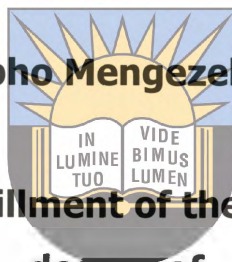


**A CRITICAL ASSESSMENT OF PUBLIC PRIVATE
PARTNERSHIPS AS A VIABLE AND APPROPRIATE
INSTITUTIONAL MODEL FOR THE PROVISION OF WATER
SERVICES IN QUEENSTOWN**

BY

Sipho Mengezeleli



Submitted in part fulfillment of the requirements for the

degree of

University of Fort Hare
Master of Public Administration
Together in Excellence

in the faculty of

Management and Commerce

At the

UNIVERSITY OF FORT HARE

SUPERVISOR: PROF. S. BUTHELEZI

JANUARY 2007

Declaration

I Siphon Mengezeleli declare that this report is my own, unaided work. It is submitted in partial fulfillment of the requirements of the degree of Master of Public Administration (in the field of Public and Development Management) in the University of Fort Hare, Alice.



S. Mengezeleli

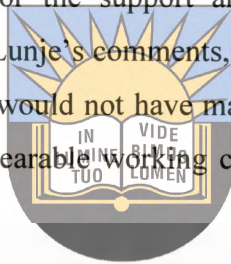
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January 2007

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Acknowledgements

I acknowledge and very grateful to the supervision work and time provided by Professor Sipho Buthelezi, the time provided by interviewees from Lukhanji Municipality and Water Services South Africa (WSSA) officials. Special acknowledgement and gratefulness goes to my family, my wife **Bacca**, and two lovely children, **Lunje**, and, **Likhokele Joshua Mengezeleli**, for the support and tolerance with the time spent studying. I will always remember, Lunje's comments, "Tata, uzakulala e-study". Without their support and encouragement I would not have managed to finish this work, especial in the wake of unfriendly and unbearable working condition I have been subjected to, during this period.



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Secondly, I will be failing, if I can forget to extend my appreciation and gratefulness to the Eastern Cape Provincial Department of Local Government, Housing and Traditional Affairs, for providing funding and opportunity to upgrade my academic level and career.

Finally, I thank and give all glory, to my Lord, Jesus Christ and the Father, for the divine courage, and support provided to me to conclude this piece of work.

Abstract

Since the first democratic local government, one of the biggest challenges of municipalities in South Africa has been to ensure that local government is transformed to reflect a developmental character that provides efficient and equitable services to all communities. Mobilising resources and building appropriate institutional capacity have become critical for successful implementation of local economic development initiatives and the provision of services. The lack of financial resources and institutional capacity within government and, the challenge faced by government to deliver services, has led to a search for an appropriate institutional model and policy to engage the private sector. Public Private Partnerships (PPPs) have emerged as an appropriate institutional model for service delivery. As a result government has initiated new policy initiatives and programmes piloting Public Private Partnerships in the provision of water services in the Eastern Cape, and other provinces.

The objective of this study is therefore, to conduct an assessment of PPPs as a viable and appropriate institutional model for service delivery. An examination of Queenstown water and sanitation management contract is used as a case study to review the process, the form, the content and the implementation of the partnership arrangement, within the economic and legislative policy framework.

The assessment has to a large extent proved that both in terms of perception and reality, Public Private Partnerships are not *viable* and an appropriate institutional model for service delivery. Based on the ideological premise

which borders between pro- and anti-privatisation arguments, one can safely conclude that, the literature review and interviews conducted with regard to the Queenstown management contract, in particular, points out that PPPs are rather the *preferred* option by both former apartheid and the current government. The legislative and economic policy framework supports and encourage the implementation of PPPs. However, the study has proved that government in general and municipalities in particular do not have the capacity to regulate and monitor the implementation on such policies. As a result private sector has been dominant in partnership relations. The fact that such relationships had to be regulated was as a result of a *reality* that the private sector, by its nature would prefer a partnership arrangement that provides profit for them. However, the Department of Constitutional Development and later the National Treasury recognised that there were many weaknesses with the management contract and tried to ensure through their guidelines and regulatory framework that these weaknesses are dealt with. However, the study also demonstrates that, despite the fact that government did not provide adequate support to the municipalities to manage the process and content of private sector partnerships; it has also not sufficiently addressed or paid attention to the public sector delivery options. While the municipalities do have an obligation to explore public sector options for service delivery, through corporatisation, the public –public partnerships and other means, such options have not been encouraged.


In essence, the logic that drives the Public Private Partnership companies does not practically correspond with public and social developmental objectives of government, and the needs of communities. The study has proved that the lack of administrative capacity in national, provincial and

local governments is a major problem in managing the smooth transition from public dominated to private service delivery. The Queenstown management contract has demonstrated that the municipality has to carry major technical and financial risks through out the contracted period. The private sector will always be accountable to, and will safeguard the interests of its shareholders than those of the community.



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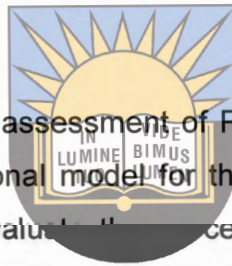
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**CRITICAL ASSESSMENT OF PUBLIC PRIVATE PARTNERSHIP AS A
VIABLE AND APPROPRIATE INSTITUTIONAL MODEL FOR THE PROVISION
OF WATER SERVICES IN QUEENSTOWN.**

CHAPTER ONE

PROBLEM STATEMENT, MOTIVATION, OBJECTIVES

AND SCOPE OF THE STUDY



The study constitutes a critical assessment of Public Private Partnerships, as a viable and appropriate institutional model for the provision of water services in South Africa. The study will evaluate the success, the form and content of the existing Public Private Partnership initiative for the provision of water and sanitation services in Queenstown in the Eastern Cape Province of South Africa, as a case study.

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Introduction

In recent years, local institutional development has been recognised as crucial for the overall development success and as an appropriate institutional mechanism for extending the provision of services to historically disadvantaged or marginalised communities. As a result, the majority of investors have shifted their focus from national institutions, and instead, turned to funding and promoting local institutional forms such as public private partnerships and community-based Public- Public Partnerships.

In an attempt to illustrate this shift, the United States of America Agency for International Development USAID (1983) presently, states that as a matter of policy,

...investments in national public institutions must be balanced both by the establishment of decentralised institutions at regional and local levels and by encouragement to the private sector. Balanced assistance of this sort is essential if excessive central control is not to inhibit private and local initiatives (Uphoff, 1986: 2).

Concurrently, the conceptualisation, and the form of effective and efficient local institutional arrangements for development and service provision became an ideological debate amongst development practitioners, investors and donors.

Problem Statement

The first democratic government in South Africa was from the beginning, confronted with the challenge of restructuring and transforming the local municipality into an efficient, economically viable and developmental local government. New institutional models and policies were needed to reconstruct and transform the administration and management approaches capable of delivering on the developmental agenda of the government, and to ensure that services are delivered and extended efficiently to the previously disadvantaged communities.

Many municipalities were faced with financial and institutional capacity constraints. As a result of this situation, the national government initiated new economic development policies and public management approaches that promote the involvement of the private sector in the provision of services and management of development initiatives. Municipal Service Partnerships, in the form of Public Private Partnerships were promoted as preferred institutional models for delivery of service to communities. Water and sanitation was the first sector to be affected by the introduction of these forms of partnerships, in the form of various management contracts between the private sector and municipalities in the Eastern Cape.

The introduction of Public Private Partnerships as institutional mechanisms for the provision of services to the people has over the past years generated a lot of theoretical, ideological and policy debate. The viability and appropriateness of this model as a preferred option to deliver services efficiently and effectively has been met with many challenges.

Different arguments from the anti-privatisation schools of thought and pro-privatisation and/or advocates of the new public management approaches to service delivery have emerged both from an economic and public policy management point of view. A comparative research conducted by the Eastern Cape consultative Council (ECSECC), in 1999 has revealed that, both in theory and in practice, there is growing dissatisfaction with the current Public Private Partnerships model for delivery of water services to communities. This is due to a number of problems associated with the profit motive of the private sector, which results in the commodification and commercialisation of water as a basic human right service.



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This study is, therefore, attempts to look at this problem by evaluating the existing Public Private Partnerships model for the provision of water and sanitation service in the Lukhanji Municipality (Queenstown).

Motivation for the Study

This research study is motivated by the need and the challenge faced by various municipalities to deliver services for rural communities in the Eastern Cape, and my practical experiences to make decisions, and provide strategic advice on viable delivery models for the provision of municipal services in Mquma Municipality. The challenge of creating institutional mechanisms capable of delivering services and managing development initiatives effectively and efficiently is a critical one for development practitioners. From time to time there is need to evaluate the current options in order to identify gaps and areas for improvement and replication to a new environment. It will be of value to go back

to Queenstown and review the current status and impact of the Public Private Partnerships contract in enhancing the capacity of the municipality to deliver efficiently and change the lives of the local communities.

Research Objectives

The objective of the study is to conduct an in-depth assessment of the theory and practice of public private partnership, as the preferred institutional model for improving service provision and living standards of the people. The study will review and test the validity of the neo-liberal hegemony approach to service delivery and development management, by interrogating the status and impact of the current water management contract in the Lukhanji Municipality.

