

# State Capture at a Local Level

A Case Study of Nelson Mandela Bay

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*This paper is an attempt to reflect on the result of 18 months of work in the Nelson Mandela Bay Metropolitan Municipality, during which I was part of an intervention team appointed by the then Minister of Cooperative Governance and Traditional Affairs, Mr Pravin Gordhan. Except where explicitly referenced the information contained in this report has been based on my own experience and interpretation of events. This has been augmented with publically available media reports, public Council and municipality reports, and interviews conducted with various stakeholders during the last 18 months. The views expressed in this report are my own, and do not reflect the views of any party, organisation or other individual.*

## Acronyms

ANC	African National Congress
BRT	Bus rapid transit system
COGTA	Department of Cooperative Governance and Traditional Affairs
COSATU	Congress of South African Trade Unions
DA	Democratic Alliance
EC DLGTA	Eastern Cape Department of Local Government and Traditional Affairs
ED	Executive Director
EXCO	Executive Committee
IPTS	Integrated public transport system
MEC	Member of the Executive Committee (of provincial government)
NEC	National Executive Committee (of the ANC)
NMBM	Nelson Mandela Bay Municipality
NUMSA	National Union of Metal Workers of South Africa
PE	Port Elizabeth
REC	Regional Executive Committee (of the ANC)
RTT	Regional Task Team (of the ANC)
SACP	South African Communist Party
SAMWU	South African Municipal Workers Union
SAPS	South African Police Service
SMME	Small, medium and micro enterprise

## Prologue

At 9 pm on Saturday 2nd August 2014 Councillor Buyisile Mkavu was sitting in his white Range Rover in Kwanobuhle, a large sprawling township on the outskirts of Port Elizabeth. He had just attended a memorial service at the house of a colleague and former Uitenhage councillor who had recently passed away. As Mkavu reversed his car to leave, a man approached from the back of the Range Rover. The man stepped deftly around the vehicle, shot Mkavu a number of times through the open passenger window, and then sauntered down the road with the gun in his hand. Mkavu died on the scene. (Herald 11/08/2014)

Buyisile Mkavu had done well for himself. He had served as a traffic officer for the Nelson Mandela Bay Municipality<sup>1</sup>, but through his political involvement, in particular his alignment with the ANC faction that dominated the Nelson Mandela region at the time, he rose to be a member of the Mayoral Committee in charge of housing. By all accounts Councillor Mkavu was dedicated to his job, and from the start he was determined to tackle corruption in housing delivery. “I will have enemies, because if people want to do wrong, they won’t do it here,” he had said at his first portfolio committee meeting, and proceeded to show that he meant this (Herald 22/01/2014).

The political murder cast a pall over the whole of Port Elizabeth, and even when I arrived in the city early the following year, there was a noticeable climate of fear. I had been sent to Nelson Mandela Bay on an assignment to help clean up corruption in the administration, which had become entrenched to such an extent that the ruling ANC was facing a massive loss of electoral support. Everyone spoke about it, but most were clearly anxious for their own safety, and spoke only carefully in private rooms and corners. At Mkavu’s memorial service the Speaker of Council, Maria Hermans, had confessed: “some of us live in fear and uncertainty because we don’t know who’s going to be next” (Herald 07/08/2014). Many had retreated from open contestation with the corrupt forces that operated in the city, but behind closed doors they would open up and talk about these untouchable, larger than life characters that operated across the municipality. Some felt that corruption was intractable; that the leadership of the metro was heavily implicated and hence incapable of acting against it.

Port Elizabeth is strategically important as a city. It is the fifth largest of South Africa’s eight metropolitan areas, with a population of just over 1,3 million people, and it is the second largest metro in terms of geographical area. “PE” is viewed as being the economic heartland of the Eastern Cape with two Indian Ocean harbours, a deep water port linked to an industrial development zone, and a specialised industrial labour force. However its motor industry has been in a state of decline for over a decade, and as jobs have become scarcer and its people poorer, property values have stagnated and the city has been looking increasingly tatty. The city’s urbanised working class, pushed out into large townships on the periphery of the city, are predominantly unemployed, poor and without economic prospects. In fact poverty characterises the nature of politics in the city. Activists and local politicians lack many of the basic resources needed for organising, and access to even low paid jobs or political positions is sought after and highly contested. In the dislocated Northern Areas, where coloured

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<sup>1</sup> The Nelson Mandela Bay metropolitan area includes the core city of Port Elizabeth and the satellite towns of Despatch and Uitenhage as well as their associated townships, covering an area of 1 959 km<sup>2</sup>. The Nelson Mandela Bay Municipality which runs the metropolitan area was formed through an amalgamation of various local town councils in 2000, and designated by the Demarcation Board as a metropolitan municipality.

families were forcibly relocated during apartheid, gangs rule the streets and shootouts between gangs commonly take out innocent bystanders.

Councillor Mkavu was no stranger to threats and intimidation. Since the beginning of 2014 Mkavu had been looking into various irregular housing projects and transactions, mostly linked to the problematic housing delivery section of his department<sup>2</sup>. He had picked up serious problems in the Missionvale, Pola Park and Rosedale housing developments, the back yard dwellers programme, and the rectification of shoddy houses in Kwanobuhle. Mkavu's investigations were clearly kicking up some dust. Six months before he was killed he had been assaulted and had his car stoned by an angry mob of Uitenhage residents who wanted to be pushed up on the housing beneficiary list and allowed to invade land in order to access housing subsidies. It later transpired that the Uitenhage protests were instigated by a group who claimed to represent the SACP and its youth league, and that the whole affair was orchestrated by metro housing officials (Herald 11/02/2014).

One of the most flagrant cases of corruption was a housing development in an outlying suburb called Missionvale (Herald 22/08/2016). The Missionvale development was a large scale low income housing development of 2500 units, funded through the substantial housing grant which had recently been decentralised to the metro. There were a few glaring irregularities with this development. The construction company which had been appointed from a roster of housing contractors did not have experience with delivering a project of this scale. The person in charge of appointing the contractor had been involved in an intimate relationship with the person who ran the company. The contractor had been sent on site with undue haste, and had gone ahead and built houses without the internal reticulation being done. From an engineering point of view this was unheard of. Houses were built without running water, sewerage or electricity, and the cost of eventually putting this reticulation in after the fact would be astronomically high (Herald 21/07/2016).

Furthermore, there were serious problems with the quality of the Missionvale houses - a few months after they were built they were already cracking and falling apart. To make matters worse, when an audit was done two years later, about a quarter of the houses that had been paid for by the municipality could not be found – in short, government monies had been paid for non-existent houses. The Eastern Cape Province, which was meant to reimburse NMBM for the houses that had been built, refused to do so, and the municipality incurred a substantial loss as a result (interview 29/08/2016). As it later transpired, the Missionvale project amounted to the largest and most flagrant housing fraud perpetrated by officials in the metro (Herald 21/07/2016).

In order to get on top of the situation Mkavu had brought in a new Executive Director, Lindile Petuna, to run the department, although when Petuna was found to be in cahoots with the corrupt officials he was meant to be targeting, he and Mkavu rapidly fell out. Amongst other indiscretions, Petuna had abetted irregular dealings in the land planning and rezoning arm of the department (interview 29/08/2016). A month before he was gunned down Mkavu had written to the City Manager about his Executive Director, complaining that he didn't pitch up for scheduled meetings, didn't return his calls

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<sup>2</sup> The NMBM Department of Human Settlements includes the functions of land planning and management, management of the land (cadastral) electronic database, the servicing of land for housing projects (basic water, sewer, roads and stormwater), and housing delivery itself. There is a strong social development component to the work, including managing land invasions, informal housing settlements, relocation of families and education on housing issues.

and failed to implement resolutions of the Council's Human Settlements Portfolio Committee (Mkavu, 2014).

Mkavu himself was not without his faults. Some people close to the process felt that his focus on corruption was slightly expedient, and that his appointment was more of a political ploy by Mkavu's faction to reassert control over the housing delivery process and its associated rents after a fall-out with the officials who ran it (interviews 29/08/2016). Mkavu had also been involved in a very dubious transaction to buy land for housing in Walmer at inflated prices<sup>3</sup>, and as chair of the Human Settlements Portfolio Committee responsible for processing all the Council's rezoning decisions, he could not have been unaware of the shenanigans taking place (interview 29/08/2016).

Even so, there was no doubt about his single-minded focus on cracking the primary syndicate operating in human settlements. One week prior to his murder, Mkavu had briefed the Mayoral committee on the extent of the corruption uncovered in the department. He had compiled a dossier of evidence, and his presentation to the Mayoral committee was intended to garner political support for actions he wanted to take, which included the removal of key officials. Someone in the Mayoral committee leaked the proceedings, and within 24 hours Mkavu was receiving death threats. A week later he was shot dead (interview 22/06/2016).

The murderer was apprehended a few days after the shooting. Mysteriously, within 24 hours of the gunman's arrest, the middle man who had contracted him was also shot and killed – thereby ensuring that all evidence linking the murder of Mkavu to those who commissioned it was erased. This sequence of murders demonstrates both the ruthlessness of those who were behind the operation, and the intelligence and response capabilities at their disposal. While the contract killer has recently been convicted, the murder of the middle-man remains unsolved and the people who commissioned the killing have never been apprehended (Herald 20/08/2016).

## Profiting from the poor

As a designated implementing agency for provincial government, the Human Settlements Department in the Nelson Mandela metro manages a substantial housing grant. Its primary objective is to deliver low income housing at scale to beneficiaries without adequate access to shelter. The management of the housing function is shared between national and provincial government, but there has been a process of decentralising the implementation and administration of this grant to metropolitan authorities that have the capacity to administer it<sup>4</sup>. The absence of previously established systems to

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<sup>3</sup> In looking for land for low income housing in Walmer, the Human Settlements department found that the golf course in Walmer was the most suitable and cost effective land to purchase. Due to it having originally belonged to Council, it could be acquired for less than R1 million. However, the land acquisition was steered to an adjacent privately owned erf that was eventually bought for R43 million, which was R10 million above the price at which it had been offered to Council a short while before. Makavu and his Executive Director were key to this purchase and private meetings with the Housing MEC and land owners were kept secret until the deal was concluded (interview 29/08/2016).

<sup>4</sup> The Urban Settlements Development Grant supplements the capital budgets of metropolitan municipalities in order to support basic infrastructure for housing for poor households, while the Human Settlements Development Grant funds provides subsidies for housing top structures. The current total allocation for housing in the metro has been estimated at R4,5b over the next three years. Government has expanded the role of

manage housing delivery and the consequently underdeveloped oversight mechanisms have created opportunities for unscrupulous actors to manipulate expenditure against housing grants to their own advantage.

