamper detection makes it** possible for the sector to determine how much electricity has been sold to a geographical area so that statistical meters can be used to correlate the consumption per area. An electric power system can never be 100% secure from theft (Smith, 2004: 2067). Eskom instead rely on proper sealing of meters with very strict procedures in place and the meters are designed such that all tamper will be easily visible to allow prosecution of trespassers. A tamper detection will be useful if the meter can transmit a signal in real time to a remote station but such technology is still prohibitive for the very low energy consumption of rural customers and communication to the rural areas are unreliable or non-existent (Eskom, 2014).

### ***7.4. Split Meter Method***

Eskom introduced a new method of distributing electricity to households which is called the Split Meter method which will be planted on a 7meter pole. This method has been enforced as a pilot project in Soweto and commenced during the year 2013. Another method is the Keypad method which is planted in the household socket to detect how much electricity has been used. However, this method will be used for the Eskom employees with experience. A vending system provides information on customer usage patterns which can be used to detect theft.

### ***7.5. Change of Supply Group Codes***

Eskom introduced the Supply Group Codes in order to prevent customers from buying electricity from the illegal vendors. The system forbids credit obtained from the illegal tokens or vouchers in their meters. The system also discourages the customers from buying from these illegal vendors (Maboe, 2012: 17).

#### **7.6. Targeted Enforcement/Prosecution**

Eskom works with the Law Enforcement Agencies. This is led by the Eskom's Revenue Loss Unit in partnership with SAPS; The Hawks and AFU (Maboe, 2012: 19). The preferred approach is prosecution-guided investigations aimed at ensuring that every case pursued is prosecutable. This can only be achieved if evidence gathering and investigations are focused and thorough (Maboe, 2012: 20). Eskom analyse the consumption and purchase patterns of customers and site visits are performed if anomalies are detected. Eskom also has a strict procedure to prosecute trespassers. The enforcement processes have been established for minimising the risks.

### **8. Enforcement Processes**

In many countries long histories of weak monitoring, low transparency, and inadequate civil service pay, opportunities and incentives for illicit gain are rife (Lovei & McKechnie, 2000: 1). Levels of crime continue to be of concern in South Africa in spite of the guarantees of the Constitution of South Africa (Act No. 108 of 1996) that everyone should be protected from all forms of violence, whether from public or private origin (Lehohla, 2014: xi). Eskom and municipalities need a robust enforcement programme if they are to succeed in the fight against electricity theft. Enforcement refers to the process of taking relevant legal action to either compel a third party to comply with their obligations in terms of a contract and/or to request the State to initiate a prosecution once a crime has been detected and investigated fully. It may also include asset forfeiture in appropriate cases. Targeted prosecutions are intended to address not only those individuals and/or organisations or companies being prosecuted, but should also influence the behaviour of broader society (Eskom, 2014: 17). The enforcement strategy has three major objectives:

- In the short term, the objective is to intensify common law prosecutions and solidify partnerships with the SAPS and NPA.
- In the medium term the strategy aims to set legal precedent and test cases, to leverage various legislation to prosecute serious cases, to leverage the reporting line, and to build investigative and forensic capability.
- The goal in the long term is to strengthen national legislation (Eskom, 2014: 17).

The enforcement process is based on an end-to-end business process ownership approach. The matter needs to be reported, investigated, monitored and supported throughout the criminal trial,

including all postponements and any other issue that may cause delay (Eskom, 2014: 18). Eskom's enforcement actions over the past three years (2010–2013) have led to:

- 60 court cases and convictions;
- First racketeering charges and conviction relating to electricity theft in the residential sector resulting in the two accused (members of an illegal power voucher issuing syndicate) receiving a combined sentence of 111 years;
- 112 arrests;
- Various other investigations and court cases are underway;
- Recovery of over R200million in revenue, the bulk of which was from the LPU sector;
- The issuing of approximately R43 million in tamper fines;
- Audits of 2.35 million meters and electrical supply points; and,
- 76 931 disconnections by Eskom of illegal connections and tampered metres (Operation Khanyisa, 2014: 4)

Utilities and electricity providers around the globe are faced with pressures on several fronts, including low margins and escalation of non-technical losses in South Africa. To deal with these pressures, most utilities have established programmes which could include a portfolio of cost optimisation, process optimisation and revenue management efforts (Mohamed, 2014). The programmes Operation Khanyisa and Eskom's Energy Losses Management Programme were identified as the main programmes for protecting revenue losses in Eskom.

### ***8.1. Operation Khanyisa***

Operation Khanyisa is the behaviour-change communications leg of Eskom's Energy Losses Management Programme (ELP), and is a national partnership campaign against electricity theft (Operation Khanyisa, 2014: 3). The campaign has been successfully launched in five sites around the country, in Sebokeng (near Vereeniging in Gauteng), Tsakane (near Nigel in Gauteng), Kamhlushwa (near Komatipoort in Mpumalanga), Moroke (near Burgersfort in Limpopo) and Sterkfontein (near Groblersdal in Limpopo). Local government leaders, traditional authorities, schools and various civic organisations have been involved in the campaign, and play an important role in providing leadership and mobilising support amongst their constituencies (Eskom, 2014: 8).

### ***8.2. Eskom's Energy Losses Management Programme***

Eskom's Energy Losses Management Programme (ELP) was established in 2006 to deal with energy losses. The programme consists of five Work streams, each looking at specific aspects that assist in the management of energy losses (Eskom, 2014: 11). The ELP seek to address the sector's energy and revenue losses problem by means of:

- Audit, measure and fix customer installations;

- Ring fence electrical networks to balance energy delivered;
- implement tested technologies;
- Ensure sustainability; and
- Communicate to and educate internal & external stakeholders: Operation Khanyisa (Eskom, 2014: 11).

Audit stream are used to identify and target customers that are high-loss, and hence high-risk, customers. The network ring-fencing stream ensures that all energy balancing and related energy flow measurement schemes are monitored and tracked in the business to enable early detection of possible energy loss-related problems (Eskom, 2014: 11). Electricity theft can never totally be eradicated in any power system. In Japan, Western Europe and North America effort has been devoted to the technological and managerial methods necessary to reduce theft to levels tolerable. Many of these systems operate in a governance culture that promotes organizational efficiency and theft law enforcement. This does not mean that electricity consumers necessarily love and support their power company, but few will try to steal electricity (Smith, 2004:2073).

#### **9. Milestone Achieved**

Almost all regimes made anti-corruption efforts its slogan and correspondingly created new offices to carry this out as these efforts seemed to create the impression that the new administration is serious in its anti-corruption initiatives. Creation of such bodies however, only resulted to redundant functions and wastage of government resources. Eskom uses a multi-sectoral approach is likewise used in curbing corruption in the country. Three methods for reducing power theft can be applied and it includes technical or engineering, managerial, and system change (Smith, 2004:5). Anti-corruption efforts form part of Good Governance. "Good government" plays an important role in the development process and "requires the highest standards of integrity, openness and transparency" (Balboa & Medalla, 2006: 1).

- In the Johannesburg South High Court in March 2011, two accused were convicted of electricity theft and racketeering amongst others, and received a combined sentence of 111 year, serving an effective term of 18 and 15 years each (State v Ndebele m and another, 2011);
- The Gauteng Asset Forfeiture Unit also seized property and assets belonging to the accused after the conviction;
- 49 runners have been arrested (more still to be validated);
- 18 ghost CDU's were recovered;
- Unexplained credits worth thousands of Rands cleared;
- Conviction in the Vanderbijlpark Magistrate Court where a 'runner' was sentenced to 3 years imprisonment for his involvement in the illegal sales of electricity;

- We currently have a number of cases at various stages through the courts; and,
- SAPS officials and Prosecutors are receiving on-going training to deal with this crime;

The issue of electricity theft affects not only South Africa, but other countries are also battling with the theft situation. It is not only up to government to try and fixate the issue but the members of the public should as well play a role as this issue affects everyone. The programmes and policies in place to try and curb electricity theft are not sufficient to decrease the amount of corruption. However, Maboe (2012: 23-27) indicated that the “institution is seeing progress in the fight against Ghost Vending, although much slower than we would have liked”. In addition, they can be reduced by reforms in the energy sector that include:

- Adoption of transparent market rules.
- Reduction in the scope and applicability of emergency provisions.
- Establishment of independent system operators with a multilevel governance structure to reduce the influence of any single individual.
- Establishment of independent regulatory bodies to oversee market operations (Lovei & McKechnie, 2000: 7).

#### **10. Financial Impacts of Electricity Theft**

Electricity theft is increasing. It is evident that crime instils fear amongst households and it may hinder their ability to engage in their day-to-day activities (Lehohla, 2014). Despite the measures that exist to combat crime, it continues to be a challenge for the victims and those responsible for crime prevention (Lehohla, 2014). The utility encounter capacity problems whereby the problems experienced are beyond the SAPS Police role for combatting crime (Maboe, 2012: 13). Eskom defines energy loss as the difference between energy purchased as measured at the transmission networks and energy sold to all customers. Eskom’s energy losses as a result of electricity theft are close to R2 billion annually. This figure for South Africa as a whole which includes losses suffered by municipalities is estimated to be at least double the Eskom’s figure (Operation Khanyisa, 2014: 2). Technical loss is often described as loss that is “inherent” in the system and refers to the energy lost in the electrical networks due to the flow of current or energization of the system (Eskom, 2014: 10). Non-technical losses suffered due to electricity theft take place in the form of meter tampering and bypassing, illegal connections, stolen CDUs, and the sale of illegal pre-paid electricity vouchers to consumers (Eskom, 2014: 10). It might not necessarily be possible to establish an accurate figure until ALL the stolen CDUs are recovered and downloaded to see the transaction history of each CDU. The utility is using huge sums of money on Ghost CDU Vending investigations, educational and advertising campaigns to inform South Africans about the negative impact of buying electricity from these illegal vendors. This money could be better utilised elsewhere e.g. electrifying villages in desperately need of electricity.

One can safely say the utility is losing roughly between R342 million and R378 million per annum due to these illegal vendors (Maboe, 2012: 7). In Bangladesh government public utility are also prone to corruption. In Pakistan non-technical losses arising from electricity theft were reduced significantly when the army took over electricity distribution in 1999 (Lovei & McKechnie, 2000: 3). In Mexico illegal customers are called little devils. They overload the electrical grid and affect many residential and commercial loads.

**Table 2: Energy Losses**

Energy losses	Budget 31 Mar 2013	Actual 31 Mar 2013	Actual 31 Mar 2012
Distribution loss	≤6.1	7.1	6.3
Technical losses	-	4.3	3.8
Non-technical losses	-	2.8	2.5
Transmission loss (all technical losses)	≤3.4	2.8	.1
<b>Total Eskom loss</b>	<b>≤8.9</b>	<b>9.1</b>	<b>8.7</b>

**Source:** Eskom, 2013:44

It is reported that utility companies lose about \$475 million revenue every year (South African Institute of Race Relations, 2012: 650). On 15 May 2011 external contractors embarked on an illegal strike at Kusile power station. The resulting financial damage due to theft and vandalism at Roshcon, a subsidiary of Eskom Enterprises, is estimated at R17.7 million. The matter has been reported to the South African Police Services and is currently under investigation. (Eskom, 2012: 11).

## 11. Conclusion

Electricity theft is a serious threat to Eskom and municipalities' sustainability and South Africa's economic growth. Electricity thieves are robbing the country of billions annually – revenue that could be used for other critical developmental projects. The study found that the electricity theft is not just a South African problem. Electricity theft is a serious crime and poses a major threat to South Africa's power supply and the country's economy. Electricity theft costs Eskom and municipalities billions of Rands in lost revenue each year. The losses experienced compel the electricity executives to devise a revenue enhancement strategy in a quest to recover the lost revenue. Sadly, the revenue enhancement strategies introduced does not favour the law-abiding citizen especially when there are general increased tariffs and price increases. The study also found that electricity theft also affects the stability of the power supply and results to power outages. In terms of economic growth, the inconveniences encountered also affect the viability



of businesses and may lead to job losses and businesses closing down. Despite the reactive compliance measures introduced, the sector still faces theft of electricity and vandalism and robbery in the distribution centres established in the locations.

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## HARNESSING INDIGENOUS KNOWLEDGE SYSTEMS FOR RURAL DEVELOPMENT THROUGH GROWTH CENTRES

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### Abstract

The purpose of this paper is to draw examples from the post-apartheid South Africa's development experience to propagate the notion of prospects that rural settlements could be used as regional sites/nodes of knowledge generation and diffusion to create the preconditions for epistemic pluralism. That is, the paper holds that sustainable local development is a function of holistic and inclusive knowledge generation and application; and, it argues therefore that rural communities' indigenous knowledge systems (IKS) in Africa need to be given more prominence in the continent's development programmes. From the South African regional planning and development perspectives, the paper demonstrates how such IKS could be incorporated into rural settlements as local nodal centres of development and decentralization strategy. The paper reports the results of field research and pertinent literature reviews which show that the assignment of particular functions to certain rural settlements has the potential of reducing the burden on urban settlements, transforming public perceptions about service delivery as the principal tool for rural development, and also serving to develop one of South Africa's key cultural and heritage resources.

**Keywords:** Epistemology, Rural Development, Indigenous Knowledge System, African Renaissance

### 1. Introduction

One area in the development structure of South Africa which continues to pose a major challenge to the development efforts in the country is that of the underdevelopment of the rural areas of the former homeland regions. The homelands were regions created by the previous Apartheid governments of South Africa to house the majority black African population. Poverty and underdevelopment were key features of the former homelands. These development problems have been brought to public attention by a number of authors (Halbach, 1988; Mabin, 1991; Working Group, 1993). The *Problem Statement* in the African National Congress' Reconstruction and Development Plan (RDP) of 1994 (ANC, 1996: 14) for example clearly relates to the problems posed by the underdeveloped rural sector of the former homelands of South Africa. The RDP states that, as at 1994, about 17 million people were surviving below the Minimum Living Level of less than \$1 dollar ( R9) a day in the country and that some 11 million of this population were residing in the rural areas of the former homeland regions. Uncontrolled outmigration from these rural regions to the urban centres of the country continues to pose major social, economic and political problems for the country.

