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# Corruption in Infrastructure Delivery: A South African Case Study

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# Context

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*“This unseemly scramble for political power in municipal government appears to be driven by the desire to abuse elected positions to lay hands on the economic resources that the local authorities have the possibility to access. This includes the power of members of municipal executive authorities to determine the outcomes of municipal tendering processes, regardless of the fact that the Municipal Finance Management Act expressly prohibits the involvement of councillors and mayors in adjudicating bids for municipal tenders.”*

President of South Africa, Thabo Mbeki, National Council of Provinces, 4  
November 2005

# Project Purpose

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- ...to investigate the causes and effects of corruption as it affects the delivery of infrastructure and services to the poor within South Africa. In addition, the research also assesses the efficacy of anti-corruption measures in protecting the interests of the poor.
- In reality...very difficult to selectively focus on the interests of the poor

# Specific objectives

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- Determine the main causes of corruption
- Determine the effects of corruption on services and service users who are poor
- Assess whether anti-corruption measures impact on pro-poor livelihoods and can be effectively used by the poor
- Assess the effect of corruption and anti-corruption measures on shared community assets and the capabilities of the poor
- Outline the extent to which the views of the poor are included in policy deliberations on corruption

# Methodology

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- Literature review
- Scan of high profile corruption cases in the Eastern Cape
- Further development of flexible research instruments
- Research strategy: interact with three distinct groupings, namely:
  - anti-corruption agencies
  - service users / community stakeholders (the victims of corruption)
  - persons involved in or convicted of corruption

# Obstacles

- Reality: victims and perpetrators of corruption very difficult to locate and access – bias towards anti-corruption agencies

Dept of  
Correctional  
Services



= BUREACRACY

(1 YEAR APPLICATION  
PROCESS)

# Key Informants

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- The Directorate of Special Operations (Scorpions) - two respondents
- The Special Investigations Unit
- The internal auditor in a municipality
- An internal investigator in the Department of Social Development
- A civil servant currently facing charges of irregular conduct
- A special advisor from the National Treasury attached to the Eastern Cape Provincial Treasury
- Two officials within the Eastern Cape Department of Housing, Local Government and Traditional Affairs
- Informal discussions were also held with the Office of the Auditor General
- A private investigator (informal)



# Framework of the research

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- Brief look at defining and understanding ‘corruption’ in SA social discourse
- Basic comparisons with other countries to ask; “how corrupt is South Africa?”
- How corrupt is LG compared to other sectors of the state?
- Anti corruption strategies are described including those that come from civil society
- Typical problems in LG finance and how these relate to LG service responsibilities – esp. important is the matter of LG’s status and resulting access to significant revenue sources
- National examples of municipal corruption – mini-case studies to paint a national picture
- Qaukeni municipality as main case study – regarded as an exceptional case but this form of breakdown may be much more endemic to local governance than we think

# Overview

The neoliberal critique of SA policy would regard this as arguable

- SA cannot be regarded as corrupt in the sense that its policies neglect the poor:  
*Since 1994 public spending on health education, welfare, housing and other social services has increased from 52.9% of non-interest expenditure to 58.3 % (2003/2004) [Minster of Finance]*
- Generally pro-poor policy has been accompanied by a number of safeguards to ensure that fiscal resources earmarked for the poor actually reach them e.g. the Public Finance Management Act
- But SA may have had little choice – it became a democracy in an era when the international development and banking community demanded these provisions – the APRM is a regional manifestation of this
- SA as a whole is particularly proud and therefore protective of its relatively new democracy; the National Crime Prevention Strategy of 1996 observes that:

*Fraud, corruption and graft involving government funds are seen to be undermining public confidence in democratic government itself, and therefore deserving urgent attention*

# Defining Corruption

## OPTION 1.

Sam Sole: simple definitions of corruption do not suffice because corruption may take clearly illegal forms, such as fraud or it may be the vastly more subtle practises of *rent-seeking, patronage and abuses of power*

Def: Corruption is the wilful subversion (or attempted subversion) of a due decision-making process with regard to the allocation of any benefit

Emphasis:

- Accountability
- Rent-seeking – dislocation from market or square deal concept
- Need not be illegal

# Defining Corruption

## OPTION 2

Dr Stiaan van der Merwe: Instead of using public power to the benefit and well being of relevant publics it is used for selfish, greedy and ulterior purposes. Ultimately such abuse of public power takes place directly or indirectly, at the expense of those supposed to benefit from exercising public power and responsibility. Public power is abused for individual gain or for sectional gain (e.g. my friends, my family my race)

*The abuse of public power for private or sectional gain or sectional profit*

### Emphasis:

- Exercise of power by public officials
- Def weakened by exclusion of private sector and CS
- 2 elements: Micro (behave. & attitudes) vs the Macro (systemic corruption or whole systems that facilitate the abuse of power)

# Defining Corruption

Both options seems to offer value:

## Sole:

- Highlights subversion of the official decision-making process
- Not necessarily financial in motivation
- Helps to explain how informal networks of collusion and secrecy may become stronger than formal systems for accountability and transparency
- Rent-seeking and patronage phenomenon can be seen in both legal and irregular transactions – ‘very SA’