While initially quite fragmented, over time the network of corrupt officials and contractors evolved into a well organised syndicate. The modus operandi was to restrict the allocation of tenders for contracts to a limited pool of handpicked contractors. The contractors would use sub-standard materials and cut corners to deliver houses at a massively reduced cost, and share the profits with the officials appointing them. They also started claiming for houses which had not been built. This became evident when the municipality had to reclaim monies from the provincial housing fund, as the provincial audits could not verify the existence of the houses which officials claimed had been built. The construction contracts were rotated between the chosen contractors, regardless of their shoddy workmanship and poor quality. In fact, sub-standard housing and infrastructure created a new opportunity for “rectification” – with this work usually assigned to the same pool of contractors (interview 12/08/2015).

When it finally got round to it, the municipality’s own investigations into this mess revealed that the management, administration and implementation of the whole human settlements programme, including associated infrastructure, was riven by fraudulent activities involving large sums of money, corruption and kick-backs. These transactions benefited a small coterie of officials who had been entrusted with delivering housing and services to the citizens of the metro. The scope of activities stretched from planning decisions and rezoning applications, to determining which companies get allocated housing contracts, to which individuals get housing or land allocated to them. A number of councillors, including members of the opposition, were also involved, for instance in an elaborate scheme to obtain kickbacks for zoning approvals (interview 12/08/2015).

A massive forensic investigation having been launched, as the net closed in the syndicate committed one last desperate act to protect themselves. Three officials from the Human Settlements Department, including the project manager for the Missionvale project, were caught removing files from the department offices in a shopping trolley. An alert security guard apprehended them, and recovered files already loaded into a bakkie. Amongst others, the files contained most of the documents relating to Missionvale. Although this theft was foiled, a few months later a fire mysteriously started in the Human Settlements Department’s offices and destroyed a large number of the records (Herald 10/05/2016).

It is widely acknowledged that the Human Settlements Department of the metro is run according to the dictates of a powerful network of officials, politicians and former union bosses – in essence forming a syndicate that has captured the department. The central figure in all of this is Mvuleni Mapu, the Director responsible for housing delivery, who has been the power broker in the Department for many years and is supposedly more powerful than his Executive Director or Portfolio Councillor. Mapu was quite widely feared. He had bodyguards and carried a gun. In meetings with his staff he had been known to quietly place his gun license on the table lest there should be any doubt about his intentions and capacity. As well as being influential, Mapu was also extremely bright. He had a grand plan for relocating the Port Elizabeth airport, thereby freeing up the existing airport site for mixed income and

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metropolitan municipalities and has given NMBM a Level 2 accreditation, which allows the municipality to manage programmes and administer subsidies (excluding individual and relocation subsidies).

mixed use development. This has persisted on the metro's spatial plans and IDP for many years (interview 22/04/2016).

Mapu was a master of straddling the political and administrative divide. Appointed to the Director position in 1999, he never sought to move up the ranks, finding his place in charge of housing delivery well suited to his purposes. He aligned himself closely with the emerging left wing in regional politics, and rose to become not only regional SAMWU<sup>5</sup> chair, but also to sit on the executive of the SACP<sup>6</sup> district. He developed a close network with loyal officials, former shop stewards, and local trade union members in the department. With their assistance he established a patronage network that extended right across the housing delivery process (interview 12/08/2015).

Mapu had a chequered employment history. He had been suspended in 2007 on the basis of a string of misconduct charges, when the extent of his illicit dealings first became problematic to the ANC leadership. Although the disciplinary case dragged on for two years, Mapu in the meantime rose up the SACP ranks and became an extremely powerful player in the metro. As a result of intense political pressure from a resurgent SACP and labour movement after the Polokwane conference, the charges were eventually dropped in 2009 (Herald 05/04/2011).

When I interviewed SACP leaders about Mapu's rise within the SACP, they were at pains to point out that this was not without contest. There have been ongoing battles within the SACP ranks over the control of the organisation, with the contending groups being split over the morality of the extractive relationship with the state. For a sustained period, the battle was always won by the group with access to the greatest resources (interview 29/08/2016).

Mapu's return to work was a triumph for his grouping, and his political capital was at an all-time high. They proceeded to conduct their activities under the guise of their position as the regional leadership of the SACP and claimed to be the guardians of the working class, presenting themselves as a left wing vanguard protecting the NMBM and its Department of Human Settlements from a corrupt ANC leadership. In its more coherent moments, the agenda of a working-class orientated housing programme was sufficiently compelling to persuade various political leaders, including Deputy Mayor Nancy Sihlwayi, to support it. At the same time they channelled considerable resources to both union and SACP activities (interview 12/08/2015).

As part of this operation there was an extensive network of community activists and SMMEs to call on. The syndicate would organise local committees within wards to demand housing and services. Through their network they would instigate protest action designed to force the metro to agree to community demands, which often became violent. The syndicate sought to own community struggles, mobilising SMMEs and activists to disrupt any initiatives not within their control, or not aligned with their plans. An extensive network of corrupt contractors, SMMEs, individuals who had benefited from irregular award of houses, union officials and political bosses were used to manipulate public opinion,

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<sup>5</sup> SAMWU is one the two main municipal workers trade unions, aligned with COSATU and the African National Congress.

<sup>6</sup> The South African Communist Party (SACP) was founded in 1921, and is a partner of the Tripartite Alliance with the African National Congress and the Congress of South African Trade Unions (COSATU) and through this influences the South African government.



and to create protests that appeared to give voice to genuine community demands. The work that was commissioned as result of these protests was then channelled through the syndicate's network of contractors (interview 12/08/2015).

Interestingly, the human settlements syndicate ultimately separated from and became hostile to the political forces which gave rise to them. In its initial stages the Human Settlements Department had been a source of funding for political activities of the tripartite alliance, including previous elections campaigns. However, the large rents extracted from housing projects were being increasingly retained by the syndicate for their own purposes. The more principled SACP intellectuals in the region eventually were able to reassert a more critical, governance orientated agenda, and unseat Mapu from his positions. As the investigations and crack down on the activities of the syndicate gathered pace, it appeared that the syndicate no longer trusted the ANC or the alliance to protect its fortunes, and started actively seeking an alternative political home or political alignment to further its objectives (interview 12/08/2015).

The syndicate clearly posed a serious dilemma to the then ANC leadership in the metro. Its operation was sophisticated and its members, able to act with impunity, were ruthless in their enforcement, demanding and retaining intense loyalty. At the same a wide variety of ANC leaders past and present had at some point been handed projects by the department, and so were at crucial instances unable to act. Although there were periodic ruptures between the syndicate and elements of the alliance during this time, the syndicate had a hold over the ANC leadership that showed up in the inability of the NMBM executive to exercise political and administrative control. After an initial attempt in 2007, it took another eight years before the ANC leadership finally dealt with the housing syndicate.

In the end, the initiative was not taken by the municipality, but rather by the national Minister of Human Settlements, Lindiwe Sisulu, with the cooperation of the ANC's newly appointed Mayor, Danny Jordaan. In late 2014 discussions started regarding the National Department of Human Settlements takeover of the municipality's Human Settlements function. In mid-2015 the Executive Director and Director: Housing Delivery were suspended, and an intervention team together with the Housing Development Agency were brought in to take over the housing delivery functions. The process they initiated has not yet been completed. A forensic investigation has uncovered extensive irregular dealings, but no arrests have been made (Herald 21/07/2016). Mapu remains on suspension a year after charges were initially put to him, and the department has been managed by a succession of interim administrators. Most of Mapu's old network are still intact and employed by the metro. It remains to be seen how the new administration deals with the situation.

The housing syndicate gives a detailed insight into a self-contained and well developed operation, and demonstrates the interplay between administrative arbitrage, a regional power base, and community dynamics. While it is tempting to view human settlements as a microcosm of what has been happening more broadly in the metro, in fact the housing syndicate is slightly idiosyncratic because they are so obviously confined to one functional area and had in the last few years become isolated from the broader tripartite alliance and ANC regional structures. Later in this paper we will look at how corruption and state capture operated more broadly across the municipality's other functional areas, but we need to do so within analytical framework that allows for some interpretation of the unfolding drama.

## The analytical framework

In trying to understand how and why these networks form and operate, the starting point is to recognise our particular vulnerabilities as a country, and more locally (for Port Elizabeth) as a city. The development discourse in South Africa prior to 2000 paid surprisingly little attention to corruption, perhaps reflecting a poorly founded belief that somehow our special status as a rainbow nation that had negotiated a peaceful transition immured us from the pitfalls besetting our fellow African countries. As the new South Africa developed its young democracy, institutions such as the World Bank, which had burnt their fingers in lending to various developing countries, were developing a critique of the failed states that they had been complicit in supporting. One of their principal conclusions was that corruption and state capture tended to happen in transitional regimes where processes of building new political and economic institutions intersect with a redistribution of state assets. The characteristics of transition economies create particularly fertile ground - economic power is highly concentrated, countervailing social pressures are undeveloped, and the boundaries between the political and business interests of state officials are unclear. This opens up the possibility of multiple, extra-legal forms of engagement to take place (Pradhan, 2000). Reading from the World Bank's formula for risk assessment, South Africa's process of state formation within a milieu of transformation and redistribution would have created fertile ground for slippage to occur.

Joel Netshitenzhe, one of the South African liberation movement's foremost thinkers and strategists, sees inherent risks in the post-liberation process of social transformation and class formation through which a section of the liberation elite is elevated into the status of the ruling class. As previously marginalised groups move into business and the state they are catapulted into middle and upper class lifestyles. This creates a set of unintended consequences.

“For many, the rise into middle class lifestyles is tenuous, dependent on party selection processes and continued employment in state institutions. In the South African situation, the very nature of middle class lifestyles is distorted by the presence of a large white community, social trend-setters whose position was earned through racial privilege. In trying to mimic white lifestyles, the emergent elite overextends itself and individuals are then tempted to sustain newly-acquired tastes through corrupt means” (Netshitenzhe 2016).

This level of social dissonance is particularly pronounced in Port Elizabeth, with its entrenched white middle class living side by side with an economically marginalised proletariat barely able to subsist on the small pool of wage earners.