An evaluation of the success and failures of public –private municipal service partnerships as a viable option for provision of services will also be done. This will entail the establishment of yardsticks to measure the following issues:

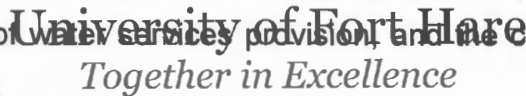
- the validity and acceptance of the process followed;
- the quality of service rendered, both in terms of perceptions and reality;
- an indication of the extent to which service provision has reached the previously disadvantaged communities (access);
- an indication of the degree to which the partnership has contributed to more equitable service provision in these previously disadvantaged communities;
- measurements of cost effectiveness and cost recovery processes; price of services to consumers;
- impact of the partnership on workers in terms of qualitative and quantitative improvement or decline in working conditions;
- degree of accountability and forms of governance;
- indication of the ability to access funds by development facilitation vehicle including the accessing of investment by service partnerships;
- to evaluate the potential of partnerships to capacitate local authorities and communities to ensure sustained and broadened service delivery; and

- to make recommendations based on the findings on the form and content of the municipal service partnership option for water provision;

The study will identify gaps, and draw lessons in order to develop and provide some suggestion to improve or refute the concept of public private partnerships as the preferred option for municipalities to provide water as a public service.

Scope of the Research

The research focuses on the type of public private partnership model established in the Eastern Cape as a tool for municipalities to provide services. It is mainly going to interrogate the economic arguments that inform the policy framework, conceptual definition and forms of municipal service partnerships as options to improve service provision by municipalities. In addition, the study is going to critically review the form, content and processes followed in establishing the existing model of Public Private Partnerships and its impact on improving the quality and quantity of water services provision, and the conditions of people at Lukhanji Municipality.



Research Methodology

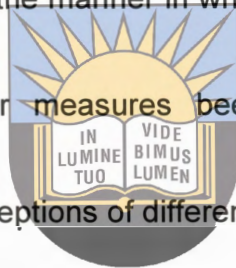
This section describes in detail a system of methods and procedures to be deployed in collecting information and the data relevant to the research study. In conducting this case study different research methodologies are applied. The methods that were used include the following:

- literature review which entailed content analysis of primary and secondary sources as well as qualitative and quantitative literature studies and analysis;
- use of on site visits to the water purification plant and bulk supply site (Bongolo and Water Down Dam).
- in-depth interviews with key stakeholders from community organisations, beneficiaries, municipal employees, management, political office bearers and officials from the private partner (WSSA). The tool used for these interviews is

a generic questionnaire that was self administered with informal discussion on specific issues.

The questions that were covered include but were not limited to the following:

- what is the tendering process that was followed and, has project implementation not shifted to tender specification?
- has the implementation been happening in accordance with the contract terms?
- what problems and challenges have been encountered?
- are all parties satisfied with the manner in which the contract is managed and implemented?
- have corrective actions or measures been taken to comply with the regulations? and
- what are the views and perceptions of different stakeholders?



The study method involved a review of existing and available primary and secondary literature to provide information that would either support or refute the work of others. Literature provided an appropriate background and the current state of knowledge on the area of concentration. In applying and deploying the literature, the study acknowledges previous works, demonstrates critical review of previous work, as well as presents the logical continuity between previous and present works. Literature review included official and unofficial records from the municipality and the private company to establish the current status in terms of finance, technical and institutional perspective.

Organisation of the Study

The first chapter of literature review examines the conceptual definition and understanding of water privatization and related concepts, the description of the different forms of public private partnerships.

The second section deals with an overview, explanation and description of the socio-economic context that informs Municipal Service Partnerships policy in South Africa. It is a fact that every policy initiation and formulation is provoked by a need to address a particular problem in a society. The strategy that is employed to implement such policy is also crafted in a manner that seeks to achieve or meet the objectives set up in the policy. It is therefore, important to outline the economic imperatives that underpin municipal service partnerships in the context of economic policy evolution.

Thirdly, the literature review also deals with an overview of the South African legislative and regulatory framework for Municipal Service Partnerships, as well as the description of the water services policy framework. This assists in understanding the legal prescriptions in relation to the actual practices in the process of establishing and managing municipal service partnerships. The fourth section provides an overview of the theory and practice of water privatisation.

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Finally, an evaluation of Likhnanji Municipality's water municipal services partnership model is reviewed both in terms of existing literature with a quick survey of the current situation. This is done with an understanding that, this is not the first research to be conducted in this area and field of study. It is acknowledged that some researchers have done comparative studies in the area for both academic purposes as well as to inform further government policy processes on municipal service partnership models for service delivery.

CHAPTER TWO

PUBLIC- PRIVATE PARTNERSHIP CONCEPTUAL FRAMEWORK

Introduction

An attempt to conceptualise Public Private Partnerships has to draw from McDonald and Ruiters' (2005) argument that one of the biggest conceptual hurdles or the point of departure in defining privatisation is that all forms of PPPs or municipal service partnerships must be seen as a social intensification of capitalism, and a shift in state-society relationships rather than just a mere collection of particular corporations taking over or partnering in the management of providing a public service. They argue that, with regard to the provision of water services the growing emphasis on PPPs highlights a trend towards the commercialisation of water through private sector involvement.

...the trend is clearly towards increasing privatisation and commercialisation, particularly in the form of public sector corporatization where publicly owned and operated water systems are managed like private businesses, leading to harsh cost recovery measures such as repossessing houses, water cutoffs, prepaid meters, and drip-valves that restrict water supply to the poor; all of which have spurred widespread civil insurgency and citizen disengagement (McDonald and Ruiters, 2005:14).

That defines the context of conceptualising public private partnerships in general.

Definition of Concepts- Public Private Partnerships

In the South African context and in terms of the National Treasury regulations manual, Public Private Partnerships or PPPs refers to a commercial transaction between an institution and a private party in terms of which the private party:

- performs an institutional function on behalf of the institution;
- acquires the use of state property for its own commercial purposes;
- assumes substantial financial, technical, and operational risk in connection with the performance of the institutional function and /or use of state property;
- receives a benefit for performing the institutional function or utilising state property, either by way of:
 - consideration to be paid by the institution which derives from a revenue fund;
 - charges or fees to be collected by the private party from the users or customers of a service provided to them; or
 - a combination of such consideration and such charges or fees (**National Treasury PPP Manual, 2004:4**).



Though PPPs are contractual agreements between the public sector and a private party, they are not conclusively defined as simply outsourcing of functions, donation by private sector for public good, full privatisation of state assets and liabilities, commercialisation of a public function and/ or borrowing by the state. Public Private Partnerships may take a different character in terms of process, form and content. However, their definition borders between the pro and anti privatisation policy debate.

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Privatisation

In its narrow sense, privatisation occurs when the state sells its assets to a private company, along with all of the maintenance, planning, and operational responsibilities. In this case the state plays a monitoring and regulatory oversight role. Most municipal privatisation schemes today do not involve any transfer of state assets, focusing instead on the transfer of operational and managerial functions to private companies (e.g. meter reading, personnel management, strategic planning, and maintenance). Infrastructure and equipment typically remain in public hands. These are typically known as private sector partnerships (PSP) and are commonly referred to as PPP institutional arrangements, which are in actual fact a form of privatisation (McDonald and Ruiters, 2005:14).

Commercialisation and Corporatization

Making reference to water commercialisation, McDonald and Ruiters (2005) define it as a process by which market mechanisms and market practices are introduced into the operational decision making of providing a service, e.g. profit maximisation, cost recovery, competitive bidding, cost benefit analysis, performance targeted salaries, ring-fenced decision making, demand driven investments. This is in opposition to the more traditional public sector operating principles of integrated planning, cross subsidization, supply driven decision making, equity orientation among other things. The most popular institutional form of commercialisation is corporatization, where services are ringfenced into stand alone business units owned and operated by the local state but run on market principles. This refers to financial and managerial ringfencing of functions and the creation of business units to be managed by officials operating at arms length from the municipal authority (*Ibid*, 2005: 17-18).

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Commodification

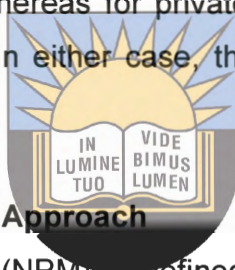
McDonald and Ruiters state that a commodity, in neoclasical terms, is anything that can be bought and sold in the marketplace in exchange for another commodity or for money. They further state that commodification therefore is any practice, or policy that promotes or treats a good or service as an article of commerce to be bought, sold, or traded through market transactions. According to the neoclassical theory, to be commodified, a good or service must have the characteristics of a private good and it must be excludable (people can be denied access if they do not pay).

Commodification entails the transformation of relationships, formerly untouched by commerce into commercial relationships. It is not simply an act of attaching a price to a good or service that used to be provided free, but a systemic and comprehensive transformation of our material lives. It is the driver of privatisation, commercialisation and corporatization and ultimately the process of facilitating a

transfer of ownership and control of resources from public to private hands (McDonald and Ruiters, 2005: 19-21).

Cost Recovery

The cost recovery concept defined within the context of provisioning of services is according to McDonald and Pape (2003:18) the recovery of all or most of the cost associated with providing a particular service by a service provider. For publicly owned service providers, this may or may not include a surplus above or beyond the cost production, whereas for private sector providers it necessarily includes a surplus (i.e profit). In either case, the objective is to recoup the full cost of production.