## Vd Merwe

- Highlights connection between power and corruption
- Key element is the elevation of personal or sectional gain over the public interest
- Alert to the possibility that ideological differences may be manipulated to entrench a more limited understanding of corruption
- Helps to explain why strong anti-corruption lobbies are often labeled “neo-conservative” or “untransformed”

# How Corrupt is South Africa?

Generally South Africa fares slightly worse than average, according to the measure used by Transparency International (TI) in 2001: The 2001 Transparency International Annual Corruption Perception Index ranks South Africa at 36 among the 102 countries it surveyed. With a score of 4.8 out of 10

## Worse than SA:

Tunisia, Mauritius, South Korea, Greece, Brazil Poland

## Better than SA:

Namibia, Taiwan, Italy, Hungary and Malaysia

But...Afrobarometer 2004 suggests that South Africans are likely to see less corruption in government in 2005 than they did during the 1990s and in many respects SA is better than other African states

# Example: Corruption in the Civil Service

- Since its establishment the Public Service Commission has referred 1390 corruption complaints to departments for further investigation;
  - 70% of these could not be substantiated

Relies heavily on whistle-blowers

Reliant on reporting and follow up by depts.

- In the 2004/2005 financial year, 513 cases were reported to the PSC, (down from the 2003/2004 year -582)

- The PSC cooperates with the National Anti-Corruption Forum (NACF), a body consisting of representatives of the public and private sector and civil society

# Studies on Corruption: General

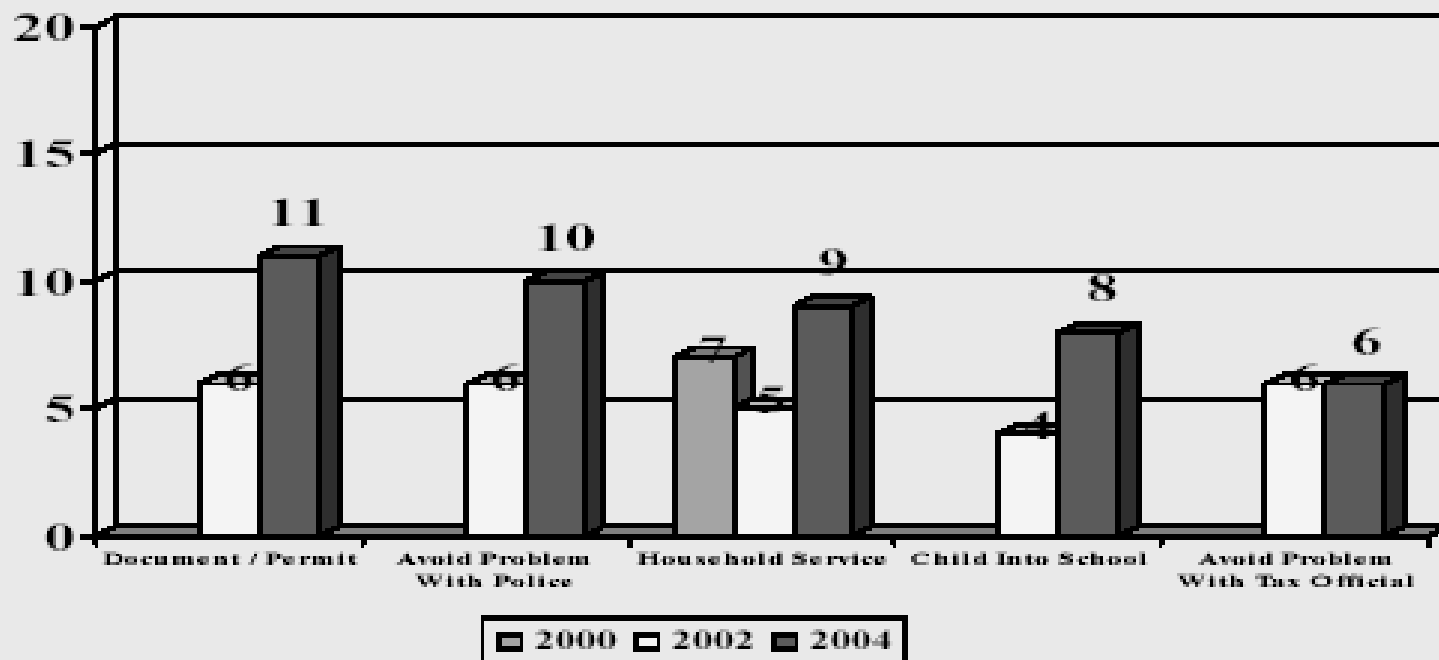
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- Tend to be mainly public perception surveys (e.g. Markinor, Afrobarometer etc)
- Generally skeptical of public perceptions - look for 1<sup>st</sup> hand experience of graft in state services, dismiss hearsay
- Reluctant to accept that public's view of increasing levels of corruption are based on a verifiable reality