Since the African National Congress (ANC) came into power in 1994, numerous rural development programmes have been introduced into the country to address this aspect of the dualistic problem in the development of the country. These programmes have however concentrated largely on the provision of social services such as schools, hospitals, water and electricity, transport and communication systems and rural housing. A review of the numerous programmes in the rural areas of the former homeland regions indicates that service delivery has been the key element of the development strategies. The Department of Social Development is particularly involved in this area of the development of the country. This service delivery component is being supplemented by programmes involving job creation and economic growth but on a rather limited scale (Yirenkyi-Boateng, 1995; Government of South Africa, 2012a, 2012b; Makhura, 2004). This paper is grounded on the idea that indigenous knowledge systems of the rural areas of the former homelands need to be central in the job creation and growth-related activities in the country. No longer should this vital knowledge resource be analysed purely from the philosophical, cultural, historical and other abstract perspectives (Habermas, 1989; New Partnership for Africa's Development, NEPAD, 2001). This resource needs to be linked to practical development issues from both multi-disciplinary and sectoral perspectives. The knowledge systems need to serve simultaneously as tools for social integration, cultural development, poverty alleviation, environmental conservation and long term positive sustainable social transformation as advanced by philosophers and social critics such as Foucault (1980) and Geertz (1983). This integrated approach has the prospect of reducing the dualistic and unbalanced /skewed nature of the structure of development in South Africa and provide the opportunities and basis for future prosperity (Teffo, 2012).

The rural indigenous knowledge systems of Africa are made up of material, spiritual, cultural and psychological elements (Teffo, 2011). The knowledge systems represent local skills and practices which have evolved over centuries to relate to the problems, challenges, philosophies, theories, beliefs and experiences of particular rural communities. They therefore represent the rural communities' own texts or paradigms, ways of knowing, doing things, and also ways of interpreting their natural and human resources cutting across astronomical, spiritual, economic, peace and security issues, technological, natural environmental systems exploitation, law, medical issues, food production, entertainment and other aspects of life (Bannerman, Burton & Chien 1983; Cunnigham, 1985; Simon, 1991; Grierson, 1999; Mascarenhas, 1999; South African Law Commission, 2003; Shava, 2005; Nyong, Adesin & Elasha, 2007; Ntlama, 2009). The chief issue about the knowledge systems is thus about their holism – how things tend to hang together to give meaning, order and the “good life” to the rural communities concerned (Hountondji, 1997; Mascarenhas, 1999).

It needs to be recognized however that the rural African knowledge systems can be distorted and contradictory as a result of people's obsession with them and therefore their

unwillingness or inability to transform them in positive ways to enable the system to better serve their needs. Similarly, there are commercial parasites which take information and skills from the natives and patent them as their own. Hence, the need for an international Intellectual Property Regime to monitor the activities of such organizations and businesses. In addition, the knowledge systems are not context-free in terms of political influences. The relations between knowledge systems, politics and the development process can take a number of forms: firstly, knowledge which develops under conditions of political and other forms of domination, secondly, that which develops under democratic environments thus allowing for mutual understanding among the various knowledge systems and, thirdly, knowledge which can be made to better develop as a tool for emancipation to address the existing constraints, problems, manipulations and other forms of contradictions in the development process (Philips, 1994; Geertz, 1983; Habermas, 1989; Bhaskar, 1991; Hobart, 1993, McGovern, 1993; Pieterse, Jan Nederveen & Parekh, 1995). This three-fold classification system is an important issue that needs to take a central position on the discourses on the political economy of development and underdevelopment of rural Africa.

From this three-fold classification model, one can understand why rural knowledge systems in Africa need to be linked to the discourse on post-colonial development policies and plans and also on African renaissance studies (Brokensha, 1980; Burkley, 1993; Said, 1993; Philips, 1994; Warren, Jan Slikkerveer & Brokensha, 1995; African Union, 2004). During the period of colonial rule, most indigenous knowledge systems of Africa suffered from discrimination with threats of their annihilation by the colonial administrators (Ghandi, 1998; NEPAD, 2001). Thus, since the democratic dispensation of 1994, the South African government has accorded some attention to the development of the rural indigenous knowledge systems as tools for empowering the rural communities in the former homeland regions in particular. These regions suffered most from the decades of marginalization under the apartheid system (African National Congress 1996; Norman, Zurek & Thanish, 1996; Government of South Africa, 2012a, 2012b).

The apartheid ruling class characterized the rural indigenous knowledge systems of the former homelands as merely anecdotal, non-scientific, out of date and therefore irrelevant for addressing the problems of South Africa's development processes (Hobart, 1993; Wood & Thomas, 1993; Yirenkyi-Boateng, 1995; Pieterse, Nederveen & Parekh, 1995; Makhura, 2004). One challenge which the current administration needs to address concerns the repositioning of the rural indigenous systems in the regional development structures of the country. To obtain some insight into how far the authorities have gone in addressing this rural development challenge, attention will now be paid principally to the activities of the Department of Rural Development and Land Reform and its Comprehensive Rural Development Programme in view of its centrality in the rural development strategies in the country. The bulk of the contemporary rural development strategies of South Africa reside in the policies, plans and programmes of this

government department. This is not however to ignore the contributions that are being made by other departments and organizations.

## **2. The Department of Rural Development and Land Reform and the Comprehensive Rural Development Programme**

The mandate of the Department of Rural Development and Land Reform covers, among others, land reform, poverty alleviation, the building of rural community halls and multipurpose centres, housing projects, water and sanitation, fencing of farms and other properties in the villages, early childhood development centres, building of police stations, schools and clinics in the former homelands, among others. One of the aims of the rural land reform programme involves the equitable distribution of land in the former homelands. This programme also involves making sure that the land can be put to good use to increase agricultural output, jobs and incomes in the rural areas. The programme thus seeks to prevent disrupting agricultural production and food security, and to avoid redistributions that do not improve livelihoods, employment and incomes. The Green Paper on Land Reform (2011) is proposing a three level system of land ownership in South Africa. The three levels will be state land, which will be under leasehold; private land, which will be held under freehold with limited extent, and foreign ownership, with precarious tenure linked to productivity and partnership models with South African citizens (Government of South Africa, 2012a: 413).

The Land Redistribution Programme of the Department of Rural Development and Land Reform is largely implemented through the Provision of Land and Assistance Act, 1993. By 2010, about 5.9 million hectares of land had been acquired by emerging farmers through redistribution and restitution. The owners of such farms are being provided with funds to enable them to have access to essential inputs such as skills training, seeds, fertilizers, irrigation facilities, mechanization and livestock. Households in the rural areas of the former homelands are gradually being brought into this programme (Government of South Africa, 2012a).

Land administration, land-rights management and deeds registration are integral parts of the programme. The deeds offices are located in Pretoria, Cape Town, Johannesburg, Pietermaritzburg, Mbombela (Nelspruit), Mthatha, Kimberley, King William's Town, Bloemfontein and Vryburg. These offices register deeds and documents relating to real rights in more than eight million registered land parcels consisting of township erven, farms, agricultural holdings, sectional title units and sectional title exclusive-use areas. This is done in terms of the Deeds Registries Act, 1937 and the Sectional Titles Act, 1986. The Commission on the Restitution of Land Rights (CRLR) is a statutory body set up in terms of the Restitution of Land Rights Act, 1994, as amended. The role of the Commission is to provide redress to victims of dispossession of rights in land, as a result of racially discriminatory laws and practices that took place after the Lands

Act of 1913 (Van Niekerk 2012). In 2009, the African National Congress introduced the Comprehensive Rural Development Programme (CRDP). The key thrust of the CRDP framework is to promote an integrated programme of rural development (Government of South Africa, 2012a, 2012b; van Niekerk, 2012). The CRDP thus covers a number of sectors and programmes covering agriculture and food security, education and skills training, health, water supplies, transport and communications, housing, environmental conservation, youth and women development programmes, entrepreneurship development and public administration. A key feature of the CRDP is its regional dimension. A number of rural settlements have been identified in the provinces of South Africa to serve as development centres or hubs to service surrounding localities in all the sectors. By October 2011, there were 65 such growth centres or development hubs in the country (Government of South Africa, 2012a: 411). In each site or development hub where the CRDP is being implemented, new cultures of local development are being created involving the local communities, the three spheres of government and the private sector. This regional development model is assisting the rural communities to better mobilize resources from all sectors to address their local development challenges. In terms of programme implementation and monitoring processes, the CRDP is operating in the context of Councils of Stakeholders or Management who function under the local headmen in consultation with local government administrators and other professionals to plan, implement and monitor their local development projects. Through this model of decentralized development, the rural communities are expected to become more and more responsive and accountable to their own development (Van Niekerk, 2012).

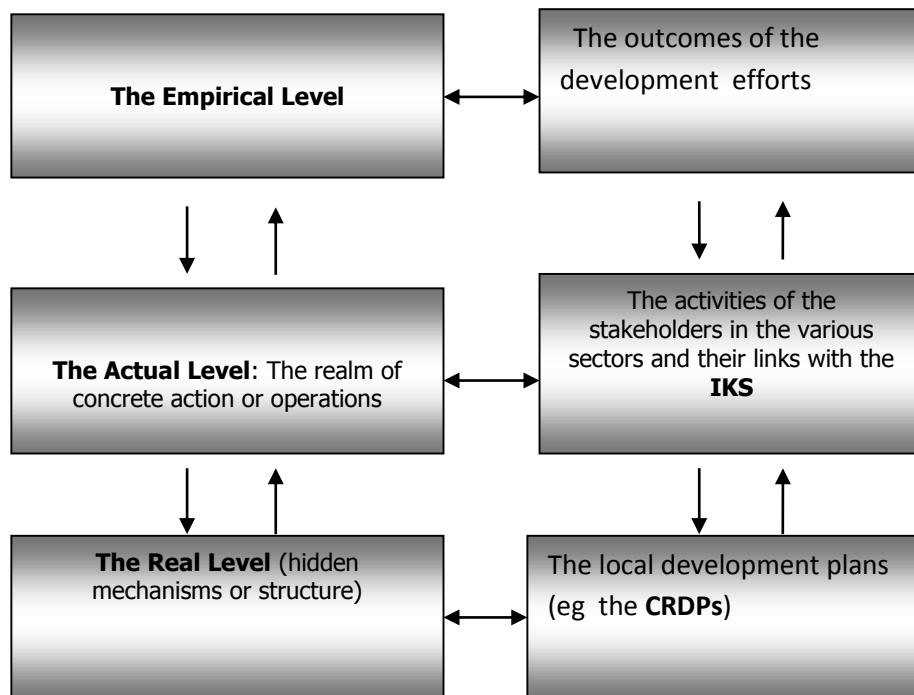
The National Rural Youth Service Corps of South Africa is actively involved in the CRDP programme. The main goal of the Corps is to develop a cadre of young community paraprofessionals and artisans who will take responsibility for the development of their communities. Under this programme, young South Africans are expected to be enlisted into the corps from each of the 2 872 rural wards in the country in the fields of self-orientation and life skills, personal discipline and patriotism. According to the policy, at least 50% of these must be women. The contractual period, including the training period is 24 months (Van Niekerk, 2012). This process is expected to lead to the employment and skilling of about 12 000 youths in the country, of whom some 3 000 are to be youth with disabilities drawn from rural wards across the country, including farms, small rural towns and some peri-urban areas (Government of South Africa, 2012a: 411). The CRDP of the Department of Rural Development and Land Reform is thus quite relevant to the rural development agenda of South Africa. Other government departments and private organizations, businesses and civil society structures are contributing in various ways to the programmes of this department.

### **3. Positioning Indigenous Knowledge Systems in Rural Development Programmes**



The above discussions provide some useful insight into the current state of rural development programmes in South Africa from the Department of Rural Development perspective in particular. Lessons learnt from the CRDP indicate that there are a number of challenges. From numerous sources reviewed, these include the apparent underutilisation and/or unsustainable use of the natural resources of the rural areas, poor or lack of access of the rural households to socio-economic and cultural infrastructure and services, public amenities, facilities and government services, the low literacy rates and skills levels, the rural-urban migration phenomenon, and the unexploited investment opportunities in agriculture, tourism, mining and manufacturing. These are real problems that need to be addressed. In addition to the above, it needs to be noted that the current rural development programmes have minimal linkages with the indigenous technologies and knowledge systems of the rural communities.

**Figure 1:** A Three Level Critical Realist-based Conceptualization of the South African Rural Development Structure



In this connection, it needs to be mentioned that the indigenous knowledge systems of the rural areas need to serve as an essential resource on which much of the on-going programmes in the rural communities need to be based. As is commonly known, knowledge is power because it is the one indispensable instrument or tool for making production possible (Brokensha, 1988; Bhaskar, 1991; Burkley, 1993; Norman, 1996). It is simply unthinkable to conceive of production without identifying the technology and knowledge systems in place to make that activity possible. The IKS of the rural communities thus need to become more involved in the rural development process.

activity systems serving as an essential part of the stakeholders who operationalise the productive processes. An outline of this model is indicated below. The above scheme is based on the three-tiered model of critical realist philosophy and theory which illustrates how social mechanisms interact to present important contexts for stakeholders to take concrete actions to produce outcomes at the empirical level (Bhaskar, 1991). This model is important because it indicates that local development plans and the values, cultures, technologies and other norms are important in the understanding and transformation of the living conditions of rural communities (Yirenkyi-Boateng, 2010). A relational perspective is thus the theme in this model.