Corruption can take many forms, but in essence it is a collusive agreement between agents in the economy who are able to swap, over time, in terms of positions of power and thus are able to capture the allocation process of the economy (Kaufmann and Vicente, 2005). Bribery is one specific transactional form of this relationship, but the definition encompasses higher-level corruption and the peddling of influence. Kaufman and Vicente describe a scene to illustrate this that could easily have taken place in the Port Elizabeth City Hall. A prominent politician has close connections to an influential businessman and they both exploit that relationship for mutual benefit. They exchange favours – the allocation of procurement contracts in exchange for party campaign funding – which means that they “pay each other”, even if payment takes place at different times and in different ways. The important point about this process is that the rules and accepted norms around the

economic allocation process have been subverted, in this case by the subversion of supply chain procedures in allocating a contract.

State capture is particularly topical in South Africa at the moment, and it is worth giving it some consideration in the context of Nelson Mandela Bay. State capture is the systematic application of this type of corrupt relationship to the whole arsenal of state power - the formation of laws, regulations, decrees, allocation of budgets and incentives, and other government policies. It is a *systemic* form of political corruption that directs the exercise of state power to the benefit of private individuals or firms. Private interests significantly influence a state's decision-making processes to their own advantage through *unobvious channels, that may not be illegal* [own emphasis] (World Bank, 2000). State regulatory agencies are said to be “captured” when they regulate businesses in accordance with the private interests of the regulated as opposed to the public interests for which they were established:

“...all forms of state capture are directed toward extracting rents from the state for a narrow range of individuals, firms, or sectors through distorting the basic legal and regulatory framework with potentially enormous losses for the society at large (Pradhan, 2000).

Of course, private sector influence on the state is not necessarily a bad thing. Lobbying or high level policy engagement by the private sector is a normal feature of most political systems. As Netshitenzhe (2016) points out, all classes and strata as well as interest groups try to influence state decisions in their own interest:

“The state has to work with business: Indeed, it is in the nature of the developmental state that it should continually interact with all social role-players and mobilise them behind a vision and strategy for growth and development. ....but [the state] should remain autonomous in terms of the content and processes of decision- making. Working with business should not translate into state actors working for, and at the instruction of, a particular business entity”.

What seems to separate state capture as a form of corruption from conventional forms of political influence is the informal, non-transparent, and highly preferential channels of access that have a corresponding effect of limiting the access of competing groups to the state, and undermining the competitive processes by which resources and contracts normally get allocated (Pradhan, 2000). State capture subverts and ultimately replaces open and legitimate forms of political influence and intermediation of interests. Further building on this, a distinction can be drawn between administrative corruption and state capture – through administrative corruption private actors obtain “individualised exceptions to or favourable application of those rules”, while state capture is a more systematic prejudicing of the rules to private advantage, which has the effect of constraining the others in the market.

“The difference lies in how deep the corrupt transaction reaches into the operations and functions of the state and the extent to which the advantages of the corrupt transaction are institutionalised into the basic rules of the game” (Pradhan, 2000).

In trying to understand the process by which a department such as Human Settlements gets captured, there are valuable insights from other countries in Africa that have gone through similar transitions. Michael Bratton and Nicolas Van de Walle, in their study of various democratic transitions in Africa



that were subverted by corruption, describe the way that relationships of loyalty and dependence come to pervade a formal political and administrative system. They characterise these types of relationships as *neo-patrimonial*, meaning that ancient systems of personal patrimonial power have been recreated within the semblance of a modern legal state. The leaders in such a system and their inner circle undermine the effectiveness of the nominally modern state administration by using it for systematic patronage and dishing out of favours to reinforce their power - what they refer to as *clientelist* practices (Bratton, 1998). Officials within this system occupy their positions within the administration not primarily to perform the functions legally assigned to them, but instead to extract rents from the various transactions under their control thereby purposely blurring the distinction between private and public interests.

“The essence of neo-patrimonialism is the award by public officials of personal favors, both within the state (notably public sector jobs) and in society (for instance, licenses, contracts and projects). In return for material reward, clients mobilize political support and refer all decisions upward as a mark of deference to patrons” (Bratton, 1998).

The neo-patrimonial system stands in stark contrast to the developmental state that is official policy of the ANC and its allies in COSATU and the SACP. The capacity of the developmental state is integral to its success (Netshitenzhe 2016) - it has to play a leading role, particularly in directing economic development. In a society with deep social fissures such as ours, a developmental state must have the strategic capacity to define the vision and course of social development and, where necessary, to make the tough choices and ensure their implementation.

As Michael Bratton points out, a captured the state has very little developmental capacity. The bureaucratic apparatus of the captured state is inept, undisciplined and unresponsive to orders. This ultimately creates a profound crisis and, as the legitimacy of the state implodes, its citizens take to the streets. Unsurprisingly, in the instance of human settlements described above, housing beneficiaries and the poor have staged a series of highly visible protests to demand shelter and better housing, even if these have been cynically manipulated in some instances to further alternative objectives.

I must confess that I have a nagging discomfort with neo-patrimonialism as an analytical framework, which betrays its conceptual origins in western academic literature. In visualising the recreation of ancient patrimonial power relations within the skeleton of the modern state, there is an implicit assumption that the (particularly African) societies being studied have a natural tendency to revert to more primitive modes of organisation. This limits the analysis of elements that constitute the transactional nature of the patronage systems. It also runs the danger of reinforcing neo-colonialist notions that African societies simply aren't sophisticated enough to embrace modern liberal democracy and modes of political and bureaucratic organisation. There is a dismal pessimism which pervades the literature, which casts the analysed societies in a retrospective rather than a prospective light, and doesn't sufficiently conceptualise change and intervention processes. In critiquing this framework I feel we should be looking for a slightly more value free analytical framework for understanding the behaviour of the actors with the market and system.

Some commentators have referred to the uneven nature of the state in Port Elizabeth, with areas of administrative collapse and patrimonial power relations framed by pockets of administrative competence. This is certainly the case, and from examining the NMBM administration it is evident that pockets of neo-patrimonial power are held in check by instances of relatively well functioning bureaucratic systems. The picture is also not static or unidirectional, as neo-patrimonial power

systems also appear to go through phases – from the initially quite fragmented focus on a few leases and contracts, through to much larger scale, programmatic operations, followed by a period of investigations, retreat, nominal disciplinary actions, and regrouping.

An important feature of neo-patrimonial regimes is their dependence on the regular flow of benefits from leaders to followers lower down the hierarchy. These rewards are necessary to “cement political loyalty” (Bratton, 1998). The essence of the neo-patrimonial regime is transactional: it is the passing of rewards and favours up and down the hierarchy that exists outside the formal legal-administrative system. It is repeated, on-going, and requires constant maintenance - a cessation of transactional rewards collapses the system or causes it to reconfigure. While the leaders at the apex of these schemes often attract our attention through their brazen actions, what is probably more important is the currency of the interactions that bind the system and the ordinary people caught up in it together.

I have spent some time engaging with local politicians in Nelson Mandela Bay, and was struck by the way in which politics for most activists has been reduced to simple transactional behaviour – contests over positions in branch and regional structures, access to jobs and political appointments, and access to resources for organising such as airtime, transport, catering. The programmatic content of politics seems to have been bleached out of these interactions, and what started out as ideological debates over state power and development has instead turned into the empty shell of parsing out individual benefits and exchanges. I wondered at the time whether this slow degrading of the currency of political life was cause or effect of the corruption I was uncovering.

Alex de Waal, writing about politics and state capture in the horn of Africa, describes what he refers to as the ‘political marketplace’, which dominates and orders the behaviour of the region's political leaders and businessmen. These markets operate best in weak or failing states, or even in remote enclaves of better organised and centralised states. The market place is real – they “exchange services and rewards, loyalty and money, for prices that are set by the principles of supply and demand”. We may be an order of magnitude away from the conditions that prevail in the horn of Africa, but I found the mechanics of the market place de Waal refers to helpful for interpreting how the political market place in Nelson Mandela Bay operates.

Political entrepreneurs basically operate in the market place with money and violence. What is important to them is a source of unimpeded political cash, which can be used at their own discretion without having to account for it, and which mostly goes to paying off their patronage network, including retinues of enforcers, smaller deal makers and other rent seekers.

“The conduct of political business as exchange is the central feature of the market place, and the prices of the commodities of cooperation and allegiance are determined by supply and demand. Resources are allocated accordingly. Real politics is the bargaining and coercion that constitutes these transactions.”

Violence is certainly part of the repertoire of politics in Nelson Mandela Bay, and the interplay between violence, community protest and access to resources seems to be important to understanding the dynamics of the political market place operating in the city. In fact, these are characteristics of South African local government politics more broadly. An insightful study into service delivery protests around Johannesburg by Karl Von Holdt and a team of researchers showed a prominence of ANC members among the organisers of the protests, including leadership figures such as branch treasurer, branch chairperson, associates of the mayor etc. (van Holdt et al, 2011) The team found that conflict over the economic opportunities afforded by local government was a primary

motive for leadership figures within communities instigating protests, and that factionalism in the ANC and the town councils played a strong role. Violence and xenophobic attacks were part of the organisational repertoire available to these leaders.

De Waal notes that the morality of the political system is reduced to that of the market, in which the players are reduced to commodities to be used or discarded accordingly. Of interest to me are the forces that operate to move actors in the political market place towards a cynically pragmatic rather than moral approach.

“The more that a political entrepreneur can discard humane norms and instead adopt a market-based calculus, the more likely he is to rise to the top and stay there.” (de Waal, 2015).

I was struck by the impersonal nature of these transactions, and the way that the system incentivises the players to become more calculating. This certainly resonates with the NMB experience, where success, at least as far as the market leaders are concerned, demands a level of ruthlessness and cunning bordering on the sociopathic. To survive and prosper in this system one needs to free oneself from the impeding constraints of moral scruples and emotional attachment.

“Men who belong in different political camps, or who organize lethal violence against each other's followers, do not hate each other, any more than business rivals may dislike or feud with one another. ... These men may have political motives and goals – protecting communities, pursuing beliefs about a better society, or building states – but their political fortunes depend on how well they operate in the political marketplace” (de Waal, 2015).

Port Elizabeth still has a functioning state apparatus, and at least in terms of institutional integrity is some way from the situation described in the Horn of Africa. However, operatives outside of the state have started to take over decision making functions in certain key aspects of the local state. The externalising of decision has created a blurred political administrative interface, with overstepping of political roles into administrative and spending areas, and supposedly political instructions being issued to staff deep within the administration. Lines of accountability have steadily been directed outward, towards the syndicates, even if they are from subordinate employees to syndicate representatives inside the state. This substitute system of accountability ultimately became the overriding purpose of the local state, while organisational accountability for performance has eroded.