# Studies on Corruption: Afrobarometer Briefing March 2005

Figure 5: Victimization By Corruption, South Africa



# Anti-Corruption Agencies

South African Police Services – Commercial Branch	Investigates all forms of commercial crime – including extensive investigations into fraud in SA government departments e.g. fraud within the Department of Social Development (previously welfare)
Office for Serious Economic Offences	Established in 1991 under its own Act the OSEO prioritises cases involving large sums of money and uses multi-disciplinary teams with extensive powers. It was widely regarded as poorly staffed.
Special Investigation Unit (formerly the Heath Special Investigating Unit)	Established in June 1995 under Justice Heath the unit investigates state corruption or mal-administration with a view to recovering assets.
Directorate of Special Operations (Scorpions)	Established under the National Prosecuting Authority in January 2001 the Directorate investigates and prosecutes organised crime particularly that deemed to be serious and complex or which alternatively involved money laundering or racketeering.
Independent Complaints Directorate	Acts on complaints of police misconduct including alleged corruption.
National Directorate Public Prosecutions	Controls and guides prosecutions and institutes criminal proceedings – oversees Scorpions
National Intelligence Agency	Gathers intelligence – may include corruption cases
Public Service Commission	Monitors, evaluates and investigates the public service

# Anti-Corruption Agencies: Chapter 9

## Institutions:

*These are state institutions charged with supporting constitutional democracy and are required to be independent and impartial and to answer only to the Constitution and the law*

Auditor General	Audits the accounts of government at all levels and thus provides control over the financial activities of the executive. When required the AG also undertakes forensic and performance audits of government institutions where corruption is alleged.
Public Protector	The Public Protector acts in terms of the Public Protector Act of 1994 and the Constitution and may investigate state mal-administration, abuses of state power or tardy performance by state officials and corrupt or improper use of public funds. The main focus is mal-administration rather than crime.

Sources: Institute of Security Studies: Monograph No. 15 September 1997 and Occasional Paper No. 38 of March 1999

*The role and track record of the various agencies is discussed at some length in the report*

# Civil Society Strategies to Combat Corruption

## Back ground

- SA has a well developed and sophisticated NGO sector
- This sector has invested extensively in the capacity to monitor and act as a check against the exercise of untoward or irregular state power
- UN & Department of Public Service and Administration Country Corruption Assessment Report 2003 recognises the above (to a degree) but tends to place the onus on CS to promote “*dialogue with government to increase transparency, while being at the same time a critical partner in the dialogue*”
- The assumption seems to be that government already facilitates an environment conducive to such dialogue – this is arguable

# Civil Society Strategies to Combat Corruption

- Country assessment report : acknowledges CSOs anti-corruption work not just its unique skills but also its access to constituencies
- Special mention of the *advocacy programmes* of ODAC, Black Sash, Idasa, PSAM, Transparency SA
- CSVR and ISS noted for corruption research
- Not all NGOs programmes get proper acknowledgement: A recent IDASA/Co-operative for Research and Education (CORE) survey of 'the State of Civil Society in South Africa' notes that some 62% of respondents run programmes and projects in an area defined as "Transparency and Governance" – GGLN members are an example
- General picture is one of well defined network of orgs each with its own focus and expertise
- Relations with government range from the polite e.g. more academic approaches to the "in your face" e.g. PSAM

# CS Partnership with Government

- 1998 Eastern Cape example – all depts to have units against fraud & corruption
- Coordination via the Anti-Corruption Forum (ACF) – which included CSO representation (NGO, business, church bodies) and anti-corruption agencies
- But two years later the Network Against Corruption (NAC) was set up with overlapping membership and similar ToR
- The NAC and ACF failed to achieve a rational and harmonious working relationship
- Row erupts after Speaker of Leg calls for investigation into the Health MEC and is then attacked by the then Premier – Premier's Office then also, launches attack on PSAM
- ACF and NAC collapse (due to battle between Executive and Legislature) and very evident govt. mistrust of the PSAM
- Premier accuses the ACF of having a “hidden agenda” and “causing maximum embarrassment to the Premier and Provincial Administration”

# CS Partnership with Government: Lessons

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- Need to analyse partnerships with government in anti-corruption programmes against the broader context of governance and the demonstrated political culture of the time. Getting caught up in periods of high optimism and strong rhetoric can lead to naïve strategies that ultimately waste the time and resources of NGOs
- The terms of reference for state and non-state actors in joint initiatives need to be very carefully considered and the parameters of anti-corruption strategies should be defined ‘up-front’
- Conflicting views on alleged incidents of corruption are inevitable when state and non-state actors are involved: should be anticipated from the outset and systems for resolving disputes must be developed

# CS Partnership with Government: Lessons

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- Building a clear and informed understanding of the relevant legislation and policy that determines what is legal or illegal, regular or irregular, good practice or poor practice is essential - in EC example interpretations were widely different
- Civil society actors need to build networks of support outside of the partnership forums i.e. with the media and civil society organisations that have relevant programmes. These should be arranged around principle and common purpose rather than populism or mass support
- General CS representation on such forums is of limited value – need to have specialised and capacitated CSOs/NGOs
- CSOs need to avoid been drawn into departmental politics but should also be capable of supporting and protecting government officials who are victimised as a result of their vigorous anti-corruption efforts



# Local Government: Chronic Shortfalls in Accountability

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- Persistent failure to submit proper financials to AG on time (or within any reasonable period)

Result: constant battle to present the public with an accurate picture of the state of municipal finances and financial management.