Figure 1 demonstrates that the apparent separation or marginalization of the local knowledge systems from the broader rural development actors or stakeholders can be overcome by bringing the IKS firmly on board. The flow lines in Fig. 1 indicate the nature of the relations that need to be established to bridge the gaps existing between the development plans, policies and programmes and the local indigenous technologies. Unless such vertical and horizontal bridges are built to link the local knowledge systems and cultures to the various development projects, the problems of marginalization, dependency, lack of coordination of programmes as well as the lack of local support to and patronage of the programmes will continue to pose major problems in the efforts at rural development. In this connection, the government departments associated with the various dimensions of rural development will need to accord particular importance to the roles that need to be played by the local knowledge systems. This intimate link that needs to be established between rural development plans and programmes (as mechanisms on the one hand) and the indigenous knowledge systems (as events on the other) is the key thrust of critical realist theory (Thompson, 1996; Cvetkovich & Kellner 1997). From the continental perspective, NEPAD (2001: 35) has argued and continues to argue strongly for the strengthening of the links between the local cultures and indigenous knowledge systems and the development programmes on the continent. The NEPAD document states that the indigenous knowledge systems of Africa need to constitute an essential part of the development efforts on the African continent. Consequently, it is essential to protect and effectively utilize indigenous knowledge that represents a major dimension of the continent's culture, and to share this knowledge for the benefit of humankind. The document continues on the note that ...The New Partnership for Africa's Development will give special attention to the protection and nurturing of indigenous knowledge, which includes tradition-based literacy, artistic and scientific works, invention, scientific discoveries, designs, marks, names and symbols, undisclosed information and all other tradition-based innovations and creations resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

This recognition given by NEPAD to the indigenous knowledge system of Africa as a key stakeholder in the development of the continent needs to be commended. Also to be commended are the efforts which South African intellectuals are making to promote the

indigenous knowledge systems of the country. Among the milestones in the recognition and development of the indigenous knowledge systems of South Africa, mention needs to be made of the meeting of African intellectuals at the University of Venda in 1997. The key objective of the meeting was to brainstorm on programmes which were seen as key to the development of the indigenous knowledge systems of the country. One result of that meeting is that by 2004 three South African structures had been set up to drive the IKS process forward: the Indigenous Knowledge systems of South Africa (iIKSSA) Trust, a Unit of South Africa's National Research Foundation charged with research on the indigenous knowledge systems of the country and a Directorate of Indigenous Knowledge Systems in the Department of Science and Technology. Today, South Africa's Department of Arts and Culture is also working with several government departments and numerous other research organizations and donors to promote and protect the IKS sector of the country. The academic community of South Africa needs to get more actively involved in all these on-going collaborations aimed at positioning the indigenous knowledge systems firmly in the rural development of the county.

#### 4. Moving Forward

The staff at the Institute for African Renaissance Studies (IARS) of the University of South Africa are making their own contribution to the discourse on the future relations that need to exist between the IKS and the development of the rural areas of the former homeland regions. They see the need to use research findings to engage in normative issues on development similar to the ideas espoused by Thompson (1996) and others. The IARS staff are thus devoting considerable amounts of their community engagement programmes to the imperative of strengthening the future roles of the rural IKS in the local development processes of South Africa. From the research projects organized on the local IKS programmes and from their reviews of the publications on the IKS of South Africa, the IARS staff have identified a number of positive steps that they argue, need to be taken to push the IKS – development relations forward. It is to these that attention is now turned. Firstly, the current policy of giving space to the municipalities in South Africa to formulate their own local development plans in support of the national and provincial development plans is a positive initiative in decentralization which needs to be encouraged. This is a policy that needs to be embraced by the South African public. It is important that the local development planning committees bring on board the traditional leaders and local councillors in order to ensure that the local political and administrative structures are represented in the local development programmes, a point well articulated by Phillips (1994) and Makhura (2004), among others.

Secondly, there is the need to identify particular rural settlements in the municipalities of South Africa to serve as local centres, nodes or *sites of indigenous knowledge development*. As indicated above there are currently some 65 rural development nodes which are linked to the

development programmes of the Department of Rural Development and Land reform. In the country. These centres need to run specific programmes on the development of the IKS of their localities. Such programmes will certainly help to add value to African identity, culture and the related development programmes. This model of development has been advanced elsewhere by Bradley & Lowe (1984), Cloke & Little (1990) and Halfacree (1993).

Thirdly, the local IKS centres also need to serve as teaching and research centres of excellence for students and the public. This will be one way of ensuring that the knowledge which have been acquired over the generations do not go extinct. Further ideas on this point have been elaborated by Hobart (1993), Geertz (1983), Burkley (1993) and Makhura (2004). There is the need to ensure that continuous research is organized on the IKS to constantly monitor their problems and prospects to enable regular proactive and timely solutions to be found for them. This is another critical issue which the international community takes seriously (Berlin, 1992; Burkley, 1993; Brush, 1993; De Walt, 1994; Balick, 1996; Thompson, 1996). It will be important to add issues of the IKS intellectual property laws in the training programmes at the IKS centres as advocated by Moran (1999), Posey (1990) and others. To support the above recommendations with more action, there will be the need to establish specific projects on the ground in the rural communities to serve as IKS development points. One example which comes to mind is that of the development of nurseries for the propagation of indigenous plants in particular localities. The indigenous medicinal plants and food crops of the rural areas of the provinces need to serve as the sources of planting materials for nurseries and plantations. The Institute for African Renaissance Studies has such a nursery at Mamelodi, a suburb of the City of Tshwane Metropolitan Municipality. The plan is to use this nursery project to link the local hospitals, clinics and traditional healers in the area. It is envisaged that this project will ensure that the nursery and the plantations which will emerge will function to prevent the indigenous plants and the associated knowledge systems from going extinct. The research institutes and the private sector in the City of Tshwane region are also included in this project. This idea of development through collaboration, runs through the works of Bannerman et al. (1983), Makinde, (1988), Simon, (1991), Phillips, (1994), Balick, (1996), Grierson, (1999) and Makhura, (2004) among others. It is the expectation that the local households and restaurants as well as the pharmaceutical companies will link up with the nursery in the future. Service providers of different sorts are expected to come forward in future to become partners in this project.

The evidence exists that before 1994, there were various training programmes in the former homelands of South Africa which were aimed at empowering the rural households to improve their living conditions (Graaf, 1985). In the former Transkei region of the Eastern Cape for example, technology training programmes which incorporated the local indigenous knowledge systems made much positive impacts in the lives of the rural communities between the 1970s and 1990s (Yirenkyi-Boateng, 1995). The organization which was charged with the running of the

programme (TATU), provided training programmes in the areas of netwire making, building construction and maintenance, poultry farming, vegetable gardening, sewing, rain water harvesting and small scale irrigation projects. More of such rural development programmes are urgently needed in South Africa. It is our recommendation that mechanisms are put in place to enable the relevant departments in South Africa to learn from the rural indigenous technology development programmes in the other African countries. Networking needs to be central in the rural development programmes in South Africa. Mormont (1990), Mc Carthy (1991), Cvetkovich & Kellner (1997) and Bond (2007) have demonstrated the important roles that networking needs to play in regional development programmes. In these days of globalization, the networks need to go beyond the national borders wherever necessary and viable to involve international organizations associated with the United Nations and other bodies. As argued by authorities such as Eckert (1984) and Ghosh (1984), however, such networks need to always ensure that the knowledge systems are appropriate to serve the changing needs of the localities concerned. Reference has been made to the international community to enrich this discussion on the relations between IKS and the challenge of developing the rural areas. These ideas help to confirm the basic principle that the concept of development is multivariate and transnational in nature and always needs the collaboration of a number of stakeholders. One point on which there seems to be common agreement today in South Africa, above all, is that of all the stakeholders who can help to mobilize resources in the spirit of collaboration to formulate, implement and monitor progress in the rural development of the country, the government departments currently seem to be the most appropriate.

## **5. Conclusion**

Empowering the rural communities to make their contributions to the development of South Africa is an important element of the African renaissance agenda. The challenge of addressing the systemic imbalances in the development of the country relates very much to finding appropriate strategies of rural development. The poverty and dependency levels in the rural areas are still very much evident in the rural areas waiting to be addressed through new development policies and plans of the government. Using examples drawn some from the national Department of Rural Development and Land Reform of South Africa, the paper has illustrated how development plans can serve as mechanisms to provide the context for actors to make their individual contributions to economic growth, social transformation and overall prosperity. The paper has argued that more needs to be done to incorporate the indigenous knowledge systems of the rural areas into the national and local development plans. The fact that these knowledge systems have managed to survive the threats of extinction during all the centuries of colonialism and decades of Apartheid rule attests to their resilience. Many of the core values, principles, beliefs, theories and practices associated with these knowledge systems are

still surprisingly intact and alive in the villages. Now is the time for the South African public to work together to collect, document, restore, preserve, protect, promote, and exhibit these knowledge systems and products thereof in public places as commodities for consumption, as cultural artifacts for the tourists to appreciate, as historical records for historians to interrogate, as philosophical discourses for the philosophers, students and academics to debate on and, above all, as resources for appreciating the roles which the rural areas can play in the development of South Africa. If the African Renaissance and the African Imagination ideas are to have real meaning in Africa in general and in South Africa in particular, then the rural areas need to be given all the opportunities to make their presence felt. The indigenous knowledge systems of these areas constitute one site where the spark needs to come from to make themselves clearly visible.

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## RURAL ENTREPRENEURSHIP AS A STRATEGY FOR RURAL DEVELOPMENT IN SOUTH AFRICA: PROSPECTS, OPPORTUNITIES AND CHALLENGES

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### Abstract

Agricultural activities have always played an important role in food security in rural areas. However, in recent years there has been a tremendous decline in agricultural productivity and outputs. This decline is exacerbated by climate change, high rate of migration of potential work force from rural to urban areas and limited opportunities within agricultural sector. Thus, a revitalized rural development approach that integrates agriculture to create job opportunities and promote vibrant economies is required. The paper argues that in order to alleviate poverty, create employment opportunities and promote successful livelihoods, rural entrepreneurship should be considered as a viable option. Rural entrepreneurship focus on entrepreneurial growth of small businesses that have the potential to grow rapidly, developing new technologies, products and services, creating jobs, and stimulating economic growth and investment in rural areas. This approach can be an essential tactic to tackle deep-rooted economic problems in low-income communities and distressed regions within rural areas. The purpose of this paper is to explore potentials and challenges in the implementation of rural entrepreneurship as a strategy for promotion of sustainable rural development. The paper concludes by arguing that a sustainable rural development approach should entail a process strengthening local productive capabilities in ways that benefit the rural economy as a whole and solidification of rural economies wherein rural entrepreneurship in the form of small business and new industries associated technologies, skills and patterns of working are imparted and promoted.

**Keywords:** Rural Entrepreneurship; Industrial Technologies; Rural Development; South Africa

### 1. Introduction

Traditionally, it can be argued that agriculture is an important sector for rural economy in most of developing countries. However, in recent years the essential need to accelerate food productivity and production in these countries through small-holder agriculture and subsistence farming among the poor has been met with multiple-complex realities such as limited land, policy issues and changing climatic conditions (Dethier & Effenberger, 2012; Kumbhar, 2013; Gine & Mansuri, 2014; Madzivhandila, 2014). Moreover, the tendency to equate the rural economy with only agriculture is becoming questionable. According to Siiskonen (2005) the role of agriculture as a source of livelihood in the economy of rural areas has decreased rapidly. Rural areas are changing and their realities and are not what they used to be particularly with respect to demography, diversity and strengthening links to national and global economy (Rizov, 2005; Siiskonen, 2005; Rigg, 2006). In order for rural development strategies to be affective they should adapt to this changes with a view to allow for the integration of multi-sectoral activity

demonstrating the importance of state intervention, calling for new partnerships with civil society, and emphasizing the importance of a political dimensions. This should be done with an aim of creating a require environment for imparting rural entrepreneurship and establishing a diverse cast of small business enterprises in these areas. That is, the sense applying a cross-sectoral and multi-occupational diversity of rural livelihoods and businesses may need to become the cornerstone of rural development policies and strategies if efforts to reduce rural poverty are to be effective in the future (Siiskonen, 2005; Madzivhandila, 2014). In other words, rural development strategy that will have an impact to rural community is the one which acknowledge the need to increase diversification of rural economy and taking rural entrepreneurship into consideration. Rural entrepreneurship can be an important feature of income and employment generation but often is overlooked by the architects of policies and strategies of rural development (Ellis, 2000). This kind of an approach can be seen as an attempt to create new business enterprise or to expand an existing business by an individual, a team of individuals, or an established business” in rural areas with the aim of bringing services closer to the people and creating employment opportunities to the rural population. However, for this strategy to be successful, issues such as infrastructure, skills and access to credit need to be addressed in these areas.

This paper deals with three important aspects to put forward an argument that rural entrepreneurship should be considered an important feature for rural development as it can create employment opportunities and promote successful livelihoods which are much needed in rural areas. The paper commence by discussing the diminishing role of agriculture in rural development process. This discussion if followed by an account of some of possible challenges and obstacles when attempting to adopt a new strategy for rural development, looking at the current infrastructural, skills and business environment in rural areas. Also the paper explores the importance stride and opportunities when adopting rural entrepreneurship as a strategy for rural development.

## **2. Role of Agriculture in Rural Development Processes**

In most of developing countries, the general perception that rural life is somehow characterized by agricultural activities has created a trend of formulating rural development policies and strategies which are agriculturally biased and oriented. Many rural development practitioners still recognize agriculture and land as the sole engine for rural development. According to Rigg (2006:1) “For most scholars and development practitioners, the poor world is largely a rural world and, in terms of livelihoods, this rural world is an agricultural one where farming predominates and where land is a critical resource”. This approach and thinking compromises the process of rural development because it ignores the diverse socio-economic conditions and challenges which requires a more holistic interventions to uplift the potential of

other non-farms rural activities and livelihoods (Cheshire, 2000). For example, the slow progress towards socio-economic transformation in rural South Africa has been attributed to the fact that even when there is a clear indication that agriculture is becoming only commercially oriented in recent years and that rural living has leaned towards non-farm economic activities, rural development strategies in the country are still biased towards agriculture (Madzivhandila, 2014). For rural development goals to be achieved, its strategies should involve many different actors, such as government, civil society, households, farmers and business participants. Defining the role of each of this actor is of paramount importance in order to guarantee dedicated participation towards uplifting the life's of the rural population. The key to this success is to recognize the role and importance of agriculture together with other strategies in order to create a balance between activities to adopt and implement.