## A poisoned legacy

The story of corruption in the metro goes back at least as far as the early 2000's, but its roots probably stretch back to before the amalgamation into the current metropolitan authority of the Uitenhage, Despatch and Port Elizabeth town councils and their attendant black local authorities. The former Ibhayi City Council, one of the unpopular and widely discredited black local authorities of the apartheid era, was well known for dubious dealings and a large number of irregular payments and fraudulent transactions were revealed in a succession of audit reports initiated by the Cape Provincial Administration. These involved senior (mainly white) officials and councillors, and demonstrated early versions of the tactics which were to be repeated at greater scale later on – incestuous relationships between officials and contractors, cutting corners on development projects, pension fraud, ghost



employees, missing programme funds – all hidden by what seemed like deliberately poor record keeping (Interview 11/11/2015).

Netshitenzhe talks about the moral bankruptcy of the apartheid state apparatus, and how it sought to maintain its rule and shore up its legitimacy through force and subterfuge. In order to do this it developed networks of patronage on a grand scale, not only in relation to collaborators in the Black Local Authorities but also whole sections of the population.

“Especially towards the end of its days, the apartheid state in South Africa had become deeply corrupt, including through sanctions-busting activities and the extra-judicial space it had accorded its security agencies. This broadly is what the liberation movement inherited; and in situations where transitions include the integration of old-order political and bureaucratic functionaries, the problem is multiplied many-fold” (Netshitenzhe 2016).

The other side of the legacy that was inherited was the extent to which the liberation movement’s policy of making the country ungovernable had been effective, resulting in a raft of extra-legal systems of recourse, and an implicit acceptance amongst communities that breaking the law was acceptable.

“When systems to provide services are unjust and/or unwieldy, the population develops ingenuous ways to circumvent these; and the providers of the services themselves are wont to seek underhand benefits”.

Private companies have invariably been third parties to large scale corruption in the metro, and the unwritten story of corruption in Port Elizabeth is the willingness of elements of the white owned local services and engineering industry to be party to questionable dealings. The old boy network in the engineering industry seems to have grown up on kickbacks and ‘scratch my back’ types of mutual rewarding. It took the post-amalgamation municipal leadership at least a decade to fully cotton on to how these systems operated and to understand how to take control of the rents.

The first major set of revelations came with the Kabuso Report, a forensic investigation which was initiated in July 2009 by the mayor, Nondumiso Maphazi. Oddly enough, the investigation was triggered by allegations of mismanagement against city manager Graham Richards. Richards was a highly competent city manager, having made his mark as a progressive attorney and a key player in the One City negotiations. He had served as city manager of the metro until 2002 and, after a disastrous period of instability, Maphazi had brought him back in 2006 to steady the ship and rebuild the administration. Richards had inadvertently stepped into a political minefield when he queried the terms of the lease for a large coastal property in which local political leaders had interests. This triggered a campaign against Maphazi and her city manager led by ANC regional leaders (Herald 23/07/09 and 05/03/2012)

Sensing that she was out of her depth, Mayor Maphazi asked the provincial Local Government MEC to institute a much wider investigation. The province appointed Kabuso CC as forensic investigators and extended the probe to cover various land deals and contracts entered into by the municipality between 2003 and 2009. The report was handed over in March the following year, but Mayor Maphazi and Richards had in the meantime been removed after falling victim to a political campaign led from the ANC’s regional headquarters. It took a year before a condensed version of the report was given to the Mayoral committee, and a further 6 months before the report was released to Council and the public (Herald 27/05/2011).

This delaying tactic seemed to presage the future handling of corruption investigations in the metro, with long and expensive forensic investigations leading to many reports which weren't released or acted upon. The Herald and Despatch newspapers eventually took the province to court to force the publication of the Kabuso report, winning an important legal judgement on the media and public's right to information (Herald 21/10/2011).

The reason for the agonising delay was the explosive nature of the report's findings, which implicated the former Mayor and (at the time of the report) regional ANC chair, Nceba Faku, as well as local businessmen such as Johann Dreyer and Yusuf Jeeva (Herald 28/10/2011). The Council and Maphazi's replacement as Mayor, Zanuxolo Wayile, a former NUMSA<sup>7</sup> and COSATU leader, didn't know how to respond, and clearly there were sharp divisions within the ANC caucus in Council about how to move forward. Faku was a charismatic and highly respected political leader. He was part of the political aristocracy of the city and had spent time on Robben Island with many of South Africa's struggle leaders. He had exemplified the new democracy and after the first democratic elections for local government in 1996, had put forward a compelling plan for the development of the metro, Vision 2020, many elements of which persist to this day. The widely respected Mandela Bay Development Agency was founded by Faku, and it has continued to do some ground-breaking city rejuvenation work.

In 2006 Faku stepped down as Mayor – by his own admission, so as to go into business unencumbered by the constraints imposed by political office in the municipality. He nevertheless continued to play a political role as regional chair of the ANC. He quickly found he could influence matters as effectively from the regional ANC headquarters at Standard House, a situation which was compounded by the succession of weak and indecisive Mayors that followed him. The Kabuso report revealed a raft of dodgy business dealings by Faku, mainly relating to property and leases.

Although no hard evidence of actual kickbacks or personal benefit was found, the metro leadership was excoriated for their flawed handling of major projects, including: the Madiba Bay Leisure Park; the cultural village at Wells Estate; and the leasing of The Willows, Van Stadens and Beachview resorts (EC DLGTA, 2010). The manner in which leases had been negotiated, tolerance of renegeing on terms of their lease by developers, and the investment of municipal funds in private developments suggested an improper relationship between the developers and Faku (Herald 28/10/2011). Faku had also got directly involved in supply chain decisions, and the province's report found that Faku "believed himself entitled to interfere with construction tenders in relation to the Red Location Museum by ordering variations" (EC DLGTA, 2010).

Yussuf Jeeva, one of the main funders of the ANC in the region since they had taken power, was one of the private developers that Faku was involved with. A devout muslim and charitable benefactor, Jeeva had expanded his business into the city of Port Elizabeth on the strength of a successful retail and property business in Uitenhage. Jeeva's company bought a major office block next to City Hall, at a third of the price that the city itself had offered for the property, and then leased the space back to the city. This raised a number of red flags. The Kabuso report questioned why the municipality continued to lease the space despite there being available office space in the nearby municipal

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<sup>7</sup> NUMSA was formed in 1987 and is the largest metalworkers trade union in South Africa, with about 340 000 members. It has a strong presence in Nelson Mandela Bay through its organisation within the motor industry. Previously an active affiliate of COSATU, NUMSA has always maintained an overtly socialist stance, and has now split off to form its own federation.

buildings, and why comparative prices were not obtained for similar office space in the city centre (Herald 28/10/2011).

The report proposed that Faku be criminally charged with fraud for the role he played in several of the deals, although it's not clear that there was sufficient evidence to sustain the charge (EC DLGTA, 2010). Despite its damning findings and some clear proposals that required action, the metro's response was half-hearted. The provincial MEC eventually wrote to Mayor Wayile expressing concern over the "inadequate and incomplete manner in which the [municipality] dealt with the issues raised in the Kabuso report" (Herald 05/09/2011).

Faku used his base in the regional executive of the ANC to launch a counter attack, essentially setting up a vicious battle for political control between himself and the left-leaning Wayile (who subsequently resigned from the ANC and now represents the United Front as a Councillor). In dramatic scenes reminiscent of a soap opera, Wayile together with Speaker Maria Hermans and chief whip Feziwe Sibeko were locked inside the ANC regional headquarters by regional leaders and ordered to resign with immediate effect (Herald 14/08/2012). While not the start of factional politics in the metro, this certainly became its most divisive manifestation.

Factionalism had emerged in the Nelson Mandela Bay region as a local expression of provincial and national contestations for power within the ANC. Initially given a political character, with the ostensibly left wing Stalini group standing in opposition to forces aligned with Mbeki, this characterisation became increasingly blurred as different players emerged or split off. In the end factionalism in Port Elizabeth lost any claim to ideology, and mainly became centred around dominant personalities and battles over access to power and positions. In the ebb and flow of factions and interests over the last decade, the more significant distinguishing feature seems to be between those comrades who did not conflate self-interest with the state, and those who had a more elastic view of governance. Principled comrades were to be found in both left and moderate factions, but despite popular support they struggled to gain ascendancy in regional politics (Interview 26/03/2015).

The most deleterious effect of the period after Maphazi and Richards' removal was the steady politicisation of the management layer and the administration. Councillor involvement in the selection of Executive Directors made it a highly political process. It became established practice that the ANC's regional and even provincial executive would decide on the appointment of Directors and Executive Directors. This practice established a hold on their political allegiance, allowing party people to demand favours in return. The level of influence extended beyond the ANC, to include the tripartite alliance. SAMWU, in particular, used its increasing power in the metro to influence key appointments and a group of former shop stewards established a tight hold on middle management in the organisation.

This process of decay was not even. The departure of Faku in 2006 ushered in a period of stability with the return of Graham Richards as city manager. However, following his removal in 2009, the city had a succession of disastrous acting appointments who were unable to provide a coherent administrative bulwark against political meddling in the bureaucracy. Increasingly, decision making in the local state was dictated by outside forces. Ostensibly this practice was justified on the basis that the party was at last asserting control over decision making inside the municipality to direct it towards a working class agenda and developmental ends. However it provided ample opportunity for abuse. Officials were regularly called to the provincial ANC headquarters in King Williams Town for 'briefings' and instructions. Most senior managers in the municipality were expected to have a direct relationship



with the political bosses in the region and they regularly attended meetings at the regional ANC offices. It was only in 2015, with the arrival of Danny Jordaan as the ANC Mayor, that a decisive attempt was made to put a stop to this (interview 26/03/2015).

Despite these inroads there remained pockets of administrative competence. Although it had been substantially weakened by budget cuts, the internal audit division continued to churn out a series of audit reports which pointed to serious transgressions and cases of fraud in various divisions: human resources; IT; facilities management; supply chain; economic development; infrastructure and engineering; human settlements; and the housing trust account, to name the most common areas. Although many of these reports pointed towards cases requiring disciplinary action or civil recoveries, they were almost uniformly not acted upon. The standard practice during the last few years was for the city manager to refer the internal audit reports to the more compliant legal services division, where 'legal advice' was proffered which raised sufficient doubts or queries to justify not taking further action (interview 05/05/2015).