- EC LG especially problematic: corruption may easily take root and remain concealed in the confusion of poor management and weak administration.

- E.g. September 2003 AG report: 57% failure of municipalities to submit financial statements 20 months after the due date

- AG comment 2003 on EC:  
*“All too often councils in receipt of this (consultant) assistance accept the situation as it is without having the will or realisation to employ suitable and competent staff to establish and maintain a vibrant local government to serve the needs of its inhabitants. Further more a number of councils have for too long accepted the situation of cash handouts by government as a means of survival and have a reluctance to levy and, more importantly, to collect service charges from its consumers.”*

# Local Government: Examples of Corruption

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One of the most prevalent forms of corruption at municipal level is abuse of **tendering and procurement** procedures for private gain. Despite increasingly stringent measures to prevent councillors and senior officials from benefiting from tender awards, the irregular award of large infrastructure and service tenders seem to persist

## Examples:

- CT Metro: R100-million security contract awarded to Jama Security, a company until recently owned by the provincial MEC for Transport and Public Works -tender award was revoked following a court order in favour of the Western Cape Security Association
- CT Metro: Gugulethu road upgrade awarded to BTH construction after mayoral committee member intervenes – later costs R13,6m to rectify BTH’s work – investigation launched
- Gauteng: more than 100 LG officials forced to resign or fired over last 5 yrs after involvement in fraud, corruption or maladministration - many tender related

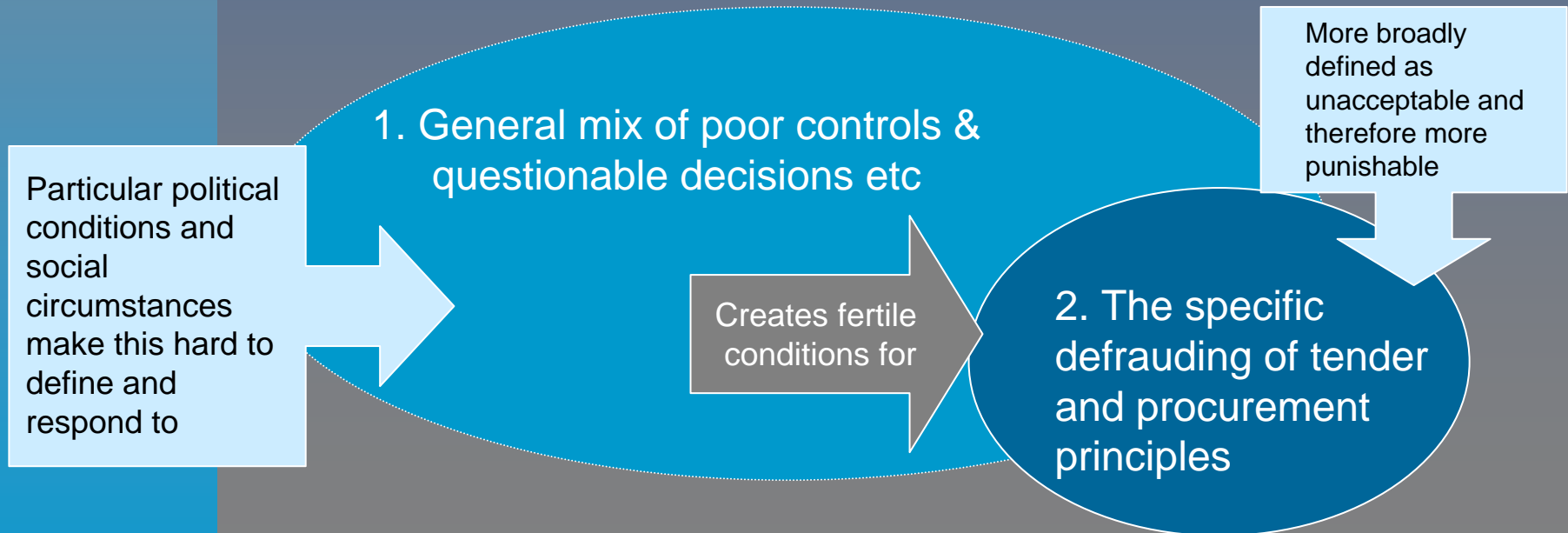
# Local Government: More Examples of Corruption