In the 19<sup>th</sup> and 20<sup>th</sup> centuries subsistence and small-scale farming were some of the corner stones and pillars for sustainable development in rural areas of developing countries (Bryceson, 1996; Cheshire, 2000; Murdoch, 2000; Ashley & Maxwell, 2001). Majority of economically active population earned their living in agriculture and forestry. Furthermore, agriculture provided not only food but also income, and other job opportunities, thus it was regarded as an engine of growth and effective tool to reduce poverty. Dorward, Kydd, Morrison & Urey (2004) argue that, agriculture played an important part as a livelihood for many poor people, and its growth was found to be a fundamental pre-requisite for widespread poverty reduction. Again, Diao, Hazell & Thurlow (2010) stressed the fact that almost all rural households depended directly or indirectly on agriculture, and given the sector's large contribution to the overall economy, it was seem obvious that agriculture should be a key sector in development. Furthermore it was observed that a widespread rural poverty in Africa and the success of Asia's Green Revolution should pave a way for agriculture to be a key sector for development (Diao et al., 2010). However, with both history and theory suggesting a preeminent role for agricultural growth in poverty reduction in poor agrarian economies, such growth today faces new difficulties. Many of these difficulties are endogenous to today's complex rural socio-economic needs and others are as a result of broader processes of global climate and social change (Dabson, 2001; Ellis & Biggs, 2001; Lanjouw & Lanjouw, 2001). These challenges have brought about questioning the role of agriculture in the current development discourse. Hence, the "agro-pessimist" have argued that agriculture in developing countries is currently the least productive sector and it has showed a decline in growth over the last 30 years especially in developing countries. For example, drought, fires, and monsoon floods have destroyed harvests in many countries from Russia to Pakistan and in many of the poor countries this has led to hunger, worsening food insecurity, and vulnerability to poverty (Dethier & Effenberger, 2012). It seems clear that in a number of respects, the effects of challenges to agricultural and persistence of poverty are greater in today's poor rural areas as

they face the combination of increased risk and uncertainty with increased costs and/or lower returns to agricultural investment.

The current socio-economic and climatic conditions have created less conducive circumstances for agriculture to generate economic wide growth and facilitate the transformation predicted by theory or witnessed in the past successes of other developing countries (Rosegrant & Hazell, 2001; Christiaensen, Demery & Kuhl, 2011). For example, while agriculture led growth has played an important role in reducing poverty and transforming the economies of many Asian countries, the strategy has not yet worked in Africa (Diao et al., 2010). Many of the poor countries in Africa have failed to increase food productivity and employment creation in their smallholder farming activities. It has been difficult for governments of these countries to address the aspects of land and property rights, assisting with drought resistant seeds and inputs, irrigation, fertilizer, agricultural extension, credit, rural infrastructure, storage, and connection to markets to the small-scale farmers (Lanjouw & Lanjouw, 2001; Dethier & Effenberger, 2012). Most African countries have failed to meet the requirements for a successful agricultural revolution, and productivity in agriculture lags far behind the rest of the world. Also the increasing population density of most rural areas has, in many cases, led to constraints on land availability for agricultural purpose. All these aspects have created skepticism on whether agriculture can still successfully generate sufficient growth in Africa today. Thus, casting doubt on the role of agriculture to the rural development process and transformation that is overdue in developing country (Christiaensen et al., 2011). Also, in recent years many agricultural plots in rural areas are found to be only privately owned and their products solely imported to areas with economic potential for profit purpose. The rapid crop failure attributed to current extreme climatic conditions has also discouraged most of subsistence farmers in rural areas.

Many farmers in developing countries operate on a small scale thus because of limited space they have failed to increase their farm size with the aim of improving incomes and allowing for adopting measures that will increase returns to scale and higher profitability. The other challenge has been that local farmers lack access to new seeds that are resistant to climate risks and which can adapt to local conditions (Murdoch, 2000; Ashley & Maxwell, 2001; Dethier & Effenberger, 2012). Also expansions of irrigation systems have been a great challenge in these areas. This, together with increasing recognition of the diversity of poor rural people's livelihoods and with difficulties in "getting agriculture moving" in areas where most poor rural people live today, has also led to questions about the importance of agriculture for rural economic growth and poverty reduction, about the benefits of attempting to promote directly agricultural growth and development, and about the best means to promote such growth. Dorward, et al. (2004) argue that with all these challenges, reliance on pro-poor agricultural growth as the main weapon against rural poverty today may not be appropriate if the areas where rural poor are concentrated particularly in sub-Saharan Africa and some parts of South Asia faces severe difficulties in raising

agricultural productivity or in accessing wider agricultural markets. However, Dethier & Effenberger (2012) suggest that, solution to this dilemma is a rapid diversification of income by rural population. Households in rural areas including farmers should learn to diversify their activities in order to earn a living and derive their income from multiple sources. Income diversification including rural entrepreneurship should play a big and important role in the livelihoods of rural populations.

### **3. Potential Obstacles and Challenges Against New Rural Development Approach**

In the last section the paper clearly demonstrated the questionable role of agriculture in promoting socio-economic change in rural areas. In many parts of the world there has been a big cultural change in terms seeking food and income security. According to Ashley & Maxwell (2001), there is a clear indication that agriculture is failing to meet the required criteria for rural development as it is now dominated by private sector activities than community food security oriented ones. Agricultural rural development initiatives and strategies have continuously failed to secure food, alleviate poverty, and create sustainable employment opportunities, health care and capacity building for the rural population in recent times (Kumbhar, 2013; Gine & Mansuri, 2014). This indication has enforced households in rural areas to diversify their income earning activities to the ones which are not agricultural related. Rural non-farm sector can serve as a bridge between agricultural-based livelihoods and industrial ones thereby playing an important role in a country's structural transformation According to Ashley & Maxwell (2001) it is difficult to imagine an effective rural poverty reduction strategy for Africa that does not seem to harness the potential of the non-farm sectors. That is, five principles for a successful rural development strategy should be taken into consideration as follows; the strategy should recognize the great diversity of rural situations; favor livelihoods strengthening diversification options for multi-occupational and multi-locational households; recognize the importance of investment in infrastructure; and, human capital. However, in order to succeed in this process government policies aimed at promoting rural entrepreneurship have to address two economic realities: limited opportunities to achieve economies of scale, and the need to identify and exploit comparative advantage.

It is clear that, like any other development strategy non-farm activities, in particular rural entrepreneurship will be faced with a variety of obstacle and challenges which need to be addressed. For example, in South Africa the concentration of poverty in rural areas has always been a stumbling block for development to take place smoothly and sustainably. This has been attributed to unequal resource distribution, unemployment, skills shortage, poor infrastructure and weak economic base as a result of the legacy of apartheid. The multi-complexity of these rural features has created a far reaching impact on the formulation of thorough rural development strategies aimed at improving the standard of living of the poor, creating



employment opportunities and capacity building among the unskilled able bodies in the rural areas (Murdoch, 2000; Rizov, 2005; Republic of South Africa (RSA) 2011). The reality is for entrepreneurship to flourish and become successful part of rural development process, a lot of important strides need to be considered. Most of rural areas in developing countries have been and still are poorly serviced with the physical infrastructure required to access national market and their export points are nonexistent (Rizov, 2005; Siiskonen, 2005). Most of resources have been dedicated to service urban areas than rural areas. It would be a definite error to assume that an environment that can facilitates small-scale enterprise in rural areas is now in place.

The local level policy contexts have often remains inimical for self-employment and start-up business (Ellis & Biggs, 2001). Local enterprise often arises "outside" the regulations, i.e. as an unrecognized informal sector activity, and depends on paying off local officials to allow continued operation. Because of this issues and the infrastructure gap the interventions to promote rural non-farm activities will be very expensive, thus involving a commitment for a long-term investment and strong ideals of regionally decentralized development and more spatially equitable outcome (Murdoch, 2000; Rizov, 2005). Again a weak socio-economic base of many rural areas have rendered majority of its business limited access to credit and finance, skills, technical assistance and information. Thus requiring government to invest more on five important policy areas; education, infrastructure, micro-credit, enabling environments and safety nets. However, this area not by any means the only policy themes worth pursuing in relation to promoting sustainable rural entrepreneurship. Ellis & Biggs (2001), highlight that, the success of rural entrepreneurship will also depend on the perception of the quality of products produced by rural businesses. The rural non-farm sector has traditionally been viewed as a low-productivity sector which produces low quality goods which are more heavily consumed by the poor, thus often expected to wither away as a country develops. This perception of local businesses can have a devastating effect on its growth and attraction of consumers. Rural local entrepreneurs also face increasing competition from products from large emerging economies like China and India, which are found to be cheap and affordable. Ashley & Maxwell (2001) argue that, the thought ingredients for a success rural development strategy which incorporates non-farm activities will include; identifying options for increasing access to social-business networks; develop small towns; support producer associations for marketing and sourcing; removing regulatory or bureaucratic burden on small and medium enterprise; reforming extension into business advisory services. Most of these aspects are currently available for urban business enterprises than rural ones.

For rural entrepreneurship to grow and become successful, intensive interventions will be needed which enable the poor to overcome entry barriers and participate in more productive aspects of the rural non-farm economy (Cheshire, 2000; Murdoch, 2000; Ashley & Maxwell, 2001; Ellis & Biggs, 2001). Training and credit are obvious interventions, and other state interventions

which can smooth transition with long-term comparative advantage. The success will also depend on a maximum investment, state policy, regulation and co-ordination, for example; providing infrastructure, legislation to secure tenure and using planning controls to encourage private operators. Credit should be a priority area of micro-policy in the rural sector of developing countries (Kumbhar, 2013; Gine & Mansuri, 2014; Madzivhandila, 2014). There should be a visible spread of rural financial institutions that are self-sustaining on the basis of savings and loans organized according to conventional banking criteria (Gine & Mansuri, 2014). This however will require more effort from government to put in place the appropriate regulatory and guarantee provisions that would encourage the formation of such institutions and ensure confidence in them in the long term.

#### **4. Exploring Entrepreneurship Opportunities for Rural Development**

The success of rural development initiatives and strategies lies upon the realization of multi-sectoral factors pertaining to current rural area's setting (Kumbhar, 2013; Gine & Mansuri, 2014). Whereas rural areas are changing in size, structure, needs; capability of its population and patterns of economic activity, rural development policies and strategies particularly in developing countries have yet to catch up with these changes (Madzivhandila, 2014). Even though in the past many governments paid little attention to the rural non-farm sector and entrepreneurship in rural area because of its perceived unproductive nature, in recent years many developed countries are beginning to see its importance. It is understandable that urban living can not necessarily be envisaged blue print for a developed rural area, however, many government officials are beginning to see the importance of facilitating sustainable socio-economic choices such as employment opportunities, access to market activities and social welfare services in rural areas with the aim of reducing an excessive rural-urban dependency (Madzivhandila, 2014). Nevertheless, for these activities to be implemented successfully there should be a strong emphasis on strengthening alternative rural non-farm economy and entrepreneurship development (Kumbhar, 2013; Gine & Mansuri, 2014). That is, rural development strategy should intensify and promote local economic development with a more diversified approach which does not only focus on producing food but also develops small sustainable businesses enterprises which can provide income and employment opportunities for the people. Barrett, Reardon & Webb (2001) identified four main factors which contribute towards income diversification away from agricultural activities as; seasonality in employment opportunities, diminishing returns to factors of production, market failures, and risk management. Furthermore the high demand for income to afford health, education, and productive inputs, basic consumer goods as well as water, energy and transport infrastructure provided an entry point for the need to develop non-farm agricultural employment.

The non-farm “sector” includes all economic activities in rural areas except agriculture, livestock, fishing and hunting. Rural entrepreneurship in particular contributes towards economic growth, rural employment, poverty reduction, thus making important strides towards a successful rural development approach. It focuses on small businesses that have the potential to grow rapidly, developing new technologies, products and services, creating jobs, stimulating economic growth and investment (Barrett et al 2001; Gine & Mansuri, 2014). Again rural entrepreneurship can create much needed employment which is an important income source for the poor and an effective way out of poverty as well as a means to cope with missing insurance and credit markets. According to Madzivhandila (2014) most recent evidence shows that the rural poor are shifting to depend more on non-farm, often non-rural sources of income to sustain their livelihoods. Calling for rural development approach to focus more on various assets rural people access, and the structures and process which mandate how those assets are transformed into income and other desired outcomes.

Paying enough attention to entrepreneurship as a strategy for rural development can intensify potential of absorbing a growing rural labor force, slowing rural-urban migration; contribute to national income growth, and promoting a more equitable distribution of income (Lanjouw & Lanjouw, 2001; Kumbhar, 2013). Entrepreneurship needs to be given greater recognition as a means to revitalize rural areas. Even though it cannot be expected to drive the rural economy in a short run, there are niche markets to exploit which can provide opportunities that will benefit its growth through targeted interventions such as reduction of import duties, corporate taxes, and administrative and bureaucratic requirements; improvement in communications and in transport infrastructure; and provision of credit, extension and advice services (Barrett et al 2001; Gine & Mansuri, 2014). Some of these services can create business opportunities for people to engage in and also provide for a good environment for other business to grow in rural areas. Furthermore, governments and donors need to give high priority to restoring investment fundamentals in the rural economies and strengthening safety nets. Good governance reforms must seek greater transparency and accountability in public sector activities and the regulation of financial institutions and corporations to reduce the possibility of future financial crises.

## **5. Conclusion**

Sustainable rural development process will only be realized if agriculture is facilitated together with other potential rural entrepreneurship activities that are important to the construction of viable rural income and employment. The paper highlighted that rural development as a process and strategy should involves a strengthening of local productive capabilities in ways that benefit the rural economy as a whole. This process should be undertaken in order to solidify rural economies wherein new industries, business and associated

technologies, skills and patterns of working would be imparted into rural areas in order to overcome problems of marginalization and backwardness. Rural development should look beyond food security but focus on wider concern such as income, health, education, participation, resource allocation and social protection. However, farm based entrepreneurship is one possibility. Farm tourism, processing of farm products and other rural materials as well as care-taking services is examples of new possibilities. The heterogeneity among players in rural areas with respect to achieving these issues is important for the design of rural development strategies. Furthermore, infrastructure development, training, information sharing should be imparted to the rural entrepreneurship role players in order that smooth establishment and facilitation of small business enterprises can be achieved.