This administrative environment created fertile grounds for the scale of corruption to move up a notch in the metro. When the National Treasury grant for establishing bus rapid transit systems in cities<sup>8</sup> came along, it was viewed by some local businessmen and political leaders as a major opportunity. The rollout of the Integrated Public Transport System (IPTS) was linked to the 2010 Soccer World Cup infrastructure, which was being implemented with tight deadlines on a fast track procedure<sup>9</sup>. The municipality started using 'deviations' in order to fast track procurement processes. Deviations from supply chain management procedures are allowed in certain instances – urgency for example, or where there is a sole provider. Despite the fact that they are not intended to be the standard way of procuring services, they steadily became the metro's principal instrument for appointing companies. The stadium itself was built in time and for the duration of the World Cup the buses managed to operate, but thereafter the buses were confined to storage and the municipality continued to spend enormous amounts of money on various planning and other 'soft' parts of the operation such as ticketing and scheduling systems (interview 05/05/2015).

The features of the IPTS programme which made it vulnerable were not only the scale of the resources available (R2,2 billion was spent on the IPTS before the taps were finally turned off), but also the initial laxity of controls that were typically found in new functional areas. In this sense it duplicates the conditions that prevailed in the Human Settlements Department.

The municipality appointed an articulate and persuasive but morally compromised project manager, Advocate Mhleli Tshamase, who had been employed by the city's legal division despite a previous

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<sup>8</sup> The national Department of Transport's Public Transport Network Grant funds the construction and improvement of public and non-motorised transport infrastructure that form part of a municipal integrated public transport network. It also supports the planning, regulation, control, management and operations of municipal public transport network services.

<sup>9</sup> The IPTS was originally conceptualised in 2006 when the Nelson Mandela Bay Metropolitan Municipality prepared and adopted a Public Transport Plan. This was later amended to conform to the national Public Transport Strategy. The plan envisages transforming the current minibus taxi and bus services into an integrated and regulated city-wide public transport system. The core of the system was planned to be a bus rapid transit service covering five contract areas: Motherwell; Njoli; Cleary Park; Western Suburbs; and Uitenhage.

criminal conviction for car theft<sup>10</sup>. The Deputy Mayor, Nancy Sihlwayi, took a close interest in the implementation of the programme and, while probably well-meaning, started the practice of hands-on political management of the programme. Officials were regularly called to her office and given instructions as to how the programme should be unfolding (interview 05/05/2015).

The operation to defraud the bus rapid transit system gathered pace with the arrival of Faried Fakir, a highly smart private operative who had built a track record as an expert in municipal systems such as IT and property ratings, and had an ability to devise 'reward systems' around his contracts that kept work flowing in. The IPTS scheme allowed him to extend his abilities. Fakir was a generous donor to the ANC and he presented the operation as a way of boosting the party's coffers. On political instruction from the ANC region, in 2012 he was brought in to be the local sub-contractor to Lumen Technologies for the R174-million IPTS contract. Lumen Technologies ran the automatic fare collection system of the MyCiti bus service in Cape Town and the municipality piggybacked on this tender to appoint the company in Nelson Mandela Bay. The political environment for appointing a local BEE partner had been created after Faku complained to the municipality that local companies had not benefited from the bus contract. The appointment of Lumen Technologies – without a tender process and at hugely inflated prices – attracted a high level of scrutiny and when Lumen Technologies conveniently fell out of the picture due to bankruptcy, Faried Fakir was left in charge of the contract (Herald, 22 Sept 2014).

Fakir was secretive about his operations – he avoided the media, constantly switched cell phone numbers, and only a limited number of designated people had access to him. A complicated system of front companies and trusts was set up, and work on the IPTS was allocated across these companies. According to CIPRO, Fakir was a registered director of 23 companies that offered services ranging from nuclear engineering to agriculture and marketing. Most of them were run from his home in Richmond Hill (Interview 15/05/2015; Herald, 22 Sept 2014).

In addition to his income through the Lumen Technologies contract, Fakir used three companies to do various aspects of the IPTS work – project management, marketing, internet-based tender management and the like. Regional ANC leaders had various interests in the companies and the ANC's regional secretary, Zandisile Qupe, a particularly powerful and charismatic leader of the Stalini group, played a crucial role in facilitating decision making within the metro around the IPTS. The IPTS team appointed its own lawyers, who worked closely with Fakir, to prepare most of the memos and legal documents that created the basis for the programme (Interview 15/05/2015).

At the height of the operation a large and expensive network had been established, with various officials at senior, middle and junior management levels on the payroll of Fakir.

Fakir certainly demonstrated a high degree of creativity, and one wonders what he could have achieved if his talents had been more appropriately deployed. The scale of the operation he built was truly remarkable in its grand ambition of controlling whole sections of the municipality. By the end of 2014 the syndicate had effective control of budget and treasury, supply chain, legal, human resources, IT, a number of line departments, as well as a controlling influence via the ANC region over the political leadership and city manager. Unlike the usual lethargic pace of municipal administration in the city, IPTS related memoranda moved through the bureaucratic decision making process with lightning

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<sup>10</sup> Tshamase applied to, and was admitted as an advocate, in the High Court, but perjured himself when he failed to inform the judge that he had a previous criminal conviction in his affidavit in support of his application.

speed. One of the key people involved in Fakir's network, whom I subsequently interviewed, noted that, fuelled by a system of cash transactions costing millions of Rands per annum, this was an expensive network to run:

"If you start calculating the price of keeping a system like this going then all of a sudden the amounts can be an issue, quite dramatically. I mean, because you have all these runners. It's quite difficult to keep that system going" (Interview 15/05/2015).

ANC regional leaders were clearly complicit in Fakir's operation, both as enablers and beneficiaries, but it is less clear as to who was actually pulling the strings in the relationship. The capture of the local state by Fakir's operation seems to have been accompanied by the ANC itself having been taken over by a venal self-serving cabal, in cahoots with external operators. Certainly formal ANC decision making structures weren't privy to the mechanics of the operation, which leaves open the question as to where power was actually located. I was struck by Joel Netshitenzhe's analysis of where the power actually lies in these sorts of relationships. He poses a question about whether an operation of this scale can be sustained without another form of institutional capture: in this case, political party capture?

"Where the captured straddle the party, the government and the state, direction and sequence of the capture can be either way. ... capture of either the state or the party easily transmutes into capture of the other." (Netshitenzhe 2016).

A number of red flags caused the metro to eventually take action. A music concert which never took place was paid for with R4,6m of IPTS money, channelled via the stadium management company Access Management. The Auditor General in auditing the 2011/12 year found that IPTS grants were not utilised for the purpose stipulated<sup>11</sup>. In November 2012 the former head of the National Prosecuting Authority, Vusi Pikoli<sup>12</sup>, was hired to conduct an investigation into the IPTS, and in particular into payments relating to the taxi industry (Herald, 26 May 2014). Pikoli had little cooperation from NMBM staff in his investigations, and found appallingly poor records and missing documents. His report, released in early 2013, highlighted a number of particularly worrying areas.

The relationship with the taxi industry, who were meant to be core partners in implementing the IPTS, came in for particular criticism. He found that there had been a "flagrant breaches of approved financial policy and procedures including a breach of supply chain management policy by Laphum'ilanga", together with the payment of excessive Directors' fees (Pikoli 2013). He excoriated former Laphum'ilanga officials for irregular procurement of goods and services during their tenure (Herald 26/05/2015). In addition to the music concert that never took place, he fingered a series of

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<sup>11</sup> AGO findings relating to IPTS: 2011/12 – IPTS grants were not utilised for purpose stipulated, specifically R5,9m paid to Access Management. 2012/13 – R1,6m IPTS grant expenditure recorded in wrong financial year resulting in overstatement of expenditure. 2012/13 – R6,4m incorrectly recorded as expense when services were not yet rendered, instead this should be recorded as a prepayment. 2012/13 – R18m expenditure fell outside the conditions of grant.

<sup>12</sup> Vusi Pikoli was a prominent ANC activist and former Umkhonto we Sizwe operative from the Port Elizabeth area who had gone on to qualify as an advocate, served as Director General for the Department of Justice and Constitutional Development, and then been appointed as head of the National Prosecuting Authority. He was eventually removed from this position by President Thabo Mbeki under questionable circumstances when he acted against the Commissioner of Police on charges of corruption (which the Commissioner was subsequently convicted of).



corrupt relationships between officials in budget and treasury, the IPTS office, and outside companies and players. The relationship with one of Fakir's companies, Heerkos, and Lumen technologies was found to be unlawful and Pikoli noted that neither company had the capacity for a project of this scale. There was unwarranted political interference, with the political steering committee found to have usurped the role of the bid committee. The various transactions he had investigated were characterised as "different components of one big conspiracy to siphon funds from the municipality in an unlawful way".

The municipality did nothing with the Pikoli report for a year, seemingly paralysed between those in Council, including the Speaker, who wanted action, and politicians in the regional executive committee who wanted to contain the fallout and protect the operation. The City Manager eventually tabled a report to Council which recommended that disciplinary action should be taken against various officials and civil recoveries be instituted against various companies. Although the report was adopted, it was never acted upon (Herald 26/05/2015).

Eventually, in October 2014, National Treasury instituted a full forensic investigation into the IPTS. Their Specialised Audit Services did a preliminary review to establish reasonableness, after which they concentrated their efforts on 10 implicated service providers and 18 officials. The report that was eventually presented to Council in August 2015 highlighted that the NMBM had hardly followed any competitive supply chain management processes and that the majority of the IPTS appointments were made via some form of irregular deviation process in order to circumvent these processes. There was extensive collusion in the marking up of invoices, and evidence of corrupt relationships between the project manager, the lawyers involved in the project, and various service providers. Approximately R24,5 m had been spent on activities with no relationship to the IPTS. They recommended that the NMBM institute criminal action and civil recovery (NMBM 2015).

"...we are of the view that there is sufficient prima facie evidence of fraudulent and corrupt relationships between NMBM officials and suppliers that warrant detailed investigation by the SAPS. There is also sufficient evidence that NMBM employees and suppliers committed fraudulent acts. In this regard we recommend criminal investigation" (NMBM 2015).

Partly as a result of the extent of haemorrhage from its fiscus, and partly due to poor financial management and a ballooning staff bill, by 2011 the municipality was facing a severe cash flow crisis<sup>13</sup>. While global and domestic economic factors have clearly played a role in limiting economic growth in the metro, the institutional malaise that gripped the city resulted in poor infrastructure maintenance, high water and electricity losses, declining property values and ultimately, declining rates income<sup>14</sup>. The steadily worsening fiscal position meant that cash reserves became depleted and the city was

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<sup>13</sup> National Treasury 2014 noted that holdings of cash had dropped to equivalent of 1 month of spending by 2010, and only recovered in 2012 and 2013 to 3,5 and 4.4 months respectively. The municipality was unable to generate the operating surpluses it required to finance its capex needs, and was increasingly reliant upon capital grants. They noted at the time that the fiscal trajectory is unsustainable.