The New Public Management Approach

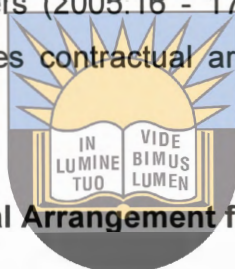
The New Public Management (NPM) is defined as a problematic concept that refers to a set of methods and techniques which are frequently part and parcel of any given public sector management reform. According to Hoggett (1994) the NPM more broadly, refers to a collection of more flexible strategies in terms of service delivery and human resources. Terry (1998:195) regards the NPM as the product of the liberation management and market driven management approach to public management. On the other hand Osborne and Gaebler (1992) add that market-driven management is guided by neo-classical economic belief in the primacy of markets and of private sector management. Cerny (1997a: 266) concludes the discussion by stating that NPM refers to marketization of public services, usually facilitated by decentralisation strategies that introduce, intentionally or otherwise, market values into the public sector management (Dempsey, Year: 33 - 37).

Forms of Public Private Partnerships in Water Services Provision

The term privatisation when applied as a generic expression provides a range of varying degrees of private sector involvement in the provision of public services. The literature on privatisation covers a wide range of interpretations and

definitions of the term. It can broadly be defined as the systematic transfer of state functions and assets from the public to the private sector. According to Heymans (1991:154) privatisation, "implies the replacement of state management and planning by competitive markets."

In other words, privatisation is not just partial or full sale of state assets, but also a delegation of government functions to private companies. This delegation can occur through formal contracts, with the type of contracts ranging from simple service provision to full concession (Ecsecc, 1999:8). Concurring with this definition, McDonald and Ruiters (2005:16 - 17) state that, as such there are different forms of water services contractual arrangements based on the PPP concept as indicated below.



Different Forms of Contractual Arrangement for Water Privatisation

Table 1:

DIFFERENT FORMS OF WATER SERVICES PRIVATISATION'	
Full Divestiture	Divestiture refers to a situation where a water and/or sanitation utility has been fully privatized. Ownership of the utility rests with the private operator. The private operator is responsible for operation and maintenance, investments and tariff collection. The private utilities operate under the supervision of an independent public regulatory authority.
Service Contract	This is the least risky of all partnership types. The public authority retains responsibility for operation and maintenance of the service, but specific components of the service (for example operating water treatment works or billing) are contracted out to the private sector. Service contracts usually have duration of one to two years, due to the fact that the

	problems they address may be unique and short-lived. The local authority does not relinquish any managerial functions.
Management Contract	The management contract operates and maintains the service or parts of the service and may also undertake to reshape the system. The public authority monitors the private agent but remains responsible for new investment. Management contracts tend to cover a time-span of two to ten years.
Lease or affermage	The lessor rents the facility from the public authority, which transfers complete managerial responsibility for operating and maintaining the system to a private company. Such contracts generally have duration in excess of ten years. The contract specifies reporting requirements and service standards. Payments are split into fixed and volume-related amounts. (Affermage is a French term for 'farming out')
Concession	In this investment-like contract the concessionaire has overall responsibility for the services, including operation, maintenance, and management as well as capital investments during the concession period. The concessionaire is also responsible for tariff collection and 'customer management'. The ownership of fixed assets is assigned to the local authority at the end of the contract. The contract, usually signed after competitive bidding, covers a period of 25 to 30 years. Regulation is by contract.
Boot	Build, Own, Operate and Transfer contracts are generally used to construct new parts of a service

	<p>system such as water treatment plants, dams and wastewater treatment plants, but for small water developments as well. The private operator builds the plant and assumes responsibility and maintenance. After predetermined time the facility is transferred to the public authority. The length of a BOOT contract is typically 25 years.</p>
<p>Community/NGO Provision</p>	<p>Community and non-governmental organization (NGO) provision- an often neglected form of privatisation-involves the transfer of some or all of the responsibility for water provision to the end user or a not-for-profit intermediary body. This is particularly common in low income, urban settlements in the South where local governments have asked community members and community organizations to supplement weak or non-existent water and sanitation facilities/resources with their own labour (e.g digging wells, laying or repairing pipes). Women tend to carry the burden of this form of privatisation. NGOs play a key role as well, often taking on management and water allocation responsibilities.</p>

Source: Mc Donald and Ruiters (2005:16)

The concept of and discussion on privatisation is not limited to direct private sector participation and control, of equal importance is the applicability of private sector principles and mechanisms. For example, the commercialization of water services and commodification of water as a natural resource and a basic human right and public service should form part of the PPP debate and definition.

CHAPTER THREE

SOCIO- ECONOMIC POLICY FRAMEWORK FOR MUNICIPAL SERVICE PARTNERSHIPS

Introduction

In attempting to contextualise the socio- economic background that sets the introduction of public private partnership model for managing development and provision of services in South Africa, McDonald and Pape (2003) states that an examination of the international context of South Africa's post-apartheid transition is necessary. They argued that, While Structural Adjustment Programmes were opening most African economies, the apartheid regime remained cloistered behind economic sanctions. However, Bond (2000) has chronicled in detail, that international financial institutions like the World Bank did not wait until the first democratic elections to woo South Africa's political and economic leaders into market-force's camp,


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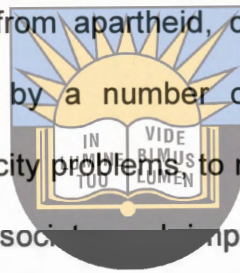
By 1996, when the South African government abandoned the redistributive Reconstruction and Development Programme (RDP) for the neoliberal Growth, Employment and Redistribution (GEAR) economic strategy framework, the World Bank's dark victory was nearing its final stage (Bond, 2000).

Under the market-oriented GEAR, South Africa embarked on a range of legislative and policy ventures that entrenched the power of corporate capital at the expense of workers and poor citizens in the country. While policies and laws

often maintained some populist rhetoric, the underlying economic and political principles were informed by neoliberal principles of globalisation: fiscal restraint; export orientation; privatisation, and corporatisation; financial and trade liberalisation and cost recovery. This shift was nowhere more evident than in the area of local government and service delivery (McDonald and Pape, 2003: 2).

The Macro Economic Policy Context: Public Private Partnerships

The South African transition from apartheid, colonial and capitalist system of government is characterised by a number of socio- economic as well as institutional and financial capacity problems to meet the challenges of building a new non- racial democratic society and improving the lives of the people, particularly, the historically disadvantaged communities.



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On a broad macro- economic level the South African Government is faced with a challenge of providing an economic policy that responds to issues of economic growth and redistribution of resources to all sectors of the society, in an equitable manner that addresses the past imbalances. The South African government after winning the elections in 1994 adopted Reconstruction and Development Program (RDP) as an economic and development policy framework for the country. Within two years after the adoption of the RDP the South African Government established the Growth, Employment and Redistribution Policy, known as GEAR in search of an appropriate economic development path to meet the challenges

of the transition and demands for better life for all. This shift was based on the key objective principle to find a linkage between reconstruction and development.

Background to Growth Employment and Redistribution (GEAR)

In 1994, the African National Congress (ANC) and its alliance partners embarked on a process defined by Nelson Mandela as,

...the end of one process and the beginning of another. The process now underway is that of developing the detailed policy and legislative programme necessary to implement (Reconstruction and Development Programme) RDP (ANC, 1994). The RDP is defined as an integrated, coherent socio-economic policy framework, that seeks to mobilise all our people and our country's resources towards the final eradication of apartheid and the building of a democratic, non-racial, and non sexist future (ANC, 1994:1).

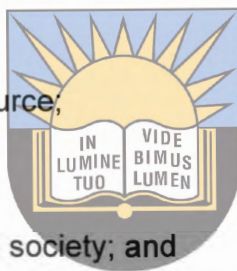
The Reconstruction and Development Programme (RDP) is based on six principles, which linked together, they make up the political and economic philosophy that underlies the whole RDP:

- an integrated sustainable program;
- a people driven process;
- peace and security for all;
- nation building;
- the linking of reconstruction with development; and
- the democratization of South Africa.

Peet (2002) stressed that the key economic policy principle is the one that links reconstruction and development. He argues that the architects of GEAR

exploited this principle. They argued that a much higher economic growth rate was needed to achieve social objectives. This growth required transformation to an outward-oriented economy centered on a competitive platform for a powerful expansion by the tradable goods sector within a stable environment for confidence, that would allow for more profits in private investment and flexibility within a collective bargaining system (Government of the Republic of South Africa, 1996). The key policy programmes of the RDP are identified as:

- meeting basic needs;
- developing our human resource;
- building the economy;
- democratising the state and society; and
- implementing the RDP.



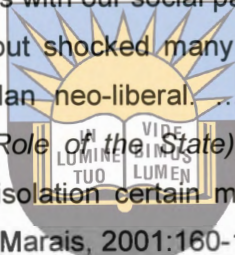
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The economic problem that the RDP sought to deal with was the complexity characterised by a deep seated structural crisis, that required fundamental reconstruction of the economy that has been for decades marked with the exclusion of the majority, regional disparities, growth stagnation, racist and sexist policies, inefficiency and inequality, and concentration of economic power in the hands of a minority. One of the basic principles critical in the RDP was linking reconstruction and development. It is the search for this link that led to the economic shift from the RDP policy and strategy approach to the invention of Growth, Employment and Redistribution (GEAR).

From its inception GEAR drew different views and caused a considerable divide within the African National Congress, the Congress of South African Trade Unions and the South African Communist Party alliance partners in government.