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## ROLES OF TRADITIONAL LEADERS IN COMMUNITY DEVELOPMENT WITHIN A DEMOCRATIC SOCIETY: A CASE STUDY OF VHEMBE DISTRICT IN LIMPOPO PROVINCE

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### Abstract

This paper presents findings of a Vhembe District Municipality case study of the roles of traditional leaders in community development within a democratic dispensation. The focus of the case study was in the three purposefully selected Local Municipalities of Makhado, Mutale and Thulamela wherefrom fourteen villages that consists of nine Traditional Leadership, Ward Councillors, key Informants and focus groups were surveyed through combinations of questionnaire and interviews. Both qualitative and quantitative analytical tools were used to manipulate the resultant data. The findings show that traditional leaders' roles include managing customary courts as well as registration of birth, death and customary marriages. Significant differences in the perceptions were observed between adults and youth ( $P < 0.01$ ), elected and Traditional Leaders ( $P < 0.001$ ). Based on the survey results, this paper concludes that traditional leaders have continued to perform roles entrusted to them for Centuries. The paper recommends that co-existence of elected and traditional leadership in community development within rural areas should be strengthened.

**Keywords:** Traditional Leadership; Democracy; Community Development; Vhembe District Municipality

### 1. Introduction

In this paper, the results and discussion of what traditional and democratic leaders perceived to be the performance areas and specific roles of the former in community development in Vhembe District Municipality are presented. Traditional leaders are particularly important in former Bantustan areas. In these areas, the apartheid regime installed traditional leaders so that they would do its bidding (Koelble, 2005), which caused considerable discomfort in most of them. Hammond-Tooke (1975: 17) eloquently captures the frustration of traditional leaders regarding the roles they played in community development during the apartheid era. He observes that "In many ways the Headman is in a difficult position; on the one hand he is linked by ties of kinship and political office to the people of his location and is expected to look after their interests and well-being; on the other hand he is a paid official of the White administration, under the immediate control of the Commissioner and subject to disciplinary action if he fails to obey the latter's lawful instruction". This situation has not substantially changed even today. This is problematic because it is difficult for them to challenge the government that is paying them salaries.

Traditional leadership has existed for Centuries, implying that the institution is as old as the respective polity itself. It commands love and loyalty which any institution supported by tradition is always sure to get. According to Mohapeloa (1945), this makes it difficult to split the polity. It is a tried and tested system which remains a critical pillar that champions African tradition and preserves indigenous knowledge of the polities. This contrasts sharply with democratic institutions, which can be regarded as new social experiments in South Africa. Traditional leadership originally provided societal, political, economic and religious functions for local communities (Dusing, 2001). For many years, traditional leaders were at the centre of governance in rural areas, which were mainly the former homelands or "Bantustans". In 1994 when the first democratic elections were held, South Africans residing in rural areas craved for significantly improved living conditions. At the same time, traditional leaders hoped for positive change in their roles, which had been mainly limited to mobilising community members to complement the efforts of the apartheid government in the provision of services. Even today, traditional leadership remains relevant in democratic South Africa because it is recognized under Chapter 12 of the Constitution. However, the institution's roles and functions are not well defined. As is the case elsewhere, for example in Malawi (Chinsinga, 2006), this is one of the root causes of conflicts with democratically elected leaders. Quite often, the latter are perceived to be performing the roles of traditional leaders and vice versa.

The contention regarding the roles of traditional leaders in South Africa and their credibility with respect to the provision of services arose soon after the establishment of democratically elected institutions of leadership such as Ward Councillors, Ward Committees and Civic Organisations, amongst others. These new leadership institutions play the roles that traditional leaders enjoyed since humankind and thus it is not surprising that conflicts are triggered. The role conflicts between traditional and elected leaders retard community development. This slow down the pace of service delivery in rural areas. Thus, this exploratory study is crucial especially now when the government is spearheading the transformation of traditional leadership with the aim of nurturing a harmonious and synergistic co-existence with democratically elected institutions. This sought to ascertain if the co-existence of the institutions of elected and traditional leadership helped build social capital (trust, networking); enhance resource mobilization; and reduce constraints to effective performance of roles and responsibilities, amongst others).

## **2. Research Design and Methodology**

Relevant primary and secondary sources of data were used in the analysis and critical examination of the roles of traditional leadership in the current democratic dispensation. Primary data were collected through focus group discussions and key informant interviews. Secondary sources of data included published and unpublished materials. Nine Traditional Leadership



Councils were purposively and proportionally sampled. The stratified random sampling technique was used to select 14 villages that constituted the study area. Also, 14 Ward Councillors leading areas within the sampled villages were located served as respondents in this study. In total, 112 focus group discussions and 14 key informant interviews were carried out. A semi-structured interview guide was used to collect data. A tape recorder served as an assistive device. A semi-structured interview guide containing the following research questions was used to collect data:

- Do traditional leaders have a role to play in community development?
- What roles, if any, do elected leaders play in community development?
- What roles, if any, do traditional leaders play in community development?
- What challenges, if any, are experienced in the execution of roles and responsibilities of elected and traditional leaders?
- How can the roles of the elected and traditional leaders be synergised?

Thematic Content Analysis as described by Cresswell (2009, 2011) was used to analyse the primary qualitative data. The participants' perceptions were organized into common themes, ensuring that the sources of data (adults, men and women, youth and elected leaders) were not lost because they provided cursors towards responding to the research questions. Inductive thematic analysis was used to analyse the interview transcripts and field notes. Similarities and differences across sub-groups (adults, youth, male, female, traditional leaders, and elected leaders) were also explored.

The results of the qualitative study were consolidated into a questionnaire in which the responses were either agreement (coded 1) or divergence (coded 0). This was administered to the same group of respondents as in the preceding exploratory phase of the study. Descriptive statistics and nonparametric tests such as Kruskal-Wallis and Mann-Whitney U tests were carried out using the Statistical Package for Social Sciences (SPSS) version 22.0 for Windows. Considering all these issues, the analyses focused on the following hypotheses relating to the perceived roles of traditional leaders in community development:

- a) Youth and adults have the same perceptions;
- b) Males and females have the same perceptions; and
- c) Elected and Traditional leaders have the same perceptions.

### **3. Results**

The roles of traditional leaders include advising government and administration of their areas. In all focus groups and interviews conducted in Vhembe District, the roles of traditional leaders clearly went beyond those of elected leaders. It was revealed that traditional leaders were equipped with knowledge relating to what their communities needed. Twenty-six (26) roles that could be placed into seven (7) performance areas were identified. Considerable differences in

the perceptions were observed between youth and adults ( $P > 0.01$ ); elected and traditional leaders ( $P > 0.001$ ). There were no statistically significant differences in perceptions between female and male, female and elected leaders, male members of Headmen Councils and elected leaders with respect to the roles ( $P > 0.05$ ).

There were no statistically significant differences in perceptions between Makhado and Mutale Municipalities and between Mutale and Thulamela Municipalities with regard to the identified roles of traditional leaders ( $P > 0.05$ ). However, respondents in Thulamela Municipality agreed much more with the perception that traditional leaders must participate and make decisions in municipal Council meetings ( $P < 0.05$ ). In the following sections, each identified role of Traditional leaders is described in greater detail, starting with administration of justice.

### ***3.1. Administration of Justice***

One central role of traditional leaders is running customary courts. Male members of Traditional Councils agreed much more with this perception ( $P < 0.05$ ). Running customary courts included dealing with petty crimes such as assault, defamation of character and disputes relating to allocation of land. It was indicated that traditional leaders had been performing such functions for a long time and thus were very experienced in executing the role. Customary courts helped reduce crime and were also established with the aim of unifying people. The need for the Department of Justice and Constitutional Development to officially hand over the function together with all the associated legal instruments and procedures to traditional leaders was said to be long overdue. Participants despised the appointment of lawyers to represent suspects in traditional courts because of the belief that they misled and even intimidated witnesses, which resulted in miscarriage of justice.

### ***3.2. Land Administration and Strategic Decision Making***

Land administration by traditional leaders encompasses determining the appropriate use and allocation of stands for both residential and commercial purposes. It was observed that male members of Traditional Councils ( $P < 0.001$ ) and adults in Headmen Councils ( $P < 0.01$ ) agreed much more with this perception when compared to females and younger ones respectively. In addition, both female ( $P < 0.01$ ) and male ( $P < 0.001$ ) members of Headmen Councils agreed much more than elected leaders with this view. It was suggested that traditional leaders should identify the people's needs for land and approach local Municipalities for assistance with proper environmental impact assessment, planning, demarcation and allocation to deserving residents. Furthermore, it was indicated that traditional leaders should participate and contribute to decision making in municipal Council meetings as well as budgeting processes and financial resource allocation. Adult members of traditional Councils agreed much more with the perceptions that traditional leaders must allocate stands for both residential and commercial

purposes as well as considering and making recommendations on trading licences in their areas ( $P < 0.01$ ).

The need for each Traditional Council to establish a trust through which all the proceeds of land allocation and any other income (for example, royalty) would be channelled for use in community development was highlighted. There were arguments that the amounts being charged for allocated commercial and residential stands varied widely within and across the district. It was reported that prices for the same size of residential stands varied from ZAR 20-100 (USD1  $\approx$  ZAR10). Commercial stands of similar size cost ZAR 300-10 000 in Traditional Councils. All this was due to the non-existence of a policy that governed the prices of the stands. Some Traditional Councils took advantage of this challenge and abused the privilege of allocating land bestowed on them by setting either exorbitant or unusually low prices depending on their relationship with the purchasing persons.

### ***3.3. Safety and Security***

Regarding safety and security, traditional leaders are expected to report to the police any unrest in their communities; must have the power to arrest and keep offenders in custody; detain and impound goods brought into their areas under unlawful or suspicious circumstances. The respondents believed that if traditional leaders played these roles, criminal activities particularly in rural areas would be greatly reduced.

### ***3.4. Protection and Preservation of African Culture and Practices***

All the focus groups and key informants believed that traditional leadership must continue to be responsible for the protection and preservation of African culture. In this regard, they must ensure that traditional dances and functions are held. The latter includes ensuring that circumcision schools are run. It was pointed out that traditional dances and functions must be carried out in a democratic environment, implying that those not interested in participating must not be forced or fined. It is believed that as they promote cultural activities, traditional leaders would help keep youth busy. Apart from this, social cohesion would be promoted through the involvement of youth and adults in cultural activities. With respect to male circumcision, the respondents were annoyed by the fact that numerous deaths resulted from use of amateur traditional surgeons or those not ordained to perform the operations. It was suggested that the surgeons should be organised and trained and/or ordained in traditional ceremonies to enable them to discharge their functions more efficiently. Furthermore, traditional leaders were expected to promote all forms of indigenous knowledge systems in the area of their jurisdictions.

### **3.5. Development Facilitation**

It was to note that traditional leaders were viewed to be well positioned to meaningfully contribute in economic development of their areas. In this regard, they were expected to consider and make recommendations on trading licences. Adults in Headmen Councils agreed much more with this perception ( $P < 0.01$ ). Furthermore, it was indicated that traditional leaders must collect financial contributions from community members and start projects; lobby government and other agencies to play more distinct roles in the development of their areas; lead and monitor community development projects; and facilitate the compilation of community development plans in consultation with other leadership institutions.

### **3.6. Health and Social Development**

Even elected leaders indicated that traditional leadership had roles to play in health and social development. They singled out registration of indigents and distribution of food parcels to the poor as crucial roles that traditional leaders were well placed to play. Members of Headmen Councils agreed much more ( $P < 0.01$ ) and ( $P < 0.001$ ) respectively than elected leaders with the view that traditional leaders distribute food parcels. Traditional leaders were viewed to be suitable for making recommendations for social security benefits applications because they knew the people who reside in the areas under their jurisdiction very well. Apart from the key roles referred to above it was suggested that traditional leaders should be responsible for the registration of birth, deaths and customary marriages. Male members of Traditional Councils agreed much more with this perception ( $P < 0.05$ ) than their female peers.

### **3.7. Management of Infrastructure and Natural Resources**

Management of basic education facilities and cattle dip tanks are the two specific infrastructure management roles that traditional leaders must play. Development and revival of community forestry, control of extraction of medicinal plants; and control of the collection of firewood are natural resources management roles that traditional leaders must play in community development. Traditional leadership was regarded as an ideal structure that could effectively protect the destruction of the environment. For example, it was argued that during the Apartheid era Headmen granted permission to cut any “*big*” trees because they were regarded important as wind break and provided perfect natural habitats for various useful species such as owls which are highly regarded and respected birds in the African belief system.

## **4. Discussion**

As revealed above, some of the highly regarded roles of traditional leaders were that they must run customary courts (settling disputes and arbitration, amongst others); allocate land for

both residential and commercial purposes; report to the police any unrest in their communities; promote the growth and development of indigenous knowledge systems in the areas under their jurisdiction; organize traditional dance ceremonies and functions; ensure that circumcision ceremonies were carried out under safe and hygienic conditions; consider and make recommendations on business licences in their areas; and register births, deaths and customary marriages. These findings are not surprising because traditional leaders have been the basis of local government in most of Africa (Rugege, 2003; Mzimela, 2012). Thus, it is imperative to align the traditional leadership with local government business to ensure that effective rural community development is realized. Before discussing further the roles of traditional leaders in rural community development, it is crucial to understand if all roles identified in this study find space in the local sphere of government. The roles of traditional leaders are complex since they go beyond local government matters. In this country, Constitution of the Republic of South Africa of 1996 makes the judiciary independent of government. As already alluded to, Traditional leaders must run customary courts. This is a judiciary function. Three (administration of justice, safety and security, management of infrastructure and natural resources) out of the seven performance areas of traditional leaders are non-local government roles. This reality makes it difficult to accurately place traditional leaders' roles within a particular sphere of government.