<sup>14</sup> As noted by National Treasury (2014), the clearest signs warning of economic decline come from the record of building plans submitted to the city government. While the data is affected by the international financial crisis in 2009, the indicators did not recover after the crisis, and have since fallen steadily. Both the number of building plans submitted and their value were by 2013 lower than seen at the depths of the recession.

unable to borrow from the capital markets (Hunter, 2011). This was compounded by a lack of leadership as a result of serious divisions at a political level.

By this stage the municipal administration was in a parlous state. A survey by National Treasury in 2013 found very low levels of morale within the administration. Staff felt that professional work was not valued, were despondent and overwhelmed, and there was a culture of fear to which the response was to “just keep my head down”. This was exacerbated by a serious lack of technical capacity, for instance: there were no registered professional engineers in water services (compared to an average of 9 for most cities) (National Treasury 2014).

In response, a succession of efforts to intervene and correct the situation took place. Following visits by the ANC’s national leadership and the appointment of an NEC task team, the first of three interventions was devised with national Treasury, COGTA and the province providing various support modalities, including seconding a municipal manager. The intervention was successful at stabilising the short term financial position of the municipality, but the tenure of the acting City Manager was by all accounts disastrous. Pikoli had intimated collusion between some members of the provincially appointed Section 154 support team and the operators on the IPTS project, and noted the Acting City Manager’s poor performance in relation to the IPTS in his report (Pikoli 2013).

The political infighting between Mayor Wayile and Nceba Faku continued to tear the regional party apart. Wayile alleged that deployed cadres were micromanaged and not given the required space by Faku and the regional secretary to run the metro in accordance with the constitution. Faku accused City Hall of not wanting to implement the instructions of the ANC regional executive committee. “When we go to government, we go to pursue the implementation of the policies of the African National Congress, not your own creativity,” he said (Herald 25/01/2014). Wayile made some desperate attempts to solicit provincial and national support for his efforts to hold back the tide of what he described as a corrupt clique intent on looting the metro’s coffers (Herald 23/01/2015).

The end result of the period of neglect and rent seeking was a steady decline in the ability of the metro to engage with its citizens or to deliver services, and a high degree of social unrest. The internal contradictions of the originally hopeful post-Polokwane agenda were finally being played out. As Pradhan has noted, the diminishing capacity of the state is the typical end result seen across a whole variety of affected public institutions. Corruption misdirects the state’s resources, distracts managers from their appointed role, and weakens public service delivery. Not surprisingly, “it is the poor who bear the heaviest brunt of corruption” (Pradhan, 2000). The ultimate consequence is that it undermines public trust and weakens the credibility of the state.

The public trust deficit is borne out in the steady increase in service delivery protests in the metro since 2009, with protest being one of the few ready avenues to gain attention and get access to public resources. Service delivery protests have become a prominent feature of South African political life, but in Port Elizabeth they rapidly became the dominant way in which communities made their voices heard. While the influence of SMMEs, housing contractors, and the orchestration of protests by officials and politicians played a considerable role in this, as noted earlier, the very real frustration most communities experienced in getting adequate responses to grievances they raised should not be underplayed.

## Stemming the tide

In March 2013 the ANC's top six officials intervened to address the political infighting. They pressurised the recently re-elected ANC chair, Nceba Faku, to resign and replaced Wayile as Mayor with octogenarian MP 'Oom' Ben Fihla, a highly respected activist from the days of the defiance campaign. This political intervention was essentially confined to the removal of the main contending personalities in the metro, a well-known ANC tactic of promoting warring parties out of their sphere of influence which had had some success in previous regional conflicts.

In this instance the intervention had limited success, largely because the interests that were operating through the ANC regional executive structures were able to rapidly reorganise themselves. Despite his own integrity and efforts to do the job assigned to him, Fihla was dominated by the Stalini group who were in charge of the ANC's regional executive committee, and elements of whom he had in fact been closely allied to in the past. The politics of the city were essentially run by the Deputy Mayor (who also became acting Chair of the ANC region), the Mayor's Chief of Staff and the Chief Whip. Through the Chief Whip they had tight control over the entire ANC caucus in Council. The continuity of these players and the old systems of accountability ensured that it rapidly became business as usual in the metro, and the political system seemed destined to continue uninterrupted on its track (interview 26/03/2015).

This was alarmingly evident when the results of the 2014 national and provincial election were analysed. The ANC received only 49% of the vote in the metro, despite this being a secure ANC stronghold that had shown massive support for the party in the past. There were serious discussions at the next ANC NEC about what the outcome of the 2014 national elections meant. Despite holding an overall strong national percentage of the vote, the ANC was slipping in metropolitan areas. The most worrying sign of all was the apparent weakening of the historical allegiance of the urban black middle to the ANC. There was a deep seated party concern with declining ANC electoral fortunes, with some being open that the party was not living up to its mandate in the metro (Olver 2014).

In late 2014 the ANC initiated a comprehensive effort to turn around the municipality. This was based on previous experience with similar interventions, which have had a chequered history in South Africa. The legal mechanisms set out in Section 100 and Section 139 of the Constitution had largely fallen into disfavour in ANC circles. They had proven to be legally complex to administer, and because of their top down nature were almost uniformly opposed by local forces. There had also been serious concerns raised about the sustainability of Section 139 interventions, because many of the municipalities had slid backwards as soon as the intervention was over.

One of the more successful of the Section 139 interventions had been in the Msunduzi municipality<sup>15</sup>, which faced a serious financial crisis in the 2008/09 financial year, exacerbated by a deep factional split in the regional ANC. The KZN provincial MEC in charge of local government, Nomusa Dube, focused as much on addressing the internal ANC divisions as on fixing the municipality through administrative intervention. The political intervention consisted of removing many of the councillors involved in the divisions, including the whole of the Executive Committee, and replacing them with a new leadership team. At the same time, an administrator was appointed (there were two

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<sup>15</sup> Msunduzi Municipality with a population of 618 536 is centred on Pietermaritzburg, the second largest city in Kwa Zulu-Natal province, which is both the legislative and administrative capital of the province.

administrators during the course of the intervention) and a comprehensive effort was made to turn around the financial position of the municipality. This intervention had succeeded in stabilising the administration and finances, and, at least for the next few years, the factional politics in the municipality subsided (Olver 2012).

The Msunduzi case was certainly instructive from an ANC point of view, because it combined political, legal, and administrative components. This largely determined the characteristics of the intervention that was made into the affairs of the Nelson Mandela Bay metro. Notably, the intervention did not invoke the Section 138 intervention mechanisms offered by Constitution, but instead opted for the considerably softer provisions of Section 154, in terms of which national and provincial government are required to support local government in exercising its responsibilities.

The first part of the intervention did not involve the municipality directly and consisted of a party political intervention to remove the remaining regional ANC executive members (Faku had already been removed) and replace them with an interim task team. The task team consisted of a cross section of former ANC leaders and activists, most of whom were drawn from the Port Elizabeth area but which included some members from other provinces. The mandate of the task team was essentially to rebuild the ANC structures in the metro. When the President briefed the task team at its national Luthuli House headquarters, no mention was made of the extent of corruption in the metro, nor was this specifically referred to in the brief of the task team (Herald 19/01/2015). The task team had been the product of some negotiation between provincial and national leadership, and the intervention itself had been quite strongly opposed by some elements. In the end, the task team proved to be highly divided on organisational issues and unable to effectively lead. However, it did allow a regrouping of ANC regional forces to take place, around a new governance agenda and an anti-corruption programme in the metro.

In February 2015 the task team was finally in place, and what followed was an agonising few months during which the Mayor and his political leadership in the metro knew their time was up, but no clear actions were taken. The ANC's top six officials made various visits to the metro, supposedly to consult and to gauge people's views on the ground. Finally, in May 2015 a comprehensive overhaul of the leadership in the metro began with the appointment of a new Mayor, deputy Mayor and Chief Whip, and, a few weeks later, a largely reconstituted Mayoral Committee. The Speaker, who had for some time been fighting a lone battle against corrupt forces in the metro, almost didn't make it, and only the intervention of the Minister of COGTA saved her job (Herald 19/05/2015).

The new Mayor, Danny Jordaan, was one of South Africa's leading sports administrators and a soccer superstar, having successfully led South Africa's hosting of the 2010 Soccer World Cup as the President of SAFA. Although his role as a political leader had not really been tested, he was an ANC loyalist and a popular choice (Herald 19/05/2015). Unfortunately for the perceived integrity of the intervention, the FIFA corruption scandal around the alleged payment of a bribe to CONCACAF to secure the 2010 World Cup was just hitting the media (Herald 04/06/2015).

The new Mayor wasted no time in laying down the law, publicly telling the provincial ANC leadership not to meddle in his administration. Jordaan effectively used a troika consisting of the Mayor, deputy Mayor, Speaker and Chief Whip to coordinate the political life of the Council. He also created a measure of political stability in the Council, with the councillors knuckling down under his leadership despite being largely aligned to the previous ANC leadership. The political staff in the Mayor's office had their contracts terminated or early departures negotiated, thereby disrupting old networks and



communication lines to the ANC regional office. Jordaan established clear lines of accountability within the metro, colourfully threatening to fire any member of staff who took instructions from any outside forces. After the laissez faire attitudes of previous Mayors, his hands-on, somewhat authoritarian approach was a breath of fresh air that sent a ripple of panic through the ossified administrative ranks. A few staff have subsequently commented that they found the Mayor's style aggressive and that he did not take time to listen to their issues or understand their challenges. But suddenly someone was in charge, demanding performance, intolerant of failure, ready to take action.

The then Minister for Cooperative Governance and Traditional Affairs, Mr Pravin Gordhan (now the Minister of Finance), played an instrumental role in this second phase of the intervention. One of the conditions that Jordaan attached to accepting the post was that a national support package be put together to address critical capacity requirements in the NMBM. Gordhan visited the city frequently, and put considerable effort into crafting a support package using contract staff from his own Department, as well as the City Support Programme from National Treasury. Gordhan had recently launched a local government turnaround programme for the country, termed 'Back to Basics'<sup>16</sup>, which was infused with his particular people-centred philosophy of local democracy and the developmental state. Gordhan wanted the intervention to be a best practice model for Back to Basics, and to entrench good governance and accountability for performance within the metro – both at political and administrative levels (COGTA 2015).

There were some tensions between the Treasury, COGTA and provincial officials. Treasury were concerned with a longer term institution building project, while COGTA were focused on supporting the political transition and the immediate clean-up operation. National Treasury has provided some crucial long term institutional support through the City Support Programme, including work on planning and economic development, as well as change management orientated support around organisational development, leadership coaching, and strengthening the integrity framework. These 'softer' aspects of the intervention have a much longer term trajectory and their benefits will take some years to be realised.