According to Marais (2001)

South Africa's surplus of acronyms was augmented in June 1996, when the government rushed out its macro-economic strategy. Finance Minister Trevor Manuel immediately declare the Growth, Employment and Redistribution (GEAR) plan non- negotiable in its broad outline, although the government was willing to negotiate the details with our social partners...Gear prescriptions lit the faces of business leaders but shocked many within the ANC alliance. Critics immediately dubbed the plan neo-liberal...A 1996 government document (*Gear, the RDP, and the Role of the State*), sent out to provincial leaders, pointedly admitted that, in isolation certain measures in GEAR are similar to many neoliberal packages. (Marais, 2001:160-161)

The logo of the University of Fort Hare, featuring a shield with a sunburst at the top, a book in the center, and the motto 'IN VIDE LUMINE TUO' on a banner below. The shield is flanked by two columns.

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In terms of its set objectives, GEAR promised to achieve economic growth with job creation and redistribution. According to Marais, "GEAR promised to increase annual growth by an average of 4,2 per cent, create 1,35 million new jobs by the year 2000, boost exports by an average 8,4 per cent per annum through an array of supply-side measures, and drastically improved social infrastructure...The plan hinged fundamentally on an implausibly massive increase in private sector investment. This would be elicited by:

- slashing state spending to drive the budget deficit down to 3 per cent of the GDP by the year 2000;
- keeping inflation in single digits;
- reducing corporate taxes and providing tax holiday for certain investments;
- gradually phasing out completely exchange control regulations;

- encouraging wage restraint by organised workers;
- creating a more flexible labour market, possibly by deregulating certain categories of skilled work and exempting small businesses from aspects of the new labour regime; and
- speed up privatisation.” (Marais, 2001:162-163).

In a nutshell, the strategy put more emphasis on economic growth on the shoulders of the private sector as a source of private investment, and service delivery through public- private sector partnerships. The argument was that the state would in that way be able to trim its spending, mobilise private sector capital, and reduce state debt. This was in many ways the successful entrenchment of the neo-liberal approach as an economic growth path for South Africa. This fact was also alluded to by the Eastern Cape Socio Economic Consultative Council (Ecsecc) research report (1999):



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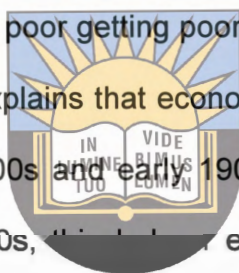
Many of the strategies of GEAR are those of neo-liberal economists in other countries- economic liberalisation, deregulation and privatisation. The private sector is seen as the engine of economic growth, within the context of an open, export orientated economy, which is sufficiently de-regulated and flexible to allow South African industry to become internationally competitive. (Ecssec, 999: 14).

The report further states that GEAR identifies the need for a process of the restructuring of state assets, with privatisation a part of this. It talks about restructuring as involving both total and partial sale of state assets. It also

identifies public private partnerships as one option for the financing of infrastructure such as electricity, water, sanitation, transport and telecommunications (*Ibid*, 1999:21).

The Neo Liberal Approach and Privatisation

Martinez (2000) defines Neo-liberalism as a set of economic policies that have been common in the United States during the last 25 years, and its outcomes are the rich growing richer and the poor getting poorer. Referring to the history of this economic policy, the author explains that economic liberalism was applied in the United States through the 1800s and early 1900s. Then there was a period of Great Depression in the 1930s, which led an economist named John Maynard Keynes to develop a theory that questioned liberalism as the best policy for capitalists.



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Martinez states, that the liberal policies are based on the principle that, full employment is necessary for capitalism to grow and it can be achieved only if governments and central banks intervene to increase employment. He further, states that there was a general belief that governments should advance social development. However, in the last twenty-five years profit rates have decreased and the capitalists have influenced big business to revive economic liberalism. That is why it became the neo or new and also because of the fast growing globalization of the capitalist economy, neo-liberalism is at a global scale.

Wikipedia encyclopedia defines capitalist economy as follows:

In mainstream economics, a capitalist economy is one where the overwhelming majority of decisions regarding pricing, production, and distribution of goods and services are made through market interactions by the private sector in a free market. With private ownership of the means of production procured by the investment of capital. However, exactly where to draw the line in labeling economies is a matter of some debate (*Wikipedia, 2005.*)



Martinez (2000) further propounds that around the world, neo-liberalism has been imposed by powerful financial institutions such as the International Monetary Fund (IMF), the World Bank and the Inter-American Development Bank. These international financial institutions have over the years influenced and shaped national economies of the world through a process called globalisation, and imposition of economic relations that favour developed capitalist countries, such as United States of America and Britain. South Africa was also integrated and influenced by global economic changes which came in the form of Structural Adjustment policies and programmes.

Structural Adjustment Policies and its application

Structural Adjustment Programme and Policies means that, countries which need financial assistance from the IMF and World Bank have to be premised on a neo-liberal economic ideology as the preconditions to receive the money, for example:

- they prescribe cut backs, "liberalization" of the economy and resource

- extraction/export-oriented open markets;
- the role of the state is minimized;
- privatization is encouraged as well as reduced protection of domestic industries;
- lowering the value of currency, increased interest rates, “flexibility” of the labor market, and the elimination of subsidies such as food subsidies; and
- attractiveness to foreign investors by reducing or removing various regulations and restrictive standards.



The South African government was not left untouched by the neoliberal prescriptions and policy directives of the route taken by GEAR as an economic development path, embraced these policies at an early stage. This economic and development policy shift and the role of the international financial institutions was well illustrated by FitzGerald and Munslow (1999),

In the first year of democratic rule under the ANC/NP/IFP government of national unity (GNU), the RDP seemed to provide an icon for the new South Africa. Yet, astonishingly, this icon was consigned to the back seat in less than two years...the RDP office was virtually abolished in March 1996, and the RDP itself effectively replaced as the strategic development centrepiece by the plan for Growth, Employment and Redistribution (GEAR) in mid 1996.....

Further, explaining the rise and fall of RDP, FitzGerald and Munslow (1999) stated that,

...the Central Economic Advisory Services (CEAS) played a significant role in the drafting of the Green Paper along with the Development Bank of South Africa. The CEAS argued that the development and the reconstruction process

must essentially be driven by the private sector investment, hence optimum conditions needed to be created, by building business confidence, maintaining good fiscal discipline, and ensuring political and social stability (1999: 42 & 45).

This economic development policy shift was more evident at local government level where service delivery is happening, and challenges of governance are most visible.

Micro-Economic Policy Context: Public-Private Partnerships

At micro-economic and local level the first integrated and developmental local government, is faced with the challenge of establishing the role of local authorities in facilitating and implementing local economic development, and broadening services to previously disadvantaged communities with the limited financial resources available.



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After the amalgamation and integration of municipalities a number of these problems and challenges, particularly with regard to service delivery and capacity emerged. According to the Eastern Cape Socio-Economic Consultative Council research paper (1999):

Municipalities faced a range of other problems and challenges, many arising out of apartheid legacy. For instance, settlement patterns in all municipalities are extremely skewed and racially biased, with economic resources concentrated in the traditionally white local authority areas. A lack of housing within the municipal boundaries led to the proliferation of informal settlement, which lack basic services and the bulk and connector infrastructure necessary to put them in place. The living conditions of many living in municipalities are

extremely low, with high unemployment existing in most municipalities and considerable poverty (Ecsecc, 1999:22).

Mobilising resources, building institutional capacity and reaching consensus on strategies for local economic growth and forms of local institutions to drive local economic development initiatives and provision of services to communities became critical for municipalities. The involvement, commitment and co-operation of role players, local government, community based organisations, and private sector organisations became very important and necessary.



All these challenges confronting municipalities need financial resources as part of the solution. However, most municipalities suffer from major financial limitations and a limited resource base. Many have argued that while the responsibility and duties of municipalities have increased in terms of the new constitution and the related legislation, the amount of funding that the municipalities have has not- the problem of unfunded mandate. Chapter 7, section 152(1) of the constitution provides broad objectives and responsibility of local government as:

- to provide democratic and accountable government for local communities;
- to ensure the provision of services to communities in a sustainable manner;
- to promote social and economic development; and
- to encourage the involvement of communities, and community organisations in matters of local government.