Apart from traditional leaders being expected to execute local government functions, they are supposed to lobby various agencies and spheres of the public service to ensure that community development takes place. The role of traditional leaders is defined as belonging to the category B Municipality, which is tasked with providing services directly to residents (Department of Provincial and Local Government, 2000). Section 155 (1) of the Constitution provides that a category B Municipality share its executive authority with a category C Municipality within the area in which it falls. A category B Municipality is commonly referred to as "local Municipality". In order to provide reticulation services, there is need for tax collection or allocating a budget. Yet, traditional leaders are expected to provide reticulation services. Without any financial muscle to help it fulfil this mandate traditional leadership should be granted adequate power to generate income. Alternatively, considerable budgetary allocation should be made to help the institution in this regard.

In pre-colonial times, Chiefs enjoyed the privileges of performing their functions without interference from democratically elected local leaders. For example, Chiefs had executive powers, mainly with respect to distribution of land. Secondly, they enjoyed legislative powers, most of which were unwritten laws. Such laws included the fact that every community member had to plough the Chief's farm with the proceeds being stored in a community granary or silo (*Dzunde* among the VhaVenda). Any community member who disobeyed the Chief in this respect was liable to pay a fine. People's conduct and behaviour were mainly based on traditional customs. This ensured social cohesion in the community. Furthermore, traditional leaders had

judiciary powers. They presided over customary court cases and adjudicated cases in consultation with the *Khoro* (Tribal court), which comprised elders in the village. This study confirmed that this was the only judicial system people easily related to, trusted and preferred.

The evidence generated in this study confirms that traditional leadership has a role to play in a multi-party democracy through coexisting with democratic institutions and that it is fundamentally democratic (Ntsebeza, 2006; Logan, 2009). Although this is the case, there is still need for transformation of traditional leadership. What need to be transformed is the administration process. Traditional leaders must have offices, equipment's and administration personnel. This will amongst others ensure that discussion and decisions made during *Khoro* are documented and properly stored for future reference. Traditional leaders are likely to be instrumental in initiating social change through striking a healthy balance between tradition and modernity. In Botswana, customary courts handle approximately 80 % of criminal cases and 90 % of civil cases (Sharma, n.d.). The current study in Vhembe District cemented the findings of Sharma`s (nd) as well as Lutz & Linder (2004) that tribal or customary courts are popular in rural areas and often relied on because they are easily accessible, inexpensive because there is no legal representation, efficient and people are familiar with their proceedings. Also, they emphasise simplicity and informality when settling disputes. This is due to the fact that presiding officers judge the case and not the person, aiming to ensure that permanent resolution of disputes takes place and unity prevails (Matavire, 2012). Moreover, the verdicts are mediatory and restorative (Kelsall, 2008; Charumbira, 2012). The courts are deemed to be fair, cheap to run and operate at the community's door step, are bound by culture and take more lenient and fair ways of dispute resolution, which the communities prefer as opposed to going to the modern and elitist courts (Dodo, 2013). However, some respondents in this study claimed that the quality of justice associated with traditional leadership courts left a lot to be desired. What mostly displeased them is lenient sentencing that is imposed on offenders. Lenient sentencing do not prevent offenders from committing other crimes in future.

Scholars such as Sharma (n.d.) and Matavire (2012) argue that the customary court chairmen, tribal administration staff and local police must be better qualified and trained. They go on to suggest that upon appointment to chieftainship, chiefs must undergo some judicial orientation and also be kept aware of the changes taking place in the world, in particular with respect human rights. The evidence generated through this study does not support the view that traditional leaders should be trained on how to preside over traditional or customary courts. It was argued that God gave them all the wisdom they required to preside over cases. An example was provided that in the Bible (1 Kings: 3v5-28) King Solomon was once visited by God and requested to ask for anything. He asked for wisdom and in verse 9 he says,

“Please make me wise and teach me the difference between right and wrong. Then I will know how to rule your people. If you don't, there is no way I could rule this great nation of yours”.

King Solomon made good judgements despite not having a qualification in Law. When traditional leaders are installed they ask for wisdom from God to lead the people. The respondents in this study claimed that traditional leaders had vast experience and that training might destroy the locally respected way of handling matters. Moreover, the training is likely to create a more complicated situation as it might model them along modern, westernized forms of presiding over cases. People in rural areas are not familiar with western model of presiding over cases. Also, they are intimidated by the dressing code and language that is used in modern courts which at times contribute in them to ineffectively participate in the court proceedings. Kwame (2012) carried out his studies in Ghana and found that only few of the informants agreed that chieftaincy had outlived its usefulness and as such must not play any part in the administration of local government, particularly land administration. In both rural and urban areas of Ghana, traditional leaders still allocate customary land under various forms of tenure, including what are in effect leasehold sales at market rates for residential and commercial building plots (Mahama, 2009). In the current study in Vhembe District, it was observed that traditional leaders played important roles in local government especially with respect to land administration and development facilitation. These findings confirmed Kwame's (2012) findings that traditional leaders were indispensable in local government administration.

Another significant view from this study was that traditional authority administration staff must be integrated into the local government sphere. In Botswana, Land Boards took away the exclusive authority of Chiefs of allocating tribal land, which triggered conflict Sharma (n.d.). This study revealed this also happened in Vhembe District (Thulamela Municipality). The Municipality was reported to have allocated land in areas falling under Traditional Council jurisdiction, which triggered conflicts and a number of court cases, some of which remained unresolved. Inevitably, this has continued to cause confusion among the people and in some instances, litigations continue to be the order of the day. This contribute to lack of trust by the people they lead. Furthermore, it slow down the pace of service delivery.

Buur & Kyed (2005) indicate that in Mozambique, the Frelimo government passed Ministerial Decree 15 in June 2000. Although the preceding debate in the media and beyond had centred on the role of traditional authority in local governance, the decree included the possibility of establishing the secretaries of suburbs or villages. This was an attempt to increase the participation of the rural population in development and governance. Recognized traditional leaders were renamed community authorities. This was purely an acknowledgement from government that it was not possible to develop rural areas without traditional leaders. As confirmed in this study, traditional leaders have important roles to perform in development



facilitation, land administration and strategic decision making. This implies that people in rural areas listen to traditional leaders and understand their governance style.

Given the situation presented above, the argument by Ntsebeza (2006) and Cook (2005) that Traditional leaders' control of the land allocation process makes them so indispensable seems accurate. Also, Africans believed that the land belonged to the ancestors and that traditional leaders were its custodians (Gluckman 1977; Bourdillon, 1998). Despite the observed variation in prices of land across the Traditional Councils in Vhembe District, communities seemed to have accepted the fact that some payments had to be made to "cement" ownership of the land. Some chiefs demand huge amounts of money for themselves, for example an offer of a sheep or goat, even a brand new car and expensive drinks before they release lands for development projects. This makes implementation of development programmes expensive and dents Chiefs' image with respect to their fitness to play responsible roles in the administration of local government affairs (Kwame, 2012). Similar sentiments were expressed in this study, mainly by elected leaders. The latter argued that traditional leaders must not allocate stands or determine the appropriate land uses because they are interested in receiving tokens of appreciation when discharging these functions. It is not convincing that traditional leaders must not allocate stands or determine appropriate land uses because of the token of appreciation they receive when discharging this function. Traditional leaders do not ask for the token of appreciation. Although some people offer traditional leaders token of appreciation in exchange of favour, it cannot be generalised that all people do the same.

Section 81 of the Municipal Structures Act of 1998 provides for a maximum of 20 % representation of traditional leaders in municipal Councils in areas where there are traditional leaders. Section 5 of the Traditional leadership and Governance Framework Act, 2003, Act No. 41, 2003 further provides for the establishment of partnerships between Municipalities and Traditional Councils. Furthermore, Section 81 of the Municipal Structures Act of 1998 provides that Traditional leaders may participate in proceedings of the relevant Council (as gazetted by the Member of Executive Council) and must have the freedom to express a view on matters directly affecting their areas. Traditional leaders participate in their capacities as representatives of their communities. The Municipality may not adopt any by-law affecting a community without consulting and endorsement of the affected traditional leaders. In this study, it was revealed that traditional leaders must not just participate but rather be involved in making decisions in municipal Council meetings. Furthermore, they must participate in budgeting and financial resources allocation processes in Municipalities. The latter ensures the traditional leaders remain accountable to their communities.

Traditional authorities assist in the collection of taxes and fees for the state as well as ensure that there is respect for law and order. Therefore, the law implicitly assigns governance roles to traditional authorities (Cheka, 2008). It was not surprising in this study that participants in

all focus groups expected traditional leaders to report to the police any unrest in their communities. This confirms that traditional leaders were close to the community. Members of Headman Councils and elected leaders were of the opinion that traditional leaders should not confiscate or impound goods brought into their areas under unlawful or suspicious circumstances. Furthermore, they should not arrest and keep offenders in custody. The reasons advanced for this was that these were police functions and what traditional leaders had to do was simply report to law-enforcement bodies. The implications of the execution of these roles are profound. Traditional leaders are not delegated or appointed to execute warrant of arrest. Such arrests will legally be incorrect and may be viewed as kidnapping which can lead to counter charges against traditional leaders.

In Ghana, Chiefs and other traditional leaders embody deep cultural values and practices such as the cult of ancestors, taboos and festivals amongst others (Cook, 2005). Traditional leaders are regarded as guardians of the people's heritage, being expected to guard and sustain community norms, values and principles, and serving as the link between the external community and the people at grassroots level (Arhin, 1985; Ray, 2003). Circumcision schools are a prime example of this. The results of this study confirmed the findings above in that traditional leaders were expected to protect and preserve African culture and practices by promoting indigenous knowledge systems, organise traditional dance ceremonies and functions, and ensure that circumcisions were carried out. The view that traditional leaders must recommend to the Department of Health the surgeon who would preside over circumcision in his/her area of jurisdiction was not surprising. African customs must be respected and preserved by traditional leaders in a democratic society to ensure effective social cohesion. Cheka (2008) argues that traditional leaders are stakeholders in the governance process and educate the local population on matters of local development. They identify priority development needs of the people and advise local municipal Councils. The participants in this study supported these views by indicating that Traditional leaders in Vhembe District must facilitate the compilation of community development plans in consultation with other leadership institutions. In this regard, traditional leadership complements rather than compete with democratically elected institutions.

The Limpopo Traditional Leadership Act allows for the collection of levies. Sithole & Mbele (2008) contend that "Instead of protecting people from the collection of levies by traditional leaders the Act has opened an opportunity for the collection of levies to be done by an undemocratic form of governance from the people who have no choice but to oblige if they wish to live in their current boundaries". The results of this study favoured the collection of financial contributions to support activities that traditional leaders preside over. However, the contributions should not be levies but funds required to initiate development projects that community members identify. The fact that even elected leaders indicated that traditional leaders must consider and make recommendations on trading licences in the areas falling under their control

was surprising. This issue can be attributed to the fact that before democracy traditional leaders played this role and during that time business such as liquor stores were never located next to schools and churches. Nowadays, the fact that youth abuse alcohol is attributed to ill-informed decisions of elected leaders of approving liquor stores to operate near schools and churches.

As part of what they do, traditional leaders cited social welfare type interventions. The fact that members of Headman Councils and elected leaders wanted traditional leaders to register births, deaths and customary marriages was also not surprising. It was argued that traditional leaders were honest and trustworthy, a fact which even the Department of Home Affairs and Banks amongst other institutions indirectly confirmed as they rely on them for proof of residence and validation of other personal information. Elected leaders wanted traditional leaders to consider and make recommendations on social security benefits application, register and maintain records of indigents, and to distribute food parcels to the needy. This further confirms the trust that municipal officials and Ward Councillors had in traditional leaders. Botha (1994) distils various roles and functions as those of traditional leaders. They include promotion of education by means of erecting and maintaining school buildings, and granting bursaries and loans to scholars; the maintenance of roads, bridges; the organisation and promotion of agriculture activities, for instance, the control of grazing and arable land, the establishment of agricultural co-operatives as well as the purchasing of cattle stock for villagers' use. The results of this study confirmed Botha's findings because traditional leaders in Vhembe were supposed to develop and revive community forests, manage basic educational facilities, maintain dip tanks, control the harvesting of firewood, and manage the extraction of medicinal plants. This is significant for the preservation of environmental resources for the future generation. Sharma's (n.p.) study reveals some important issues that are relevant to the current study. It is necessary to establish if indeed lack of training compromised Traditional leaders' ability to play their roles and responsibilities. The specific aspects that the Traditional leaders should be trained in and how this must be done needs further elucidation through further scientific studies. Only after this has been done will the direction for transformation of the Traditional leadership institution be better known.

## **5. Conclusion**

This paper has revealed that Traditional leadership remains relevant in rural community development and plays various roles. The study confirmed that the relevance of democratically elected leaders in the development of rural areas was confirmed to be not in question. It was revealed that they were performing roles that were entrusted to them for Centuries. The findings of this study have highlighted that contrary to other scholars' argument that Traditional leaders and elected leaders serving in the local government sphere are incompatible the two leadership institutions are required. What is needed is to introduce systems that create harmonious relations

between the two institutions. Nevertheless, the results of this study also point towards the need to understand how effective Traditional leaders engage communities on development issues. Furthermore, this necessitates the development of a governance framework that helps link Traditional leadership to government structures.

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## RECORDS MANAGEMENT AS A TOOL IN LAND CLAIMS DISPUTES FOR TRADITIONAL TRIBAL AUTHORITIES IN POLOKWANE MUNICIPALITY

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### Abstract

Records serve as memory and evidence of each business transaction that occurred in every institution. Good records management for the creation, organization and retrieval of records is therefore necessary for every institution, including tribal authorities. The purpose of this study was to explore and describe the current practices and how good records management practices can be used as a tool to resolve land claims disputes tribal authorities within the Polokwane Municipality in Limpopo province. The study revealed an awareness of communities regarding the role played by records in resolving disputes and other conflicts in the traditional tribal authorities. Unfortunately the records are not being managed properly and are therefore inaccessible to the members of communities and this makes it difficult for tribal authorities to resolve the disputes. Lack of resources, trained personnel, policy guidelines, reporting lines, and uniformity in records management practices are regarded as factors leading to poor records management, and subsequently, local authorities are unable to resolve most of the disputes and conflicts at their local authorities, such as land claims disputes, chieftaincy succession battles and inheritance feuds. Communities would benefit if records were well managed and printed documents being migrated to electronic database. The study concludes with recommendations on how to ensure proper records management in the tribal authorities.