A key feature of this period was the active role played by some civil society organisations. Religious and civic leaders, led by the Nelson Mandela Bay Business Chamber, grouped together to raise their concerns with the President on the state of governance in the metro. The white ratepayers' association and Afriforum had assembled an extensive body of evidence about corruption from their own networks amongst officials, and conducted an active lobby campaign to bring this to the attention

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<sup>16</sup> Gordhan's Back to Basics programme for turning around local government was launched in and was premised on five pillars:

- Put people and their concerns first and ensure constant contact with communities through effective public participation platforms.
- Create conditions for decent living by consistently delivering municipal services to the right quality and standard.
- Be well governed and demonstrate good governance and administration - cut wastage, spend public funds prudently, hire competent staff, ensure transparency and accountability.
- Ensure sound financial management and accounting, and prudently manage resources so as to sustainably deliver services and bring development to communities.
- Build and maintain sound institutional and administrative capabilities, administered and managed by dedicated and skilled personnel at all levels.

of the authorities. Jordaan built on this public sentiment and enlisted a coalition of forces in his project. His primary contacts were in the sporting community, religious and Northern Areas civic communities. Ironically, in the light of having spent his soccer playing in African townships, Jordaan was at times criticised for being biased towards coloured communities.

Under Jordaan there was an extensive crack-down on corruption in metro, with the emphasis on cleaning up the syndicates. “We are not going to allow corrupt officials to loot funds intended for development”, announced Jordaan at one of his first Council meetings. “The reports of the forensic investigations are now being finalised and we will act swiftly on their recommendations”. In orchestrating the crackdown, Jordaan’s team made maximum use of the municipality’s own powers, including its ability to initiate investigations, take disciplinary action and institute civil claims. There was some cooperation from other state agencies in this exercise, for instance the National Treasury Accountant General, the NT’s Forensic and Audit Services, the Hawks, SAPS crime intelligence, SARS and the NPA. The ability of these other agencies varied considerably, and where they did have capacity, they were usually reluctant to share intelligence. At the end of the day, none of them played a significant role in taking action during the period of Jordaan’s tenure, but it would be unfair to interpret this as no action at all, as the wheels of the criminal justice system turn more slowly<sup>17</sup>.

At least 10 senior managers either resigned, had their contracts terminated through mutual agreement, or were fired. The city manager, Mpilo Mbambisa, agreed to resign and be paid out a severance package of R1m. Although the public rankled at paying anything to see a manager leave, the team viewed this package as worth it, given that the City Manager had the legal authority to control all the disciplinary and civil cases, and importantly, to derail them if he wanted to (personal communications 01/09/2016).

An outsourced legal firm was used to run most of the disciplinary cases, since officials were afraid to serve as prosecutors and presiding officers and the labour relations department had serious capacity issues. There was also a very real question as to who in the organisation could be trusted with sensitive disciplinary cases<sup>18</sup>. As a consequence of the rather legalistic approach, many of the disciplinary cases were unduly stretched out, and the legal costs of the intervention escalated. This led Jordaan’s team to change tack and opt for negotiated exits and expedited disciplinary processes based on the review of documentary submissions. Following this approach, the Chief of Metro Police was dismissed for receiving unauthorised external remuneration, which allowed the municipality to appoint a new Chief to get the police force up and running (personal communications 01/09/2016).

The crackdown on corruption using available legal mechanisms was not confined exclusively to the realm of labour relations and disciplinary enquiries. Parallel with the labour and civil processes, there were also several High Court proceedings instituted to review and set aside unlawful administrative

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<sup>17</sup> Following the 2016 local government elections the Hawks, a corruption busting unit under the SA Police Service, have raided the offices of Access Management, the stadium operator, and seized certain documents. It is likely that more such raids are to follow.

<sup>18</sup> Furthermore, a Presiding Officer had to be senior to the employee charged, which limited drastically the pool of staff available where, for example, a director was charged. Moreover, in order to charge the Municipal Manager and Executive Director’s, a convoluted, time-consuming and tedious procedure is prescribed by the Municipal Systems Act viz., an independent investigator has to be appointed by Council, who must report his findings and recommendations to Council, which then has to resolve to charge or not. Only then can a disciplinary enquiry be instituted. In addition, the Act stipulates that an external/independent Presiding Officer must be appointed, which causes a delay due to availability, and increases the costs.

decisions arising from the collusive relationships established between officials in the Municipality and high profile private sector role-players. The forensic evidence and information gleaned from whistle blowers were consolidated with the information which flowed from the disciplinary enquiries. This was used to compile dossiers and a paper trail which was delivered to the Commercial Crimes Unit and other agencies, enabling them to follow the money without having to do the initial spade work (personal communications 01/09/2016). The evidence has also enabled the municipality to recover financial losses to the NMBM, or at least commence the process of recovery. These civil actions have been widely publicised in the media, and sent a clear signal of intent to the broader society.

Taken together, these actions have succeeded in making inroads into the criminal networks which operate in the city. The contracts where the greatest haemorrhage was occurring have been terminated, the officials abetting this haemorrhage have been removed from their posts, and the individuals and companies involved in these schemes are being investigated and sued. The large body of evidence and records created should translate into criminal prosecutions if the other agencies have the will and resources to pursue them. The actions have also opened space to bring in a new management team (personal communications 01/09/2016).

Jordaan appointed an experienced and capable local civil rights campaigner, Rory Riordan, as member of his Mayoral Committee for Budget and Treasury, and insisted on the municipality achieving a balanced budget (Herald 12/06/2015). This necessitated a staff freeze and some serious cutting of expenditure, including suspension of all international travel. The municipality also focused on curbing the excessive water and electricity losses, and getting defaulting ratepayers to settle their debts. The fiscal position of the municipality consequently improved, with cash balances growing to above R1,2 billion by the end of the 2015/16 financial year. A highly regarded city manager (who had project managed the Msunduzi turnaround) was appointed in an acting capacity until after the local government elections in August 2016, creating the space to allow the incoming Council to recruit a permanent city manager. Jordaan attracted some controversy with the appointment of a former intelligence chief and long-time ally, Linda Mti, as Executive Director for Safety and Security, and for rushing through the launch of the metro police service. While the opposition has branded this as an election ploy, there can be little doubt that Jordaan has substantially shaken up the system and started to improve service delivery.

At the same time all was not well more broadly within the ANC. The Regional Task Team (RTT) that had been appointed was a highly contested space, and there were still active factions operating within it. This was fuelled by an ongoing contestation for power by the Stalini faction and other provincially aligned forces. There were also ructions within the tripartite alliance with the largest municipal trade union, SAMWU, actively trying to derail Jordaan's agenda and prominently protesting at the launch of the metro police force. The ANC branch structures in the region remained weak, and the RTT was not able to overcome the established practice of gatekeeping, whereby ward membership was restricted to those who support a particular faction. In the build up to the elections, the ANC regional and provincial leadership tampered with the popular outcomes of branch and public meetings, and imposed candidates aligned with their own interests. This caused massive unrest and disruption, and left many ANC members alienated and demobilised. As a consequence of all of this, the ANC's organisational machinery for the coming elections was weak, particularly at a branch level (Herald 16/08/2016).

Although the 2016 election result<sup>19</sup> was widely predicted by opinion polls to favour the DA, the outcome surprised ANC activists in the region. The biggest single event was the ANC's loss of overall voter support, from 51,9% in the 2011 municipal elections to 40,9% in 2016. The DA, on the other hand, made substantial gains: from 40,1% to 46,7%. Ironically, the ANC won 36 out of the 60 wards in the metro, but did so with reduced margins. It seems that the ANC's traditional township base did not come out in the numbers that they expected, while the DA had worked relentlessly to get out the vote in the areas they controlled and thereby boost their overall numbers.

These factors point as much to an ANC 'own goal' as to the DA scoring a nevertheless significant victory. Despite some bold attempts to turn around the situation in Nelson Mandela Bay, the history of the party's performance in running the metro has largely been a dismal one. The succession of scandals over the last decade have had a steady debilitating impact on the attitude of voters, and even long time ANC supporters in the metro were disaffected because they believed the party was inept and corrupt. There are also demographic trends and an urban middle class dynamic that suggest the ANC has some significant headwinds to deal with<sup>20</sup>. The urban population of the country has shown that the party's reliance on calls to its historic liberation credentials will deliver diminishing returns. Instead, urban citizens are demanding corruption free, competent government with a real track record of results, and a positive forward looking agenda. The ANC was simply not able to convince the majority of voters that this was what it represented. In reviewing the election results Netshitenzhe (2016) notes that:

"At the party political level, a turnaround will depend in part on the ability of the ANC to rectify its internal weaknesses. .... The local government elections have shown that, if this does not happen ... – other political forces will take the baton: abstinence during the 2016 municipal elections would gradually translate into a growing vote against the ANC, and new permutations will then inform the South African body politic.

In the end, the local ANC leaders that did have integrity and a commitment to serve were not able to turn the tide of public opinion. The interventions that were made were late, and were not initially

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<sup>19</sup> The general trends show that the ANC has declined in electoral support across all provinces particularly since 2009, although the decline in KZN is more recent. In addition to the Cape Town metro, the ANC has now dipped below 50% of the vote in Johannesburg, Tshwane, Nelson Mandela Bay and Ekurhuleni. In the first three of these the ANC is now in the opposition, and the metros are governed by Democratic Alliance led coalitions. This ushers in one of most significant changes in the political landscape since the advent of democracy and the first democratic local government elections. Commenting on the overall 2016 result, Netshitenzhe (2016) noted that in terms of party performance, the ANC is in steep decline (PR: 65.7% in 2006 to 62.9% in 2011 and 54.5% in 2016); the DA's steep rise has slowed (16.3%; 24% and 27%); the EFF is not galloping either (6.35% in 2014 and 8.25% in 2016). The ANC decline is partly captured by these two opponents; but it reflects more of a stay-away vote – which itself sends an important message. Race largely still accounts for electoral choices, with the overwhelming majority of African people voting for the ANC and other parties that have a 'liberation struggle background'.