- Free State 2005: AG report reveals that Matjhabeng and Mangaung municipalities were cited for improper handling of tenders, and employees and councillors' having interests in companies dealing with municipalities
- In Mangaung municipality Mojalefa Matlole, the municipal manager, and Mzwandile Silwana, the chief of operations, were formally dismissed in May 2006 - allegedly involved in fraud and theft involving municipal tenders worth R150 million
- KZN 2005: the municipal managers (and some former mayors) of Ukhahlamba, Greater Kokstad, Umtshezi, Nqutu and Mooi Mpfana were ordered to repay a collective total of R7 million in irregular expenditure. Irregular expenditure included improper use of discretionary funds, pension schemes and appointments to management positions; interest free loans and allowances for councillors; tenders and consultants' fees; leave pay and compensation; and the sale of prepaid electricity vouchers
- In an October 2001 survey of Eastern Cape municipalities, the Standing Committee on Housing and Local Government reported: very few tender policies in place, monies diverted from infrastructure projects to operating costs, hiring of consultants often irregular and mired in confusion, extensive council involvement in tenders, operation of no or multiple credit control policies, financial controls absent, uncollected debt

# Different Forms of LG Corruption

What emerges is two different forms of significant LG corruption:

1. An insidious mix of weak controls, and questionable or poor decision-making that mixes illegality with incapacity (that may ultimately have even more serious consequences for services to the poor than 2.)
2. The specific defrauding of tender and procurement principles – frequently as recognisable graft and frequently punished when it is detected



# Why are either of these forms important for the provision of services to the poor?

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- Mandate to deliver services: Section 156 of the Constitution provides that a municipality has the executive authority and the right to administer the local government matters listed in Parts B of Schedules 4 and 5.
- Municipalities are, in terms of President Mbeki's 2000 address to the nation, obliged to deliver free basic services (water, electricity, solid waste and sanitation) to poor households
- Attached to these obligations are privileged rights in respect of revenue:
  - The right to levy service charges and property rates
  - ES transfers in respect of operating costs
  - CMIP / MIG in respect of infrastructure provision

# The importance of LG in service delivery

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- In the last decade local government has consistently received preferential percentage increases of all spheres of government due its “vital role in delivering basic services to poor communities”
- Total national transfers to local government rose from R12 billion in 2003/2004 to R17.1 billion in 2006/2007
- About R45bn is directed to infrastructure projects over a five-year period. [National Treasury report for 2004/2005]
- The Division of Revenue Act (DORA) and the CMIP / MIG mechanisms for investment in infrastructure are geared towards prioritising service provision to the poor e.g. the Intergovernmental Fiscal Review (IGR 2001) projects a doubling of expenditure on infrastructure between 2000/2001 and 2003/2004

# Are these revenue flows properly targeted?

- The Eastern Cape had the highest allocation of CMIP funding for the 2002/03 financial year ie. R444.1 million which is equivalent to 24% of all national allocations
- Was it allocated to needy areas?

District municipality	% Allocation
OR Tambo	27.95
Chris Hani	16.15
Alfred Nzo	10.87
Amatola	10.50
Ukhahlanba	8.77
Cacadu	3.82

CMIP projects  
water supply,  
solid waste  
disposal site  
replacements,  
bulk sanitation  
service, storm  
water upgrading  
and access  
roads.

# Questionable Impact

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These projects seem to be well resourced and properly targeted – why do they not have optimum impact?

*There are problems, usually problems in the private sector, meeting equity objectives on the one hand, or black economic empowerment not having the experience and capacity to carry out projects successfully. Where they do, often there are problems and transparency (many contracts and tenders are not open to public inspection). Within this range of activities there is also the problem of corruption (e.g. backhanders, nepotism in both private and public sector, favoritism etc...)*

[Hemson, D, Meyer, M and Maphunye, K 2004: Rural Development – The provision of Basic Infrastructure Services, HSRC]



# Questionable Impact

- One key reason: infrastructure projects appear to have been developed for political or symbolic reasons without any reasonable assurance of functional value to beneficiaries

Example: Award-winning Middledrift Waste Disposal (R542 00)

- a draining facility
  - an incinerator
  - a sorting site
  - an office block
  - toilets & guard checkpoint
- 2003 MXA & partners evaluation found that the entire facility had fallen into disrepair or been vandalised – only the actual ‘hole in the ground’ was being used

# The Debilitating Mix

Imputed 'autonomy' of LG used to block remedial interventions by other spheres or agencies (also used as an excuse by those officials who don't wish to mess with powerful local politicians)

General incapacity



High levels of reliance on contractors / outside expertise



Ill-advised or partiality in appointment of contractor

Inability or unwillingness to manage / enforce contract



+ No investment of own funds in capital projects = don't care / weak concern for outcome



Weak communication & transactions with local community = little cost recovery, vandalism, lack of ownership and ultimately service failure

LG Consumer debt rose from 22bn in 2002 to 28bn by 2004

# What drives up LG costs?

- Increased costs attached to the provision of services are not necessarily related to expanded capacities or an increased scope for service provision

*However, in the main, the amalgamation of smaller municipalities into larger ones and the resultant pressure to equalise salaries have driven up total personnel costs. Also, generous employee benefits such as leave payouts; retirement provisions and medical aid subsidies have increased costs too*

*Municipal employees generally earn higher than their counterparts in national and provincial departments...in the top 18 municipalities, salaries, and wages and allowances amount to 30 per cent of total expenditure. The average annual employee salary cost across these municipalities is about R107 000*

National Treasury 2003, Intergovernmental Fiscal Review

# Are inflated salary bills a form of corruption?

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- National Treasury study of 6 municipalities (2006): between 1997/1996 and 2002/2003 municipalities paid between 41 –186% more in nominal terms to each employee across a period where the consumer price index increased by just 40,5 percent
- Beneficiaries are not municipal workers and frontline staff but a relatively small group of managers e.g. in a further study of six municipalities - managers constitute 13,5% of staff on average but consume 28,4 percent of staff costs.
- Example: Amatole District Municipality (Eastern Cape) has a relatively high proportion of managers (36.3% of total staff) but more worrying - this group consumes 61,8% of staff costs.