**Keywords:** Management; Land Claims Disputes; Traditional Authority;

### 1. Introduction

Records management has gained increasing prominence over the past few years. The challenge of increasing volumes of records and information is seen as the main reason why records management gained prominence. With the increasing volumes of records being created, it has become difficult for organizations to manage their records effectively. According to Ngoepe (2009) records management is regarded as one of the pillars of good public management because government activities are based on access to information contained in records. However, most government departments including the tribal offices fail to management their records effectively and efficiently. According to the National Archives and Records Service of South Africa Act, (1996) governmental bodies including tribal authorities should recognise their responsibility to the public by implementing and maintaining sound records management practices. To ensure that records management receives the attention it deserves, it should be a strategic objective in the governmental body's strategic and business plans. Government departments are compelled to manage their records systematically and to adhere to policies and

procedures to ensure compliance with the said Act (Records Management Policy Manual, 2007). Tribal offices are instituted with the purpose of providing service to the rural communities. These offices create and receive records like deed of grants, business agreements, payments and minutes of the meetings among their records and these records need to be stored and arranged for future use.

In Limpopo Province, much of the land remained in the ownership of the state through tribes under the leadership of traditional leader. There are also lots of unresolved cases that could not be resolved by the Land Claims Commissions. These are cases that if referred to the traditional office, could be resolved. The purpose of this paper was to investigate the role of records management as a tool to resolve land claims disputes in the Polokwane Municipal area. Records are used by institutions as transactions that enable them to do their duties. Records function as evidence of the activities that took place. According to Motsaathebe and Mjama (2009: 133) organizations that have proper records management produce better results. Motsaathebe and Mnjama are referring to the effective use of records by courts in African countries. In some instances for example, magistrates have failed to deliver judgement because of loss of dockets. A study by Kalusopa & Ngulube (2012) shows the significance of records during negotiations of matters like salary negotiations and performance assessment. According to Section 212 (1) of the Bill of Rights of the Constitution of South Africa (i) National legislation may provide for a role for traditional leadership as an institution at the local level on matters affecting local communities (The Constitution of the Republic of South Africa, 1996). In accordance with the Bill of Rights, tribal offices are expected to provide particular functions to rural communities. This research investigates the role played by records management in tribal offices on resolving the land claims disputes. The focus of the research was on the state of records management in the tribal offices and, records access, storage and the training of staff.

## **2. Land Claims Challenges in South Africa**

The Native Lands Act of 1913 prohibited the establishment of new farming operations, sharecropping or cash rentals by blacks outside of the reserves where they were forced to live. In 1994 the government passed the Restitution of Land Rights Act (No. 22 of 1994). Land Restitution Act was one of the policies and promises made by the African National Congress when it came to power in South Africa in 1994. The Act was aimed at providing the restitution of rights in land in respect of which persons or communities were dispossessed under or for the purpose of furthering the objects of any racially based discriminatory law. The backlog of unresolved land disputes, which are largely rural land claims are mostly affected by a number of challenges including lack of access to records for verifying the claims. Most of the land claims in the Limpopo area are in the rural areas under the tribal offices. Tension between the tribal offices and legal entities with custodianship and disputes regarding boundaries on claimed land



also stalled the progress on a number of projects handed over to communities. The backlog of unresolved restitution claims also raises concerns that claims filed under the new restitution period might further undermine the fulfilment of existing claims.

### **3. Theoretical Framework**

Tribal offices are set up with the aim of serving the community. Part of the functions of the offices is to ensure that records are accessed by the community. Records in the offices among others include the following: chieftaincy succession, land demarcations, matters of land disputes, individual disputes of divorces, family lands, family properties and disputes on business transactions between the tribe and private companies. The tribal offices has existed for a long time and played important roles in administration and management of rural community prior to 1994 and after the 1994 democratic government. It is clear that for some time to come; tribal authorities will remain key players in government. It is for this reasons that every effort should be taken to ensure the tribal offices comply with all the government legislations including the National Archives and Records Services of South Africa Act. Asogwa (2012) in his studies of records management in Nigeria revealed that more records are in paper format. According to him there is no tangible plan to migrate to electronic records. Alalwan & Thomas (2012) reported about the safety of records. Their study revealed that paper-based records are more prone to damage by fire and that files are easily lost. They recommend the migration to electronic filing. Kyobe, Molai & Salie (2009) studied the life cycle of records. The study traces the stages of records from creation until they are transferred to the archives. Ngoepe (2008) argued for the life cycle theory because most records in government bodies are still paper based.

Therefore in order to understand the state of records management in tribal offices it is important that the researcher understand the life cycle theory of records. Life cycle theory is chosen because it will assist the researcher in going through the stages of records management in tribal offices. Tribal offices form parts of governmental bodies and according to Ngoepe (2008) records are still in paper format. This article is therefore based on the theory that records in most of the governments offices are paper based and should be managed properly to ensure preservation and easy retrieval as well as accountability.

### **4. Records Management and Organizations**

According to Records Management Policy Manual (2007), records refer to all information that is stored within an institution or organization. Records are kept in various media such as Compact Disc(CD), cassette, paper file and film. According to Makhura (2005), organizations use records to plan their future activities. It is because of this reason that governmental bodies including tribal offices rely on records to plan and achieve their goals. Organizations require records to plan their activities and the planning is based on evidence from the previous records.

According to Srinivasan et al. (2013) and Dikopoulou & Mihitis (2011) records are used by organizations as evidence to support actions and decisions that are to be taken. These thoughts are also stated by Alalwan & Thomas (2012) and Kalusopa & Ngulube (2012). The financial unit of the organization requires records in the form of receipts and payments to do the financial statements of the organization. The production unit also needs records to evaluate performance of the employees.

According to Srinivasan et al. (2013) and Dikopoulou & Mihitis (2011) records are used by organizations as evidence to support actions and decisions to be taken. Records that are properly managed enable organisations to be effective and efficient. In their studies of university records management Kyobe, Molai & Salie (2009: 1) found that well managed records enables organizations to manage their affairs effectively. Records management also helps organizations to meet the needs of the customers. According to Motsaathebe & Mnjama (2009: 134), good records management help organizations to avoid corruption. According to Gunnlangsdottir (2012) it is important for organizations to keep a list of the records at their disposal for future reference. Joseph, Debowski & Goldschmidt (2012), state that records are needed by the people to satisfy their needs. Rural communities have needs like title deeds and land claims disputes which will be met by accessing records from the offices. Records are essential for the effective and productive functioning of private and public organizations.

## **5. Records Management in Tribal Authority**

According to Section 13(1) of the National Archives and Records Service of South Africa Act, 1996, "The National Archivist is charged with the proper management and care of all public records in the custody of governmental bodies" Asogwa (2012) in his study of records management in Sub Saharan Africa revealed that records in the region are in poor state. Svard (2012) posit that records management in Netherlands is in poor state because the government departments neglect policy on records. Ngoepe & Ngulube (2013) reported that top management in South Africa is neglecting records in government departments. Tribal offices are part of governmental bodies. The offices fall under the provincial department of Corporate Governance, Human Settlement and Traditional Affairs. The National archivist is given the mandate by the Act to manage all public records in the custody of governmental bodies. Proper record management helps tribal offices to be efficient and transparent. Tribal offices will use records to adjudicate over matters like disputes over chieftainship. Records are also of help when the chief adjudicates over disputes between squatters and farmers about grazing areas.

The study by Saxena (2005) found that records helped communities to find a solution to land claim disputes. Saxena (2005: 312) continues to indicate that the absence of correct and up to date land records has injured the interests of millions of landowners the bulk of whom are small landowners and it had led to numerous land disputes. In this regard Saxena (2005) argues

that public offices do a lot of damage to communities by failing to keep proper records. Srinivasani (2013) states that Native Americans benefited from proper record management by gaining back their land. It was due to records that the government made provisions for Native American Graves Protection and Repatriation Act. Tribal offices can learn from such activities and make use of the claims with referrals to the graves. Records in tribal offices serve as memory of the culture and tradition of the tribe. Such records are valuable to researchers and historians for use in their studies.

## **6. Challenges of Records Management in Tribal Offices**

There are numerous challenges faced by tribal authority in managing their records. Those challenges include:

- Lack of storage facilities;
- Inadequate funding;
- Inadequate skills and high staff turn-over; and,
- The problematic nature of format.

Lack of good working relationship with other government agencies and noncompliance with the National Archives of South Africa Act

## **7. Conclusion**

Tribal offices are set up with the aim of serving the community it serves. Records in the offices among others include the following: chieftaincy succession, land demarcations, matters of land disputes, individual disputes of divorces, family lands, family properties and disputes on business transactions between the tribe and private companies. Part of the functions of the offices is to ensure that records are accessed by the community that can be very helpful in dealing with the problem of land claims disputes. However, due largely to ineffectual records management practices and poor facilities, the tribal authority has not been helpful to the challenges of land claims disputes. Records management provide the information by which tribal authority can meet and discharge their obligations to communities. Due to poor records management practices, tribal offices fail to discharge their duties and obligations to the community.

## **8. Recommendations**

In order to ensure proper records management in the tribal authorities, the study wishes to recommend the following:

- Tribal authorities should consider migrating to electronic records management system in order to solve the storage problem.
- All employees of tribal authorities must be provided with records management training

- Department of Corporate Governance, Human Settlement and Traditional Affairs in Limpopo province (CoGHSTA) must assist the tribal authorities in managing their records
- Heads of tribal authorities should also ensure that they budget for the records management function and that the necessary financial, human and technological resources are allocated to support the records management function
- Provincial Archive must ensure that tribal authorities comply with the National Archives of South Africa Act and assist tribal authorities with preservation of records.

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## LAND REFORM AS AN IDEOLOGICAL DIMENSION OF RURAL DEVELOPMENT

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### Abstract

The Post-Apartheid government inherited a country characterized by extreme racial imbalances which manifest(ed) in land ownership and spatial patterns. Non-white South Africans were (are) victims of the legacy of the Group Areas Act of 1984 that had forcibly displaced “inferior” masses to homelands and non-productive remote areas. It was, therefore, a priority for the incoming democratic government to re-design land reform policies targeted at reversing these colonially fueled spatial distortions. Land was instrumental in energizing peasant participation in liberation struggle and the material expression of liberation was (is) land. South Africa’s overall Land Reform programme is constituted of three elements which are land redistribution, tenure reform and land restitution. Various scholars, agents and academics have criticized and applauded simultaneously. Criticism has been towards both the beneficiaries and the state due to factors such as poor post-settlement support, lack of skills, lack of capital and equipment and the infighting over land claims and land management. On the positive side, land reform has been applauded for boosting rural livelihoods, enhancing rural poverty alleviation and redressing racial imbalances. This paper joins the Land Reform discourse by arguing that, the primacy and success of Land Reform policy in rural development is determined by how the programme is interpreted by the intended beneficiaries and how it conforms and improves their livelihoods, ambitions and goals. Therefore, the argument of this paper thrives to exhaustively prove that the Land Reform Programme as an ideological dimension of rural development needs to secure support from intended beneficiaries in order to give credence to its guiding policies.

**Keywords:** Land Reform; Rural Development; Land Policy

### 1. Introduction

The South African Post-Apartheid government inherited a country characterized by extreme racial imbalances which manifest(ed) in land ownership and spatial patterns. Non-white citizens were (are) still victims of the legacy of colonial and apartheid policies that had forcibly displaced “inferior” masses of indigenous African people to reserves consisting largely of barren land or arid areas with poor rainfall patterns while fertile land was allocated to white farmers for commercial agriculture. 80% of the population was confined to 13% of the land while less than 20% owned close to 90% of the land (Hart, 2012). A few black people who afforded land were prohibited from buying in areas outside the reserves. This apportionment of land remained until the end of apartheid in early 1990s and remains virtually unchanged. There might have been other minor causes for the Bantu-European wars, but land was a fundamental issue (Logan, 2012). As such, the instrumentality of land in energizing peasant participation in the liberation

struggle and its status as a material expression of freedom understandably engendered public anticipation of land lordship at the advent of democracy, especially in rural South Africa (Sibanda, 2014). It was, therefore, a priority for the incoming democratic government to re-design colonially distorted spatial patterns through Land Reform as an ideological dimension of rural development.

Whilst the legacy of historical spatial distortions remains visible and manifest in the concentration of indigent rural households in remote and unproductive former homelands, the economy's stability has since been attributed to the constancy of the national agrarian economy. Consequently, the land issue remains simultaneously central and marginal in South African spatial policy frameworks. The latest piece of land legislature, the Spatial Planning and Land Use Management Act, (SPLUMA) is testimony to the recurrent marginalization of the land issue by the Ministry of Rural Development and Land Reform (government). The downgrading of the land issue is despite wide spread buzzing advocacy from academic circles and opposition political parties (EFF) and Black Economic Empowerment (BEE) proponents. Pro-Land Reform protagonists account for vivid signs of spatial injustice, inefficiency and unsustainability in, especially rural settlements inherited and, seemingly upheld by the Post-Apartheid government. With over 70% of the national population dwelling in rural settings, the facilitation and enforcement of land use and development measures aimed at igniting rural development through an agrarian economy is imperative (Hart, 2012; Statistics South Africa (StatsSA) 2013). This paper joins the Land Reform discourse by theoretically arguing that Land Reform is one of the main ideological dimensions of rural development. To jump start this discussion it is imperative to present, briefly, the background of the South African Land Reform.