<sup>20</sup> The Integrated Urban Development Framework (IUDF) indicates that South Africa is urbanising rapidly. The United Nations estimates that 71.3% of South Africa's population will live in urban areas by 2030. Cities and large towns produce over 80% of the national gross value added and metros are growing twice as fast as other cities. Despite this, 'urbanisation of poverty' is increasing, especially in townships, informal settlements and inner cities. Long term trends in urbanisation mean that the voting population will become more concentrated in the major and intermediate urban areas, which accentuates the importance of sound governance in these municipalities.



sufficiently comprehensive to deal with the situation. It would be interesting to see what effect Jordaan's administration would have had over a longer period, as many of the initiatives begun under his watch seemed to be heading in the right direction. Ultimately, the initiative to install Jordaan as Mayor came too late to significantly turn things around for voters.

## Conclusion

It is not yet clear how a DA led coalition government will perform in the new environment and whether it will be able to continue the reform agenda of the Jordaan period. Its public pronouncements seem to set out a clear anti-corruption, back to basics approach, but there are elements within the DA led coalition that may not share all these objectives. A proper assessment of the recent interventions and their prospects of continuity under the new political leadership will take a greater efflux of time and some perspective to develop. However, I believe it is important to at least make some preliminary reflections on the intervention, not least because of its applicability to other municipalities.

The first point to note is that democratisation in Africa is not a linear process. Rather it needs to be viewed as a long-term institution building project, the progress of which is often uneven. As Bratton (1998) points out, it is a project that is fraught with obstacles and constantly threatened with reversal. Some of this is intrinsic to the nature of the transition process. Netshitenzhe (2016) notes that the coalition of liberation forces has its own internal contradictions, and the post-colonial state is heavily contested terrain. "It is the arena of endless wrestling, and it may oscillate from one extreme to another in terms of what liberation actually means". Nelson Mandela Bay is no exception, and it is possible to discern at least three distinct periods of reversal and renewal during the period we have been discussing.

The traditional set of measures to address corruption have focused on public administration reform and sound financial management. This includes strengthening supply chain and human resource provisioning systems, and insulating them from manipulation. But while capacity gaps within the administration are certainly a risk factor, it is also clear that the driving forces behind corruption are located far beyond the boundaries of the administration, and that the political milieu within which the administration is situated plays a strong role in dictating its course. Any programme to deal comprehensively with corruption has to look at the broader organisation of the political and economic system, and in particular the underlying relationships that exist between the state, the political class that governs it, forces within civil society, and firms that are located within the private sector. It is at the interfaces between these actors that attrition occurs, and specifically the relationships between:

- Political parties and their political representatives in government (such as Mayors, Speakers, Mayoral Committee), i.e. the manner in which political party mandates and policies get developed and conveyed to political leaders in government.
- Political leaders and administrators, i.e. the bureaucratic interface between appointed leaders (Mayors and Mayoral Committee members) and their corresponding civil servants (such as City Managers, heads of departments etc.).
- Party political leaders and firms, particularly around party political funding and opportunities for influence peddling and seeking advantage.
- Administrators and firms, in particular around service provision and contracting processes.

The party – state relationship has attracted particular attention over the last few years, as it has been at this interface that many of the problems, including those we have found in NMBM, originate. Managers lack the backbone or institutionalised systems to stand up to politicians and insist on legal mechanisms being respected. Politicians lack the discretion and experience of government to know the dividing line between robust political leadership and interference. A simple rule is to insist that politicians stay out of administrative (procurement and recruitment) decisions, but this is not always so easy in practice, since some procurement decisions and appointments require political approval processes.

Suffice to say, any intervention needs to comprehend and address these different relationships. The end-goal of intervention is less about preventing a relationship than it is about changing the nature and transactional character of the relationship. For example, in efforts focused on reducing state capture it is not practical to eliminate private sector influence on state policy, legislation and regulations. In fact, this kind of influence can be an important aide in pushing forward with a political and economic reform agenda.

“Rather, reducing state capture involves shifting private sector influence from illicit, non-transparent, and highly preferential channels of access towards legitimate, transparent, and competitive forms of interest intermediation. It also involved developing clearer boundaries between the political and business role of state officials in order to prevent conflicts of interest” (Pradhan 2000).

The obvious lesson to be drawn from this is that if you are intervening in a problem of this magnitude and intractability, the intervention must be sufficiently large scale, comprehensive and ambitious. As previous attempts to tinker with the situation have revealed, you simply cannot do it piecemeal or half-heartedly. In reviewing successful anti-corruption strategies, Pradhan notes that:

“the repertoire [of anti-corruption strategies] has been gradually expanding to target broader structural relationships, including the internal organization of the political system, relationships among core state institutions, the interactions between the state and firms, and the relationship between the state and civil society”.

Following on Pradhan, there seem to be five key areas that form part of any effective anti-corruption strategy:

- Having the right mix of **institutional restraints**, which include an effective criminal justice system, independent judiciary, prosecution and enforcement divisions, and proper legislative oversight (including public accounts committees in municipalities).
- Fostering **civil society participation**, which includes ensuring freedom of information, holding public hearings (which are taken seriously), and ensuring an active role for the media and NGOs.
- **Political accountability** in the form of genuine political competition, credible political parties, transparency in party financing, disclosure of Council votes, and rules in Council around asset declaration and conflicts of interest.
- Having a **competitive private sector** that competes fairly around projects, is not monopolistic, and which is transparent in terms of corporate governance. Some of the levers to achieve this are economic policy reform, regulatory simplification for entry, and active business associations.

- Sound **public sector management** with a meritocratic civil service that is adequately paid and appropriately incentivised, proper delegation and accountability, sound budgeting, expenditure management and procurement, including reporting and audit.

The Nelson Mandela Bay intervention had elements of all these areas, although not necessarily by design and many of which were underdeveloped. Its primary strengths lay in the realm of political accountability and public sector management. The NMBM had multiple lines of accountability extending outward to client parties. The intervention succeeded in severing most of these substitute relationships, and reasserting a centralised and hierarchical system of accountability for performance. The system needed to be dramatically shaken up to achieve this. The Mayor's outbursts of anger, usually (but not always) well targeted at lazy or corrupt officials, were particularly instrumental in reasserting a new order. The highly publicised disciplinary processes were another way the message was sent out. The primary achievement of the intervention was to re-establish relationships of accountability between the Mayor, the City Manager, and the rest of the bureaucracy.

The legal form of the intervention proved to be less important, and in fact the provisions of the Constitution for dealing with these kinds of problems have proven to be unwieldy and unproductive. Once the political mandate for the intervention had been established, and the local politics had been aligned around this, the rest fell into place. It would have been helpful at times for the intervention team to have particular powers, but in the end they were able to get very far in Port Elizabeth on the basis of a secondment letter from the Minister and a Council resolution supporting the intervention.

As has already been noted, various components of the criminal justice system have not, as yet, made any effective contribution to cleaning up the metro. However the weakest part of the intervention was its almost complete failure to look at civil society and private sector components, including the media. Despite active engagements with these sectors, there remained a level of distance and even suspicion that meant they were not enlisted as active partners in the project. There was no effort to create greater public oversight or access to information relating to underhand dealings. On its own initiative, the media in Nelson Mandela Bay (and the journalists at the Herald newspaper in particular) played an extremely active role in uncovering fraud and corruption, and the Herald remains one of the best sources for information on this subject. However no active mechanisms were put in place to facilitate their task or regularly brief them on progress. Jordaan himself, under siege during the FIFA probe, avoided the media during his first year in office. None of this augured well for the election campaign itself.

The other area of unfinished business is the unwritten rule book of party political funding. Much of the corruption in Nelson Mandela Bay started out under the guise of party funding. Political party funders are quick to assert their interests, and to put undue pressure on political leaders and appointees to secure decisions that favour them. Once political leaders embark on this murky road, it seems a small step to include a 'facilitation fee' in the next contract. As Netshitenzhe (2016) has noted:

"It is par for the course that party establishments and activities require material resources. The practice of returning favours for donations infects virtually all democracies, and it is not unique to post-colonial societies. This does add toxicity to party-state relations. To win a state tender, unscrupulous businesspeople would promise donations to the party first, even before assembling the capacity to meet bid requirements; and party leaders then intervene to undermine state processes, whether in government departments or state-owned enterprises."

Party activists enter this arena without the necessary guidance and support, and an astute moral compass is required. It is easy to pay lip service to state procurement legislation, but in reality the deals are much more indeterminate and morally slippery. Political parties in South Africa have opted not to disclose their funders and funding sources, but I think more work needs to be done in this area. What practices can be allowed, and what measures need to be applied in assessing each deal? Are there checks and balances that can be put in place to control this better?

In closing, it is worthwhile to reflect briefly on the political economy of corruption and corruption investigations. In the context of internal ANC battles for political control of the party, reform agendas themselves tend to be driven by party factional disputes, and this may well have been the case in Port Elizabeth. The work done by the ill-fated Councillor Mkavu to clean up graft in Human Settlements appears to have had ulterior political objectives. Some ANC politicians have suggested that even the appointment of Danny Jordaan and the clean-up initiated under his watch was part of a broader battle for control between the ANC's top six officials in the run up to the 2017 elective conference. The unique set of circumstances which allowed a major anti-corruption reform undertaking to be initiated in Nelson Mandela Bay, and the political space that opened up to allow the Jordaan intervention bears further analysis. Not every instance of corruption and its discovery has the same moment for action, but when the opportunity arises it must be seized to its full advantage.

Many anti-corruption initiatives in Africa have come unstuck because they concentrated on technocratic aspects of the intervention, and failed to anticipate and manage the broader socio-political context. Interventions inevitably take place into a dynamic situation, and the forces that are being targeted will inevitably organise a counter strategy, usually attacking the politics of the intervention itself. This is why ambitious anti-corruption campaigns in several countries have come unstuck in their implementation.

“Key structural reforms have been blocked by powerful vested interests. In some cases, politicians have hijacked the anticorruption agenda and used it to attack their rivals. .... One reason for the difficulties has been an overemphasis on technocratic measures in a uniform approach that does not take into account important differences among countries in the power and concentration of vested interests, the capacity of the state, and the channels of accountability between the state and civil society” (Pradhan, 2000).

The counter-mobilisation that took place, within the ANC and tripartite alliance against Danny Jordaan's administration bears this out. Some local politicians have noted that the collapse of the ANC's elections machinery was compounded by the elements within the ousted Stalini group actively demobilising ANC activists. These developments all point to the need to better understand the politics around reform agendas. Political economy as an academic discipline seems to have fallen somewhat out of favour, and maybe this is the time to reassert the merits of a sound reading of the 'state of the nation' prior to acting, not least to inform anti-corruption strategies.

The lessons from Nelson Mandela Bay are instructive for all of us as we continue the post-1994 institution building project in South Africa. Many of these lessons have been hard won, and were it not for the bravery and sacrifice of the actors described in this case study, we might not know the history of what happened at all. We owe it to them to continue their work.



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