Sub-section 2 further provides that, “A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection 1 above.” (*Constitution of the Republic of South Africa, 1996: 103*)

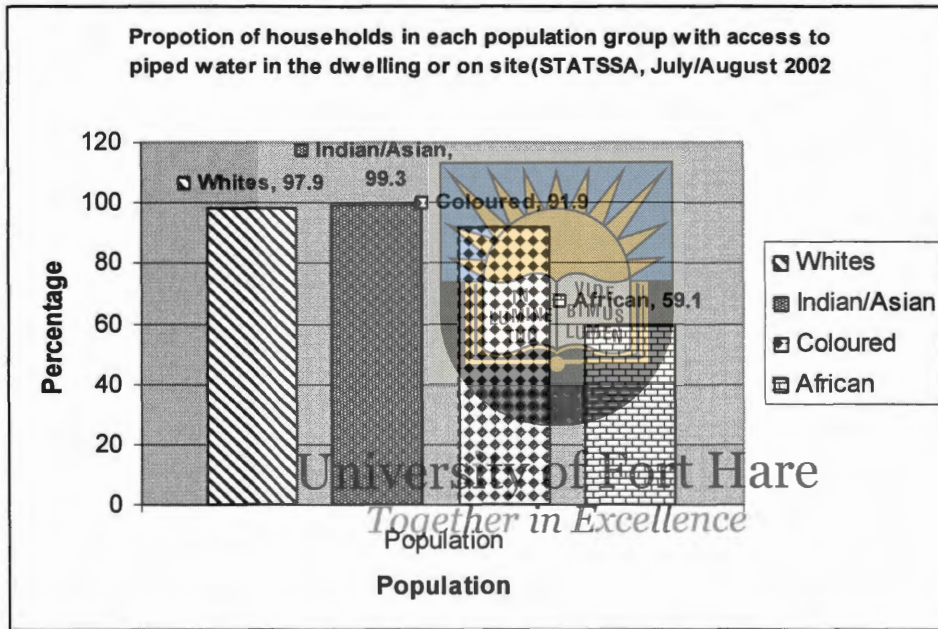
This broad mandate has in deed stretched municipality, who are expected to perform and achieve such objectives using their local revenue and economic base. As such national government’s role has been limited in providing support and monitoring in terms of legislative framework and policies, that encourage local authorities to seek private sector involvement for service delivery provision and local economic development facilitation.



Describing the situation, the Department of Water Affairs and Forestry (DWAF) White Paper, (1994), states that, the new municipalities were confronted by a huge backlog in infrastructure development. More than 12million South Africans do not have access to clean drinking water, 21 million people do not have access to adequate sanitation, 17 million people have no electricity, and 8 million have no formal road access to residential areas. This backlog is increasing as urbanisation increases, placing an increasing burden on the finances of local authorities. (Ecssec, 1999: 22).

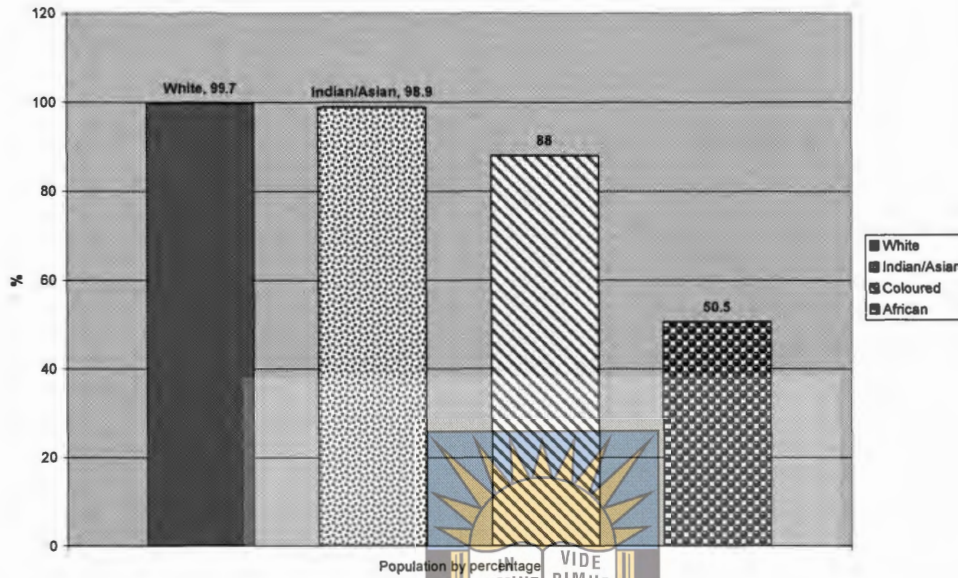
Despite the argument that, according to the department, between 1994 and 1999, through these various initiatives (PPPs), access to water has been extended to more than 3.1 million people in about 1,025 projects, the delivery rate seems not to be catching up with the demand (**Sowetan**, 17/2/99). However,

it must also be mentioned here that, there has been remarkable difference in terms of access to services between racial groups, with the majority of disadvantaged communities largely marginalised. The statistics in the table below confirm these challenges:



Source: Statistics South Africa (2003: <http://www.statssa.gov.za>)

SA Households with access to a hygienic toilet July/August 2002



Source: Statistics South Africa (2003: <http://www.statssa.gov.za>)

To meet this challenge, the government began to devise strategies and policy initiatives that promote and encourage state, local participation and community involvement, in the form of municipal partnership institutional arrangements for service delivery and local economic development. Within the context of the Growth Employment and Redistribution (GEAR) development policy framework, the South African government introduced a service delivery legislative framework that promotes the involvement of the private sector and privatisation in the local government sector. This was in the form of the Municipal Service Partnership Regulatory Framework which introduced public-private partnerships as a preferred option for financing infrastructure and service delivery. This meant that instead of municipalities being responsible for the actual delivery of services, municipalities became responsible for ensuring that services are delivered. Thus promoting the role of the private sector and minimising that of the state.

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One could argue that these strategies and institutional arrangements, such as Public Private Partnerships emerged effectively as a result of the failures of macro-economic strategy to address economic growth and redistribution of resources. These partnerships for development and service delivery emerged as formal and informal institutions, created and arranged to conceptualise, implement and monitor development initiatives as well as projects that provide services to communities. The issue that became a centre for discussion, debate and research in the evolution of these development partnerships has been and is around the form, content and process of establishing these institutions. That is an area that will be dealt with through the analysis of the case study.



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CHAPTER FOUR

THE LEGISLATIVE POLICY FRAMEWORK FOR MUNICIPAL SERVICES PARTNERSHIPS

Introduction

The socio- economic policy shift towards a neo-liberal approach inevitably translated itself into a legislative and policy framework that informed the developmental path for local government and service delivery. The transition from the apartheid era to the post-apartheid period was marked by theoretical debates and ideological shifts from anti privatisation and community driven development approaches to neoliberal pro-privatisation service delivery models which were eventually adopted.



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Legislative Policy Shifts in Municipal Service Delivery


Outlining the shift in the legislative and policy framework for local government and service delivery, McDonald and Pape (2003) mention that, during the early 1990s there was a lot of engagement by the Mass Democratic Movement (MDM) structures, articulating a post-apartheid local government and service delivery approaches. For example, the Congress of South African Trade Unions (Cosatu), in an Economic Policy Conference held in 1992 indicates:

There must be a redistribution of resources and power. This will have to be done by a process of state intervention combining nationalisation, anti-trust legislation, and other forms of legislative intervention including price control. A

process of redistribution must be carried out by.... increasing the production and provision of basic necessities of electricity, water, transportation, housing, education, health and welfare, food, clothing, and recreational facilities. The state must ensure that these basic services are retained in the public hands and any such services that have been privatised should be renationalised (2003:3).

In line with the above view, the South African National Civic Organisations states;

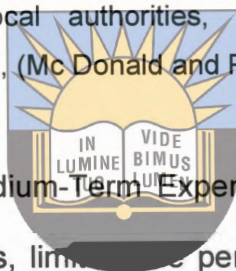
Past attempts at “development” have failed and have actively undermined communities and prevented real development because they have been apartheid –driven and market-led. Funding allegedly meant to help poorer black people went to the private developers and to prop up illegitimate apartheid institutions such as black local authorities and Bantustan governments. Inevitably, private developers, and better- off individuals have been the main beneficiaries of increasing free-market finding system...” (2003:3)



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However, in the early 1990s the progressive ideas of nationalisation and the redistribution of resources by the mass democratic movement, led by the African National Congress, shifted considerably during the transition from the apartheid government to the first democratic local government. The Local Government Transitional Act of 1993, and the South African Constitution of 1996, introduced new regulatory and policy directives on service delivery issues such as the rights of people to basic services, the principles of affordability and ultimately cost recovery for provision of services. Demonstrating the shift in the legislative framework, McDonald and Pape (2003) states that,

At a policy level, even as late as the 1998 Local Government White Paper, some of the ideas of the RDP era remained... Yet overall, the market continued to gain sway. The neoliberal model and its cost recovery component gradually came to dominate both national legislation and local government practice. With the steady cutbacks in central government location to local authorities as a result of GEAR, the market logic became more prevalent. For municipalities, reduced transfers from national government, coupled with expanded responsibilities, made cost recovery and cost cutting measures an almost inevitable choice...The hands of local authorities were further tied by the machination of the National Treasury. Apart from cutbacks on central government grants to local authorities, stringent measures of fiscal conservatism were imposed, (Mc Donald and Pape, 2003:5).



Through the GEAR-linked Medium-Term Expenditure Framework, the National Treasury imposed budget caps, limiting the percentage increase a municipality could make to any specific budget line item in a year. It also brought forward a draft Municipal Finance Bill which would bar national government guarantees for loans taken out by municipalities. These measures were complemented by the active promotion of public private partnerships (PPPs) through the Department of Provincial and Local Government's Municipal Infrastructure Investment Unit (MIIU). The MIIU actively undermined any notion of maintaining subsidised public sector –service delivery. PPPs ensured that private-sector business principles, like cost recovery, were able to gain more and more influence on the ethos of local authorities. This led to the outsourcing of functions in a bid to cut costs (*Ibid*, 2003:5)

The New Public Management Policy Approach- Outsourcing

The other dimension of this legislative and policy shift is an argument which advocates and promotes the New Public Management (NPM) approach to development management and delivery of service. The NPM is defined as a product of the liberation management and market-driven management approaches to public management. It also emerged within the context of the global neoliberal approach to economic development. In a critique of the market dominant model of government, Ferlie et al (1996: 18) noted the claim made by Osborne and Gaebler that, “We are moving ‘towards a new form of entrepreneurial government which is more concerned to use public resources in a new way to maximise productivity and effectiveness’ simply mimics much of the private sector literature.” (Dempsey, YEAR: 35)

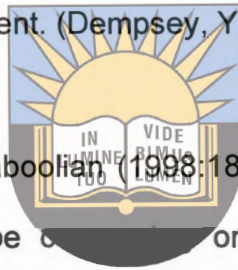


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Illustrating this global public management policy shift, Cerny (1994b:339) states;

By attempting to adapt to globalisation, states are being transformed into Competition States, regardless of the force of ideas. In tandem with NPM, the Competition State encourages the marketisation of public sector, while ignoring local political and administrative cultures. As a global phenomenon, the NPM model clearly entails ‘the undermining of public sector character of public goods and of the specific character of specific assets, i.e the privatization and marketisation of the political economic structure...