# Does this investment in HR costs lead to better infrastructure services?

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“The number of employees in the major service sectors (electricity, water, sewerage and sanitation and refuse collection) is quite low suggesting that these services are not very labour intensive. On average these services account for about 30 per cent of staff”

[This relates to 5 metropolitan municipalities and Buffalo City – National Treasury 2006]

Do higher municipal costs arise from the responsibility to provide basic services to poor people?

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Obviously but...investigations by the National Treasury within the 2003/2004 financial year, suggested that of the 27 million people who received *free basic services* at a cost of R6.3 billion, only about 12 million or 44% are actually poor

[Cities Network: [www.sacities.net](http://www.sacities.net), Oct 18 2004 ]

## Does LG have any real discretion wrt spending?

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- a strong real growth in Equitable Share transfers to local government from 2002 to 2005/2006 [Idasa's budget information service]
- this increases local government's scope for discretionary spending.
- local revenue generation strategies, seem to have been de-prioritised
- no significant improvement in credit control and debt collection and
- expensive but ineffective customer-care facilities / call centres

# *The Case of Qaukeni Municipality*

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## Profile

- Population: 269 000 – 93% rural
- 32 900 traditional dwellings – only about 11 700 formal
- Services: About 93% of households have no formal sanitation services while the water supply to 78% of the population does not meet the minimum standard (2002/2003)
- Economic: At the district level 71,5% of the potentially economically active population is unemployed, 88% of households live below the poverty line
- Education: 48 364 persons who are of school-going age have no education – 40% literacy rate



# The Case of Qaukeni Municipality

- *Health: 88 deaths per 1000 live births. The table below indicates the incidence of HIV/Aids and its increase over recent years:*

Year	% Population
1997	10.7
1998	16.0
1999	17.5
2000	22.1

# Qaukeni Municipality: Services

Water	Water in dwelling	On site	Public tap	Tanker	Borehole	Natural	Other/ Unspecified	Total
	721 (2%)	1209 (3%)	4492 (10%)	178 (0.4%)	948 (2%)	36579 (82%)	158 (0.8%)	44185

Sanitation	Flush	Pit latrine	Bucket latrine	None	Unspecified	Total
	882 (2%)	23395 (53%)	415 (0.9%)	19188 (43%)	305 (0.7%)	44185

# Qaukeni Municipality – Service priorities in 2003 IDP

## Project budgets:

- Water supply mainly to rural villages: 6 projects of total value R20,7m (various bulk water feasibility studies were also to be undertaken.)
- Sanitation mainly to rural villages to acceptable RDP standard: 8 projects of total value R33,9m
- Clinics: R31m
- Electrification: R22m
- Nutrition: R11m
- Maternal / child health: R7,5m



# IDP promises much improved capital spending in future

Comparison of Operating and Capital Budgets: Qaukeni (R million)

	2001/02	2002/03	2003/04	2004/05
Operating	26,4	31,3	33,7	35,8
Capital	21,3	125,7	100	65,2

*[Source: Qaukeni IDP Report: p105-107]*

But...

- The National Treasury's data for 2004/2005 show that Qaukeni eventually budgeted about R28,1m for capital projects - 93% came from grants and subsidies
- Was this simply a ruse to over-sell the municipalities development intentions, along with making a large operational budget seem reasonable?



# Hidden patterns & what actually happened

- In 2001/2002 more than 49% of the budget was to be spent on wages and salaries - the IDP pledged to reduce this to 35%

*In fact by 2004/2005 the NT shows that salaries and wages would constitute about 54% of operating costs*

- In 2001/2002 only about 2% budget was for maintenance and repairs -the IDP pledged to increase this to 10%

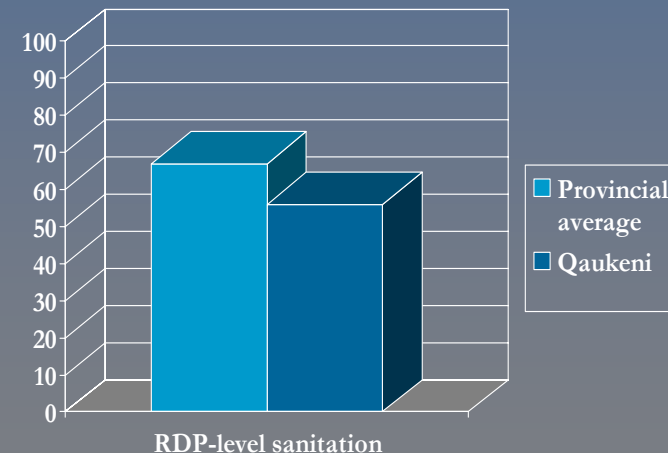
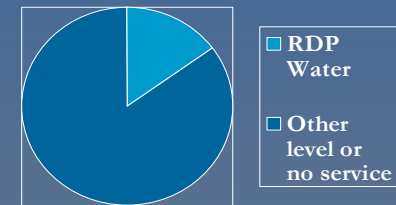
By 2004/2005 only about 1,8% would be spent on M & R