## **2. Background of the South African Land Reform**

South Africa's overall Land Reform programme has three primary objectives, firstly, to return land to those unfairly dispossessed as from 19 June 1913 (effect date of the Native Land Act of 1913), secondly to reverse extreme racial imbalances in landholding especially in rural agricultural land and finally to alleviate poverty in rural areas (Department of Land Affairs, 2013). To facilitate this transference of productive land, the programme has since employed land restitution to restore land rights to those who were dispossessed of them under discriminatory laws, land redistribution to make land more accessible to those who had previously been denied access and tenure reform to give security of tenure to labour tenants, farm workers and other rural dwellers who lived on land without secure rights.

### ***2.1. Land Restitution***

The constitution provides for the Restitution of Land Rights Act which entitles a person or a community dispossessed of rights in land or a descendant of a person or a deceased estate of a person dispossessed of rights in land, after 19 June 1913, as a result of racially discriminatory



laws or practices, to claim restoration of those rights or equitable relief such as alternative land or compensation. Whilst the Commission for Restitution of Land Rights (CRLR) has settled a substantial number of households, the Land Claims Commission has encountered anticipated and yet regressive challenges. It was not unprecedented of challenges such as verification, valuation, and calculation of compensation for claimants and land owners to be a toll order for the Commission during the restitution process (Rugege, 2004). High levels of rural poverty were capitalized by many white farmers who enticed rural claimants with monetary compensation rather than the broader objectives of restitution, thus the transformation of land ownership and the building of livelihoods for, especially, the rural poor. This continual imbalance in the distribution of land ownership calls for holistic and context-specific strategic land redistribution especially in rural settings where illiteracy, poverty and vulnerability pave way for exploitation and partiality of initiatives.

## ***2.2. Land Redistribution***

According to the White Paper, the purpose of land redistribution is: "to provide the poor with access to land for residential and productive uses, in order to improve their income and quality of life. The programme aims to assist the poor, labour tenants, farm workers, women, as well as emergent farmers." These principle goals of land redistribution led to the constitutional declaration that, "the state must take reasonable legislative and other measures, within its available resources to foster conditions which enable citizens to gain access to land on an equitable basis" (section 25(5)). However, the instrument for an enabling acquisition law vanished with the expiry of the Land Reform (Labour Tenants) Act in March 2001. Relative success of this redistribution mechanism has been largely ascribed to its ability to allow tenants to access and own land they resided on before forced displacements by using state funds to make purchases. Rural development advocates have since pin-pointed the provident endurance of state funding schemes such as The Settlement/Land Acquisition Grant (SLAG) farm equity schemes; municipal commonage grants and more recently the Land Redistribution for Agricultural Development programme (LRAD) as rays of hope in lifting the rural development boards. The above mentioned programs are likely to be backed up by, perhaps, the resurgence of enabling redistribution legislations spearheaded by the Minister's power to expropriate land for redistribution subject to compensating the owner.

## ***2.3. Land Tenure Reform***

Section 25 (6) of the Land Tenure Act asserts that "a person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress." The legislative provision was targeted at securing land ownership of,

especially, farm workers, former farm workers, sharecroppers and labour tenants who had been victimized by the notorious Prevention of the Illegal Squatting Act 52 of 1951 and lived on land legally owned by others. In rural set ups, customary law was (is) the most common ticket of land ownership which is, of course manipulatable by corrupt chiefs. Despite the efforts by Land Reform (Labour Tenants) Act (LTA) and the Extension of Security of Tenure Act (ESTA) to offer land tenure security to labour tenants and generational beneficiaries of tenant-settler land use make shift arrangement, intimidation and forced eviction continue especially on commercial farms (Senadza, 2014).

### 3. Impact of Land Reform on Rural Development

Rural areas are deeply marked by extreme poverty, rampant exodus of rural surplus labour force into already congested cities and informal business entities, a trend which has since been ascribed to dysfunctional rural economies. Instead of the idealism of an overnight urbanization, industrialization and emergence of an economic boom in passive rural set-ups, Rural Development strategies such as Land Reform should, perhaps consider the common extrinsic attachment rural dwellers have with agrarian livelihoods as exploitable social capital for rural development. However, both in academic and public domains, the land issue ensues quick reference to the *Post-Chimurenga* land grabs and the consequent economic downfall that characterized the Zimbabwean Land Reform Programme at the beginning of the millennium (Sibanda, 2014). Indeed, land reform after its worst execution turned the “bread basket of Africa” into a “bread case of Africa”. Productive rural agrarian-oriented economy requires re-distribution of land through a gradual rather than drastic and random expropriation. An eventual pragmatization of the land issue has been a simultaneously central and marginal process hugely racialized, politicized and all in all sensitive. Continual holdbacks on land redistribution implies the South African citizenry, especially rural dwellers, remain deprived of constitutional land rights, local economic development instrument for growth and employment and rural development its only hope of attaining food security.

Food security, as a major strategy of rural development, requires adequate agricultural land for improved food productivity (Hart, 2012). Therefore, land reform that gives rural households access to agricultural land are key to food security and subsequently rural development. In GaMothapo Village in the Limpopo Province, residents were beneficiaries of pieces of land divided amongst them off a farm previously owned by a white organization. These acres of fertile land were used for intensive small-scale crop farming by the villagers and the ensuing benefits were clear to see. Households could produce food for consumption and for sale for income which they would use for other non-farm needs and investments. Researchers also found that beneficiaries who were employed elsewhere and had no time to farm started using them as asserts for capital accumulation by renting them out to other households. One might

notice the primacy of making productive land available to villagers through a peasant-oriented approach as a strategic instrument for rural development.

Through land redistribution projects in various villages countrywide, farms consisting of hectares of agricultural land previously owned by a single white household were transferred through the 'willing seller, willing buyer' process to previously disadvantaged groups, particularly black households, most of whom had never owned land. Researchers found that for these households, obtaining land was seen as an asset in at least three ways. Firstly, beneficiaries were now farming on the land and produce commercial crops which were sold locally or to hawkers. Secondly, for some it provided an asset which they could use to further increase household assets by rearing livestock. Thirdly, land was considered an investment and families could decide to sell the land, retain it as an asset or use it for collateral (Hart, 2012). It is against such a background that the instrumentality of land reform as an ideological dimension of rural development cannot be undermined, regardless of the shortfalls associated with the programme.

#### **4. Shortfalls of Land Reform and Attributes**

Since her transition to democracy in 1994, South Africa has adopted a strongly pro-market approach to land reform, influenced by conservative forces within the country and international backing for market-assisted agrarian reform. The spirit of post-Apartheid reconciliation and a free market economy gave credence to Land Reform through the 'willing seller willing buyer' approach. The strategy was targeted at rebalancing land ownership through redistribution, restitution and tenure reform. However, the market-led approach to land reform has since been criticized for discriminating the landless especially in rural areas where there is little or no capital to secure tenure through the 'willing seller willing buyer' market system. Despite the functionality of the SLAG, the system has been criticized for subsequently creating socio-economic classes shaped by land ownership. There has been debates about whether more priority should be given to the agricultural efficiency that comes with the market-led land reform or a state-led approach that puts the peasants as the primary beneficiaries as aspiring small-scale farmers. Many a scholar, have concluded that the main objectives of land reform revolves around poverty alleviation, racial rebalancing and equity, as such a state-led land reform approach that prioritizes peasants should be embarked to enhance rural development.

However, the literature has depicted that the land reform initiative has been undeniably slow and rural development proponents' points out various reason to the cause thereof (Senadza, 2014; Jacobs & Makaudze, 2012). The determination upon the slow pace of land reform has been as a consequent of the failure to reach the set target of 30%. Ntsebeza (2007) have avowed that the slow pace of land reform is as a consequent of inability to implement related policies which include Large Scale Commercial Farming model. Furthermore, the literature has revealed that insufficient budget towards land reform could be seen as a consequent to the unsuccessfulness

of land reform program (Anseeuw, 2005; Jacobs & Makaudze, 2012). Land reform, however, has failed to meet key objectives embodied in the Constitution, because less than 10 percent of the land has been redistributed since 1994 (Umhlaba Wethu, 2011), and those who have regained land rights as part of the land claims or redistribution processes have not been able to translate these into meaningful livelihoods (Hall, 2007).

Furthermore, it has been observed that in order for land reform to reap desired results there is need for area specific policies that suit the specific context in terms of livelihoods, cultural and environmental factors (Sibanda, 2014). Meanwhile, reform experiences in South Africa show vivid signs of misalignment of policies and peasantry ambitions and conditions. For example, the Land Restitution Programme (LRP) model of Limpopo Province is testimony that land reform should be framed around locally contextualized narratives, which should then provide general insights for a national plan. However there have been calls for the re-orientation of the LRP Model towards formulation of land restitution policies from local land conceptualization rather than from modernist (market-led) mega-narratives (Cochrane 2006). Here the argument is that land reform policy has to shift from a 'national template' or Blue-Print approach towards a locality and user-oriented planning approach. This will go a long way in aligning land reform and specific rural livelihood activities, goals and objectives.

## **5. Way forward for the Land Issue in South Africa**

Even 20 years into democracy, the South African government has been exposed to its salient inability to activate the long overdue land reform programme. The process of implementing the programme has always been a conundrum to the ruling government and South Africa chiefly as a consequent of vague implementation strategy thereof. Land reform has been identified through conceptual framework that focuses on a broad and holistic approach to rural development (Senadza, 2014; Jacobs & Makaudze, 2012). Thus, area-specific land reformed has been deemed to be the optimum approach to a successful land reform. Conspicuously, this regard to an area-specific land reform which has the potential to grant municipality's authentication towards the participation in development programmes in other spheres of government which entails provincial and national government. Accomplishing local developmental state encapsulate the process of affirming and granting local people in particular the authority and power to manage their own development. In the same sentiment, rural development as an ideological dimension should be in a more bottom-up approach to development.

Given the status quo of land reform within rural development in South Africa, the impediment of the programme has been discerned to be the centralisation approach to redistribution of land or rather blue-print model for decision making. Consequently, the 30% target for land reform has continued to be subtle within democratic dispensation. Reciprocally, bottom

up approach to policy design should be the focal point in achieving land reform thenceforth. Explicitly, rural development could pay immense attention upon the beneficiary oriented policy as a transformational component to land reform. Undoubtedly, the bottom-up approach in rural development planning create a conducive environment for proper planning which is associated with successful implementation of the policy. Generally, the policy needs be aligned with the ambitions of intended beneficiaries considering the strategy of local developmental state. Land is perceived to be the core ingredient in the essential recipe for rural development, particularly to people who practice land-based livelihoods (Riggs, 2006). However, human capital (education, skills training) has been ascertained through literature as the best optimum to be considered in rural development specifically for land reform in order to ensure that redistributed land yields effective benefits and poverty reduction (Riggs, 2006).

From one point view, education and skills training are believed to be catalytic in bringing about transformation in to the lives of the people particularly previously deprived communities. Accordingly, agro-studies require the design of area specific curriculums for prospective farmers in rural setups. Furthermore, lack of physical resources has also been viewed to be a major compounding factor in the failure of land reform. Clearly, it can be recommended that the democratic government should consider holistic application of state-led green revolution in an attempt to provide catalytic technological, financial and non-financial support to emerging farmers as a consequent of re-oriented land reform. Originally, green revolution has been reprimanded for variety of reasons which include its instinctive character of being de lux and expensive hence favours affluent farmers while ignoring the emerging poor farmers. It is therefore suggested that rural development should ensure that green revolution is led by the government hence providing those who cannot afford with necessary agricultural equipment. It is further recommended that there should be a redress in the imbalances of the past as well as to ensure that there is equity in the application of spatial development planning and land use management systems.

The democratic government has set promises to be accomplished in relation to solving the inequalities brought by colonial settlers. These promises were meant to be achieved through land reform hence there is a near-consensus that the program has been undeniably slow (Senadza, 2014). According to Anseeuw (2000), the spatial segregation measures have engendered extreme inequalities concerning land distribution. Furthermore, those measures, combined with the limitations of commercial farm activities for black populations, have also led to important inequalities between white and black farmers (Anseeuw, 2000). It is therefore important for development programmes to be implemented in a form 'that land can be re-orientated in order to redress the injustices of forced deportations and denial of access to land. After 1994, ANC mandate was to find a solution to the over population of certain rural areas of the

former reserves and Bantustans, to promote access to residential and farmland, and to revitalize the non-white agricultural sector and rural areas.

Pithily, after three years into power, the concomitants of ANC and Department of Land Affairs (1997) have identified three main programmes which are enshrined within the government's constitution regarding land and agricultural reforms: land restitution, redistribution and tenure reform. However, it is believed that if these three main programmes are achieved, therefore the re-orientation of land will be accomplished and therefore, rural people will be more productive through land-based livelihoods. Succinctly, it can be recommended that the South African government has to come up with realistic approaches towards achieving land reform. In addition, focus on implementation of the policies rather than planning as well as providing sufficient budget in order to facilitate the reform through fostering Land Redistribution and Agricultural Development Grant as a clear symbolic to the embracement of post-acquisition support.

## 5. Conclusion

The paper has partitioned the concept of Land Reform into three (3) major components (restitution, redistribution and tenure) all rooted to the principle objectives of the programme: to return land to those unfairly dispossessed, to reverse extreme racial imbalances in landholding especially in rural agricultural land and finally to alleviate poverty in rural areas. Land reform has unleashed a process of radical agrarian change, with many rural dwellers enjoying enhanced land-based livelihoods and outputs. Whilst the idealism of effective Land Reform and the subsequent agrarian boom is meant to attain food security, income generation and sustainable settlements, the progress in the pragmatic execution has left a lot to be desired (gone on a). It is evident that the land issue is simultaneously central and marginal and has failed to lift the boards. The snail pace of the Land Reform Programme is compounded by a wide range of shortfalls both in the internal and external environment of policy making. The paper has argued and concluded that the most sustainable source of credence for Land Reform policy is the alignment of area specific policies with ambitions and aspirations of the rural beneficiaries. As such, the success of Land Reform is, to a great extent, determined by how the programme is interpreted by the intended beneficiaries and how it conforms and improves their livelihoods, ambitions and goals. It was further proposed that if the Land Reform is to become an ideological and effective dimension of rural development it is imperative to capitalize on the intrinsic attachment of rural societies with land-based and agrarian livelihoods.

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