Cerny (1997b) who further argued that NPM is 'a major manifestation and dimension of the Competition State approach' offers the most coherent explanation for the globalisation of NPM and its impact. Globalisation has meant that public goods can no longer be adequately controlled by the nation state and globalisation has forced policy-makers to re-invent policy processes and techniques. The subsequent emergence and development of NPM includes more flexible systems of production and new organisational forms, with a preference for commercial-style management. (Dempsey, YEAR: 42, - 43).



Alluding to the same point, Kaboolian (1998:189) argued, "The public sector of many countries appears to be based on the New Public Management model." He identifies three commonalities that appear to support the globalisation of the NPM thesis:

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- the use of the economic market as a model for political and administrative relationships;
- similarity in the goals they pursue and the technologies they utilise; and
- the use of administrative technologies such as customer service, performance based contracting, competition, market incentives, and deregulation

(Dempsey ,YEAR.:40)

Although the legislative and policy shift to the New Public Management is influenced by global neoliberal economic development policy approaches it

cannot be conclusively seen as a new paradigm shift in public administration or management. However, there is strong evidence that it marks a new discourse in public policy making and organisational development approaches. New organisational techniques and public management approaches are characterised by market and commercial business principles commonly associated with the private sector.

The Regulatory Policy Framework for Water Services Provision.

The liberalisation of the water sector in South Africa was introduced by the partial legislative shift, which led to the gazetting of the Water Services Act in 1997.

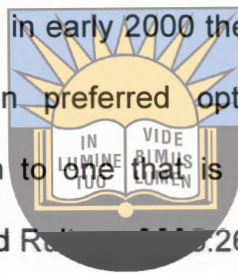
McDonald and Ruiters (2005) argue

After decades of arguing for the nationalisation of key sectors of the economy, the African National Congress (ANC) abruptly moved towards a market-friendly policy position in the early 1990s, with the new South African Government committed to open market and privatization... The ANC signaled its legislative commitment to water commercialisation and privatisation shortly after coming to office in 1994 with the adoption of the Water Services Policy in November of that year, stating that the department (of water affairs and forestry) will consider proposals for the private sector to provide services where these may be in the public interest and where this approach is supported by the community concerned..”(2005: 24, 25, 26)

Although this was not the first time for government to legislate private sector involvement in the provision of services, it was the first time for the ANC to engage the private sector in service delivery. In the 1980s the apartheid government had introduced broad-based legislation allowing for the privatisation and deregulation of services. The National Water Act of 1998 including several

other acts related to local government, such as the Municipal Systems Act, 2000 and the Municipal Finance Management Acts, 2003 further clarified and entrenched the opportunity for private sector involvement in water services delivery.

Further commitment to privatization or commercialization is found in the Department of Provincial and Local Government's White Paper on municipal service partnerships. Released in early 2000 the White Paper attempts to clarify the government's position on preferred options but succeeds merely in downgrading the public option to one that is no more important than private sector initiatives (McDonald and Ridd, 2003:26)



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In terms of water and sanitation services, the Department of Water Affairs and Forestry began to review the existing legislation in 1994, as part of a drive to extend access to water for all on an equitable basis. The Water Services Act, of 1997 was introduced and began to reflect a distinction between service authorities and service provider functions, where municipalities could do both or be a service authority and involve a service provider to deliver water.

In addition, the Ecsecc Research Report (1998) states that in 1997, the Department of Constitutional Development, after recognising the gaps and problems of private sector involvement in municipal service delivery introduced

guidelines for managing the processes, content and form of establishing Public Private Partnerships. The guidelines set out basic principles which include:

- **Municipal Responsibility:** This principle recognized that although another body is actually providing the service, municipalities remain ultimately responsible for the service. There is therefore a need to closely regulate and monitor the company.
- **Service providers must be accountable to the people served:** This means that mechanisms must be built to ensure accountability to the user. No indication is given of what such mechanisms would be, or how effective they could be.
- **Provision of infrastructure must be sustainable:** In terms of this principle once the infrastructure has been developed, the service must be extended to all. Payments for the service must be sufficient to cover the ongoing operation and maintenance costs for an agreed upon level of service. In other words, the ability of the user to pay for the full operating and maintenance cost of the service will determine the level of service provided. This principle therefore leaves little room for a lifeline tariff, defined as a certain amount of the service for free, to be introduced to benefit the poor.
- **Equitable Cover:** While services must be extended to those that have not previously had access to them, this must be done in a way that is sustainable, affordable to those users. At the same time this principle does make provision for cross-examination from higher to lower income areas.



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- Service provider must adhere to sound environmental principles: This states that service provision must not harm the environment.
- Technology and capacity building: During the duration of the contract there must be a process of skills transference and capacity building.
- Worker involvement: Existing municipal employees should be involved in the process of restructuring. Given SAMWU's opposition to the process of public –private partnership, and particularly to concessions, it is hard to see how this principle has been adhered to.
- Competitiveness: The bidding process should be competitive so that the municipality can test the market and get the best possible deal for its residents. Clearly, however, once a contract is awarded, the element of competition is removed and the community is no longer subject to this market discipline. This is clearly a problem, particularly with 25-30 year contracts.
- Procedures for engaging the private sector must be transparent: procedures followed in the process of awarding and operating concessions must be clear, and the government's actions must be predictable.
- Performance of service providers to be monitored: While this is an important principle, it is not clear who is meant to bear the costs of this monitoring. It could end up being a considerable cost to the municipality.
- Service providers must respond to the needs and problems of the customers: 'Mechanisms that allow rapid response to customers must be

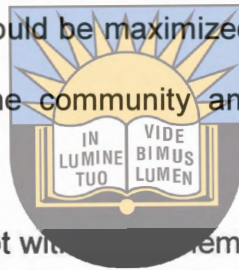


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developed and introduced.” This is a very important principle. It is not clear, however, how effective the mechanism will be in a context where the market discipline of competition has been removed, and the company has no political accountability to the users.

- Stakeholders must participate in decisions: This is seen as important in order to improve project performance.
- Long term affordability should be planned:
- Development impact should be maximized: This emphasises job creation, skills transference to the community and entrepreneurial development.

(Ecsecc, 1998;24 - 25)



These guiding principles are not without problems. They need to be enforced and monitored as the process is being implemented and managed step by step through out the contracted period. As such, government introduced a restructuring and regulatory framework of municipal services to ensure that there is no deviation from the guidelines intended to assist in the process and content of the private public partnerships.

The Framework for Restructuring Municipal Service Provision was signed in December 1999 between the South African Local Government Association (SALGA) and the Congress of South African Trade Unions with the Department of Constitutional Development witnessing. The intention of the agreement was to ensure that municipalities deliver sustainable, equitable, efficient, effective and affordable services and to establish minimum criteria that should govern service

delivery. These central regulations and standardised provisions governing national and provincial PPPs are now contained in the PPP manual developed by the National Treasury Department in terms of Regulation 16 issued to the Public Finance Management Act, of 1999(PFMA). On the other hand, PPPs for municipalities are governed by the Municipal Systems Act, 2000 and Municipal Finance Management Act, 2003. In terms of the Municipal Finance Management Act 56 of 2003, section 120, which prescribes with the conditions and processes of Public Private Partnerships, subsection (1) states that,

A municipality may enter into a public private partnership agreement, but only if the municipality can demonstrate that the agreement will:

- provide value for money to the municipality;
- be affordable to the municipality; and
- transfer appropriate technical, operational and financial risks to the private sector.

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Subsection 2 and 3, further, stipulate that,

A public private partnership agreement must comply with any prescribed regulatory framework for public-private partnerships. If the public private partnership involves the provision of a municipal service, chapter 8 of the Municipal Systems Act, 2000 must be complied with, (Municipal Finance Management Act, 2003:124).