Result: exiting infrastructure will breakdown & high replacement costs will be incurred

Little prospect of maintaing existing infrastructure

# Results of these financial patterns:

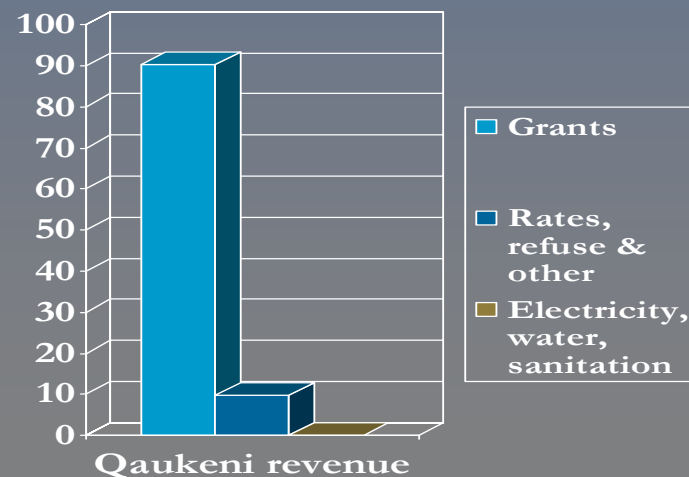
- By 2003 Qaukeni had the 5<sup>th</sup> lowest percentage (15%) of households serviced with RDP-level water but within this group of municipalities it had the largest operating budget (R44 264 843.)  
[RDP level = Piped water within 200m of dwelling]
- The provincial average of households serviced by RDP sanitation was just over 67%, whereas Qaukeni stood at 56%
- Qaukeni had the lowest percentage of households serviced with basic electricity (3%) along with Ntabankulu municipality



# Results of these financial patterns:

- The 2002 IDP claimed that “The Municipality has several possible sources of income:” and listed rates, service charges, investments, fines, rents etc
- By 2004/2005 Qaukeni was budgeting for 90,3% of its revenue to come from subsidies and grants and was reflecting no anticipated revenue from electricity, water or sanitation services.

ITEM	BUDGET (Rands)			
	2001/2	2002/3	2003/4	2004/5
Water	315 000	330 750	347 290	364 655
Sanitation	190 000	199 500	209 475	219 950
Refuse	115 000	120 750	126 790	133 130
Rates	796 000	2 750 000	2 887 500	3 031 875
Other	361 000	379 050	398 002	417 903
<b>TOTAL</b>	<b>1 777 000</b>	<b>3 780 050</b>	<b>3 969 057</b>	<b>4 167 513</b>



# Qaukeni functions and staff allocations

Function	No. of staff allocated	Comment
Street trading	11	Unusually high even by EC standards
Refuse	70	2 <sup>nd</sup> highest in province – only NM metro is higher
Potable water	10	Very low given that this is supposedly a priority

## Comment:

1. Espoused development priorities not reflected in staff allocation
2. Like other municipalities in the area it tended to assign staff and budgets to functions it did not perform



# Political Conflict and Corruption in Qaukeni

*November 2004 SIU & DHLG&TA report outcome of initial investigation:*

- An amount of R732 398 had been 'overpaid' to six mayoral committee members on the Qaukeni council
- There had been unsubstantiated expenditure in the amount of R33m
- An amount of R40 968 had been overpaid on municipal contracts
- Procurement fraud had occurred: front companies were awarded contract which they were unable to fulfil and tendering companies had direct links with officials and councillors
- Development projects had been subject to ineffective financial and management controls

*Actions : contracts worth R33m set aside due to improper procurement procedures, the recovery of an amount of R1068 563 and the issuing of summonses against the 'mayoral committee' councillors - council dissolved and administrator appointed*

# Crisis timeline

Sept 2002	DHLG&TA declines to intervene after conflict breaks out between mayor and speaker
January 2003	Qaukeni meets with MEC but refuses to meet with OR Tambo DM mayor – ANC chief whip in Qaukeni claims Mayor Capa had caused the factionalism
May 2003	Violence including the drawing of knives and a single gunshot disrupts the first council meeting of 2003
May 2003	DHLG&TA gives Qaukeni 14 days to respond to poor AG report which had resulted in a no-confidence vote against Mayor – rival mayor emerges and defies court order to back off
Dec 2003	ECl government intervenes in terms of section 139(1)(b) of the Constitution – council is suspended and administrator R. Sogo is appointed. A strategic support team is tasked to review the IDP, redesign the municipal organogram, implement an information technology system and improve the financial management
March 2004	Attempt on life of administrator Sogo in drive-by shooting allegedly by suspended municipal manager
June 2004	NCOP makes an oversight visit to Qaukeni to verify the report to the NCOP by the Eastern Cape MEC – recommends various measures and the law should take its course against those who committed embezzlement – see section 5.7.6 below.