The following are the general requirements set up to regulate all service providers within PPP institutional arrangements:

- there must be provision for lifeline tariff;
- tariffs must comply with national norms and standards set by national government;
- minimum standards and work specification that the provider is expected to comply with must be established at the outset;

- investment needs must be established and prioritised through processes such as the Integrated Development Plan. Companies must be penalised if they don't adhere to an agreed time framework for these investments;
- services must be delivered in an environmentally sustainable manner;
- trade unions must be recognised;
- there must be ongoing training of workers;
- job appointments must be transparent and give effect to affirmative action policies;
- high standard of health and safety must be ensured;
- the introduction of new technology must be done on the basis of consultation with unions;
- financial records must be open and transparent, with broad participation in the prioritisation and setting of the municipal budget;
- the municipality must monitor service provision. Where a contract exists it must be regularly reviewed to ensure it is complying with the terms of contract and that the obligations set out in the regulatory framework are adhered to;
- where municipal employees or councillors have interest in the private service provider, conflict of interest must be regulated;
- clear mechanisms must be established to deal with disputes;
- penalties for non-compliance must be put in place;
- municipalities must retain ownership of core assets;



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- there must a be limit on the rate of return that the companies are able to make and municipalities must not guarantee a certain profit for the company;
 - there should be provision for social re-investment;
 - the company must bear the costs of public sector monitoring of the contract;
 - the company must submit regular reports to the council on its performance;
 - The municipality must give a full report to its constituency on the operations of the company. Service users and employees should have access to information inline with existing legal obligations; and
 - the company must provide a performance guarantee which the municipality can access to finance service delivery if the company fails to deliver.
- (Ecsecc,1998: 28 - 30).



These regulatory provisions set broad parameters for all Public Private Partnership arrangement for municipalities, and it is the responsibility of municipalities to ensure that these are adhered to. The National Treasury Department through the PPP unit has also set up mechanisms to provide support to municipalities engaged or intending to engage the private sector in service delivery.

This idea was indeed part of the new liberal approach, which has been widely supported by the IMF, World Bank and international advisors from Britain, as a route for South Africa. As a result of this policy and the legislative shift, the South African government, through the former Department of Constitutional Development, promoted the Municipal Services Partnership (MSP) policy by

piloting it in the Eastern Cape and other provinces. Queenstown was identified as a pilot project and as such this study will review the application of Public Private Partnerships for the provision of water in that municipality and examine its achievement within the context of GEAR, and the local government legislative policy framework.

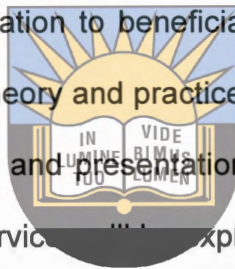


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CHAPTER FIVE
THE THEORY AND PRACTICE OF WATER
PRIVATISATION IN SOUTH AFRICA

Introduction

The purpose of this section is to explore the application of the theory and practice of water privatization, its implication to beneficiary communities and the role of municipalities. In essence the theory and practice of water commercialisation and cost recovery will be examined and presentation of different arguments for and against privatisation of water services will be explored.



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International Experience and the Theory of Privatisation

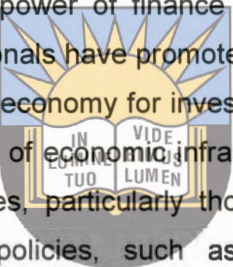
The theory and practice of water privatisation, (public private partnerships) in South Africa is based on international trends and experiences as well as various ideological arguments advanced for and against privatisation. Internationally, the roots of privatisation are traced back to the 1970s as the neo-liberal response to economic crisis developed at the time. Due to the prevailing economic crisis, economic thinkers such as those based at the Adam Smith Institute in Britain and the Heritage Center in the United States argued that,

over-spending by the state was one of the underlying causes of economic crisis- therefore government spending has to be reduced and the government deficit cut back." In addition they encouraged private sector involvement and investment in previously state-run enterprises as a solution to the inefficiency and wastefulness inherent in state provision.

The market they argued, was the most efficient way of allocating resources in a society, (Martin, 1993:49).

The Eastern Cape Economic Consultative Council Research Report (1999) states;

...concomitant with the development of this economic and political ideology, a number of other developments have taken place, which effectively promote privatisation. Technological changes and developments in the computer and communication fields.....this together with economic liberalisation, has meant that the size, scope, and power of finance capital and of transnationals has increased. In turn transnationals have promoted the drive towards privatisation- it opens up new areas of the economy for investment and it allows them to largely determine the development of economic infrastructure in different regions of the world. In turn, nation states, particularly those in developing countries, have adopted new economic policies, such as labour flexibility, tax holidays, privatisation and deregulation, in order to attract investment from these companies. (Ecsecc, 1999: 11)



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In South Africa like other countries in the world, and in the Southern African region in particular, water privatisation or the public private partnership models which have emerged for the provision of water services can be understood within the context of social intensification of capitalism and a shift in the state society - relations. Mc Donald and Ruiters have argued that, in examining;

...the extent to which water has actually been privatised/commercialised in the region,-legislatively and in practice- followed by the discussion of who is promoting it and why. The central argument here is that water marketisation is both widespread and influential and is being driven primarily by the structural demands of local and international capital and the continuing fiscal crisis of the state.(McDonald and Ruiters, 2005:13).

According to Oestmann (1994:13) 1980 saw the start of the worldwide trend towards privatisation and in 1992, 6 832 public enterprises, services and utilities were privatised in over 80 countries around the world. Concurringly, Batley, states that,

Initially, in most countries, and particularly the developing countries, the emphasis was on selling-off state assets and enterprises. It is only in the 1990s that the emphasis has shifted from the sale of assets, to public private partnerships. This shift happened together with the shift towards the privatisation of public services as opposed to the enterprises and infrastructure that went with these services.(Batley, 1996: 723)



The shift towards public private partnerships as opposed to total takeover of assets and services by the private sector, emerged as a result of great expectation from people that the state will provide, especially in as far as the provision of basic public services such as water and energy. The advocates of privatisation realised the negative effect that privatisation of infrastructure and public services will have on the poor, and opted for minimal state involvement. The state was required to play a regulatory and enabling role for private sector involvement. Oestmann states that,

This shift has partly come about because of the criticism leveled against privatisation, and accumulating evidence of its "often profound and immediate detrimental effects on the poor. (Oestmann, 1994:10)

Different Arguments for and against Privatisation

Besides, the economic and political ideological debate for privatisation, or the public private partnership debate, there are other theoretical arguments that have

been advanced for and against the practice of privatisation. Whilst pro privatisation proponents argue a need for a lean state, and believe in the efficiency of the market based on the argument that the state enterprises are generally inefficient, over-staffed, corrupt and a drain in the economy, others have argued that such argument is weak. According to De Luca,

There is no empirical reason to expect that a private utility will be more efficient than the public one. Publicly owned companies are able to operate and compete internationally in energy, at least as effective as private companies.(De Luca, 1998:113).



The notion of efficiency is a matter that needs debate and proof of evidence. Efficiency in the private sector could be limited to balancing financial statements and securing profits in the public sector efficiency could mean being able to meet the basic needs of the people. The public and the private sector operate in different forms and for different objectives, based on public sector ethos on one hand and private sector ethos on the other. In essence both the private sector and the public sector operate in different organisational settings.

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However, there is historical evidence that the practice of privatisation or public private partnerships in service provision, has got far reaching negative implications particularly to the conditions of workers and the poor. In terms of the Ecsecc report (1999) these can be summarised as follows:

- **Job losses and poor working conditions**

It has been argued in this report that public private partnerships have resulted in many job losses for workers, either during the restructuring process or after the private sector has been engaged. Public enterprise would first restructure organisations to make it attractive to the private sector, and that process would lead to job losses. "For instance, approximately 100 000 jobs have been lost in Britain due to the contracting out of local government services" (Martin, 1993:174). However, it has also been said that there are instances where privatisation lead to job creation.



According to Ernst,

In order to operate efficiently in economic terms, and as way of cutting costs, private companies, once they take over the contract, look for ways to reduce their costs. Common ways of doing this are retrenchments, work intensification and increasing labour flexibility. At the same time, in the United Kingdom where full privatisation of water was achieved, "industry profits rose 90% in the first full year of privatisation. Salaries of water company executives have grown obscenely. In 1990 the highest paid directors of water companies received salary increases of up to 209 per cent while water charges continue to rise in real terms.(Ernst, 1994, 121).

Linked to job losses during the process is the deterioration of payment and working conditions for workers. This includes a systematic attack on trade unionism. Most savings by private companies are made by contracting out with poor employment conditions, such as eliminating bonuses, overtime arrangements, utilisation of part-time employees, and provision of very few sick

payments. This scenario became more prevalent in the United Kingdom from 1986 when privatisation was implemented, (Ecsecc, 1999: 14).

- **Service Quality and Cost implications**

This is again another area of concern when PPPs are engaged. There is a mixture of evidence with regard to the quality of service rendered by the private sector. Cutting of cost measures has largely resulted in poor service delivery. The private sector tends to relax and not stick to the contract agreements and set standards after the contract has been concluded. In some cases this happens when there are no monitoring mechanisms in place or where there is no capacity on the side of the public sector (the state) to monitor and regulate service provision. The Ecsecc report argued that;



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It is important to take into account that privatisation is often implemented as part of a package of structural adjustment reforms, which tend to have a negative impact on the quality of services, and the affordability and access to these services for the poor. It must also be noted that other policies like disconnection for non-payment, ensuring that users pay the full costs of the service, and no or very limited cross-subsidisation often go hand in hand with the introduction of public private partnerships. These policies emphasises a market-driven approach and tend to have a negative effect on quality and quantity of the service received by the poor, (Ecsecc, 1999:15).

In addition, whilst it is often argued that the state enters into a partnership to cut the costs of delivering a service, in most cases it has been proven that the state ends up paying huge amounts to the private sector, especially with the long-term contracts. The process of getting into a private partnership is on its own very

costly to the state. The costs of managing the bidding process, involvement of consultants, cost of ensuring that the poor get access to private sector driven service provision at no cost to the private company, the financial risk of the company withdrawing or getting bankrupt during the process, and consumer management functions which in most cases are left to the state, all tend to be more of a financial burden to the state.