# Some conclusions on Qaukeni

*(draw partly from standing committee findings)*

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## *Political instability*

- those in political office used this power to infiltrate administrative procedures for their own material advantage and to subvert basic governance procedures
- some of the political leadership were sued for the recovery of the funds, but there is no indication that they were disqualified from future public office or definitively sidelined

# Some conclusions on Qaukeni

*(draw partly from standing committee findings)*

## *Institutional weakness / lack of policy*

- councillors “exploited loopholes and the absence of policies in the municipality” - implication is that only lock tight systems can prevent corruption – assuring the integrity of public representatives is not discussed
- Outright corruption in appointment of staff grew out of more general laxity and irregularity in HR policies – not uncommon in most EC municipalities
- ES transfer was incorrectly deployed – allegedly for capital projects(reversal of usual trend)
- Powers and functions complexity: some indication that Qaukeni exploited this confusion to build a greedy local bureaucracy with vast responsibilities on paper but very little tangible output

# Some conclusions on Qaukeni

*(draw partly from standing committee findings)*

## Services

- DM “expressed satisfaction with the present levels of service delivery in Qaukeni” and thereby failed to provide guidance in the context of the general breakdown in services already described  
Shared political interest between ORT DM and QLM apparently prevented the district municipality from acting as a completely independent overseer of service standards and clean governance
- The 2002 IDP tended to function as an instrument for council to make titular gestures to development rather than functioning as a guiding blueprint - trying to remedy this through an IDP review was misguided
- In municipalities like Qaukeni that are highly dependent on contractors for running and maintaining basic services the corruption of the proper tendering and procurement procedures would have had particularly serious consequences

# Some conclusions on Qaukeni

*(draw partly from standing committee findings)*

## *Financial management*

- Non compliance with the MFMA was cited - this was disingenuous as the municipality had little prospect of meeting these requirements even with an FM of highest integrity
- There was considerable overlap between basic incapacity and overtly corrupt behaviour
- Most of the remedies invoked further escalated the costs to the public coffers
- The tendency to invest heavily in the municipal institution / bureaucracy, be it in terms of offices equipment, training, salaries etc without concomitant service benefits, further illustrates a form of *systemic corruption*
- Reliance on grants: promised investments were used to advance political objectives and to placate poor neighbourhoods. Project expenditure would be controlled from afar and become less subject to local controls or indeed affordability concerns.

# Overall conclusion

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## ■ Need for a *corruption barometer* to track:

- Number of infrastructure projects where construction or maintenance has been disrupted by irregular financial management procedure or where such irregularity is alleged
- The monetary value of the misappropriated finance
- The *service deficit* for the intended beneficiaries: service deficit = intended service level & scale (as framed by the Integrated Development Plan or other planning instrument) minus the actual service level and scale experienced by the intended beneficiaries (may require on-site inspection)
- The ‘severity’ of the corruption (rather than incapacity / incompetence) as indicated by Audit General reports or the reports of anti-corruption agencies, internal disciplinary actions by the municipality / other sphere of government, criminal or civil actions arising from the case

# Overall conclusion

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- Of concern is the persistent tendency to **disregard** corruption as an impediment to good governance and in particular local good governance
- While government rightfully claims huge strides in strengthening local participatory democracy and more equitable services strategies, it is often blind to very **significant gaps** in the way that municipalities account to the local public financially and in the general use of **public assets**
- The efforts by dplg to set up an **anti-corruption unit** are acknowledged but it remains to be seen how serious or sustained this will be



# Overall conclusion

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- Virtually all South Africa's anti-corruption agencies have proven their worth at some level and would appear to have a role in future endeavours against corruption
- Discussion / rumor regarding the proposed rationalisation of such agencies appears to have a strong political motivation – this is a cause of disquiet to the public and CSO agencies concerned with clean governance
- All of the official anti-corruption bodies need to improve consultation and reporting mechanisms with communities that become victims of corruption. This could become a very rewarding focus for partnerships with CBOs and NGOs who could play a facilitator role

# Overall conclusion

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- Corruption in South African local government is systemic and rooted in emerging political culture, policy and systems rather than in arbitrary acts of fraud and graft
- This is the most serious form of corruption in diverting state resources away from pro-poor development objectives
- The difficulty in distinguishing incapacity from deliberate fraud or negligent disregard for proper procedure has a knock-on effect i.e. the corrupt have the opportunity to shield or excuse *corruption* by signifying *incapacity*
- Where LG corruption is effectively tackled by the respective agencies it remains an 'outside intervention' – local CS involvement and ownership is minimal and therefore local public values & perceptions remain unchanged and tolerance for corruption may persist

# Overall conclusion

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- Final thanks to the various respondents who agreed to be interviewed – your insights and knowledge contributed hugely and have shaped this study throughout