- **Accountability and Social Dumping**

As it has been said above, the management or consumer function is always left to the state or between the private company and the state. This has in most cases caused confusion in regards to accountability. The company is sometimes not accountable to the consumer, in the same way government officials at times run away from accountability to communities. It has been argued that the company becomes accountable to its shareholders and undermines the ability of residents to exercise their democratic control over the service provider. In most cases members of the public are not party to the contract, and effectively have no grounds to complain. Explaining this dilemma, Walsh states that;

...the separation of purchaser and provider can create uncertainty over who should deal with the complaints." He also observed that, "commercial secrecy may also act as a brake on effective accountability, (Walsh, 1997: 37, 41).

The other negative problem associated with Public Private Partnerships is the issue of cherry-picking, wherein the private sector would not go and invest where there are unprofitable conditions to make profit. The private sector is driven by the profit motive, and not the desire to meet public need. The problem

of profit driven provision of essential services is that it exacerbates social exclusion. Those who can afford the cost of private sector goods would have access to water and quality service, and those who cannot afford will be automatically excluded and not catered for by this system.

In South Africa, the socio- economic context also played a major role in determining policy directions and shift in as far as the provision of water services to the majority of people who have been historically marginalised by the apartheid government. Most water privatisation schemes are spearheaded by municipalities and focus more on the outsourcing of managerial and operational functions to the private sector. In most cases the functions that are transferred to private companies are meter reading, personnel management, strategic planning and maintenance. The bulk of the infrastructure and assets remain in the hands of the public. The institutional arrangements for such privatisation initiatives are always in the form of management contracts for a specified period. These contracts range from small to large involving multinational companies hired to manage water services provision on behalf of municipalities.

The theory and practice for Public Private Partnerships in water services provision has brought a number of changes in terms of power relations, structural relations, and policy initiatives within government, communities and the private sector. There is no doubt that the South Africa water privatisation processes are driven and promoted by local and international private sector companies which

are profit driven rather than driven by the desire to provide efficient public services to communities.

In explaining these local and international joint private sector initiatives, McDonald and Ruiters state that,

... it is not just the international water companies that stands to gain. Consultancy firms such as PriceWaterhouseCoopers and KPMG have been active in promoting privatisation in the region, often acting as consultants to local governments investigating their service delivery options. These firms are also part of large pro-privatisation consortia in Europe and the US lobbying for the expansion and acceleration of (General Agreement on Trade in Services) GATS.... Bilateral development agencies have also been a factor. USAID, for example, sponsored the formation of the Municipal Infrastructure Investment Unit (MIIU) in South Africa in 1997, with a stated mission of encouraging and optimising private sector investment in local services (McDonald and Ruiters, 2005: 32, 33).

In short, the theoretical and practical application of water privatisation in South Africa is based on market principles and is driven by capitalist motive forces at national and international level. The whole exercise reflects the commercialisation of water municipal services, which is delivered according to the rules and principles normally used for private commercial markets.

Constitutional and Policy implications of water privatisation

The South African Constitution defines water as a basic service and a core right which must be accessible to all people and communities. This constitutional directive concludes that everybody has a right to have water, regardless of

whether one has the ability to pay for the provision of such a service. The commercialisation of water services through private sector involvement ushered in a new dimension in terms of policy and socio-economic relations.

The Bill of Rights and private market principles and practices lead to a conflicting situation in terms of water provision to all. Commercialisation, which involves the decision to privatise or corporatise service provision, the imposition of full cost recovery pricing; the disconnection of services and the provision of a limited amount of free basic water, brought about a new challenge to a service that used to be traditionally a human rights issue.



Describing the challenge, McDonald and Ruiters state that

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...alongside the right to have access to sufficient food, healthcare services, and social security under section 27(1), the South African Constitution includes the right to have access to 'sufficient water.' In terms of section 27(2), the state is enjoined to take reasonable legislative and other measures, within its available resource, to achieve the progressive realisation of this right. The recognition of the right in turn, imposes certain duties on both state and non-state actors that may be enforced by courts, (Mc Donald and Ruiters, 2005: 60).

At a policy level the commercialization of water had policy implications in South Africa, especially in the post apartheid era. Government was forced to shift its policies in support of market practices, such as cost recovery and pricing of water services by the private sector.

Cost recovery for basic services has not been a policy of national and local government in South Africa. Only since the end of apartheid in the mid-1990s

has full (or fuller) cost recovery been isolated as an explicit, widespread policy objective. There were user fees, tariffs and general property rates for services under successive apartheid regimes... in direct contrast to the neoliberal view of cost recovery and privatization that dominates official service delivery discourse in South Africa today, the apartheid state saw its role as one of providing and subsidizing the delivery of essential services (albeit in a racially skewed manner, (Mc Donald and Pape, 2003: 20).

The policy shift began when the New National Party was ideologically reconstructed and the Democratic Party started to be influenced by neoliberal thinking. Although not all political parties and leaders embraced the policy shift in favour of privatization and cost recovery it became remarkably clear that the ANC government was in full support of this shift, despite the fact that they have been less successful in implementing cost recovery measures.



Most legislation, such as the Municipal Systems Act 32, of 2000, advocated for cost reflexive policy, the *White Paper on Water Policy* promoted full cost recovery policy measures, whilst on the other hand attention was paid to questions of equity, affordability, and free basic services for indigent communities. Mc Donald and Pape point out;

Some policy documents make it clear that full cost recovery is the objective. The White Paper on Water Policy (RSA 1997, 4) proposed that in order to promote the efficient use of water the policy will be to charge users for the full financial costs of providing access to water, including infrastructure development and catchment management activities, (Mc Donald and Pape, 2003: 21).

All these policy directives signaled a pro-privatisation stance by government and had far reaching implications to the beneficiaries and the diminishing role of the

state. In support of the policy shift, leaders and advocates of cost recovery have advanced various arguments which range from fiscal, moral, environmental, and commercial perspectives.

The Practical Implications of Water Privatisation

Despite all the arguments justifying cost recovery policies and practices for basic services, it has become clear that access to water is increasingly determined by consumer tariffs which seek to cover the full costs of the service. This cost includes the initial costs of installing infrastructure, the expenses associated with operating and maintaining the infrastructure. A range of policy and legislative measures supports the practice of cost recovery in South Africa.



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The White Paper on Water Policy adopted in 1997 explained that users would be charged for full financial costs of providing access to water including infrastructure development and catchment management activities in or to promote efficient use of water. However, human rights law also provides a framework for the ways basic services must be provided. Hence, the National Water Act takes the issue of equity into consideration in the implementation of the policy, and makes provision for the Minister to waive charges in certain cases.

Where municipalities decide to use a private service provider, or to corporatize both the process of making the decision for new service provision arrangements

and its implementation, they must comply with the human rights duties, including those relating to participation, equitable pricing, progressive facilitation of access, and just rules and procedures regarding deprivations.

Despite ideological problems associated with the commercialization of water services in South Africa, the application of cost recovery has been marked by a number of practical problems and concerns. The implementation of the cost recovery policy meant that government had to devise enforcement measures which are unpopular with communities and beneficiaries. For example, huge debts, the disconnection of services and cut-offs that are used, have caused many communities to rise against government and their leaders.



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Some of the arguments advanced against the theory of water commercialisation and cost recovery measures are based on the following points:


1. Historical Unfairness

It is mostly argued that the policy of cost recovery is new in South Africa, and was not practiced under the apartheid government. In addition, most white South Africans and industries have benefited in social and economic terms for years, from largely subsidised municipal services. Now that South Africans are free, they are required to pay their own way and forget about what happened in the past.

2. Continued Subsidisation for the Rich

Besides the historic imbalances, it is also argued that even now the pricing for services and access to services is biased towards the rich suburban residents. There are enormous differences in the tariff structure for electricity between rural and urban, as well as townships and suburban residents despite being in the same city. Linked to this is the skewed nature of municipal spending and resource distribution.

According to Mac Donald and Pape (2003),



...recent research by Municipal Services Project has shown enormous differences in resources available for service delivery in suburbs and industrial areas compared to townships.... There are competitive reasons at play here as well, with South African government keen to keep industry globally competitive, even if this means subsidising its electricity at below cost. (Mc Donald and Pape, 2003: 27)

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3. Unconstitutional

Ironically, it has also been argued that as much as the moral overtones are strong for the payment of services and cost recovery measures, service cut-off and household evictions are possibly highly unconstitutional. This argument is based on the fact that the Bill of Rights provides the right to a healthy and safe environment as well as access to basic municipal services. According to Drakeford (1998) in the United Kingdom, it is reported;

Water cutoffs to residential homes, schools and other essential public buildings have been outlawed since 1999 after a rash of cutoffs took place following the privatisation of water. It has also been ruled that self-imposed cutoffs through the use of prepaid meters is illegal, and that it is the responsibility of the water

supplier to ensure water provision even if the household is unable to pay for prepaid consumption. (McDonald and Pape, 2003:32)

4. Blind Ideological Position

McDonald and Pape state that one of the reasons for cost recovery efforts in South Africa are based on a blind ideological faith in neoliberalism, with no thorough analysis of the cost and benefit of cost recovery, and no effort given to explore other alternatives other than private sector involvement in water provision. Local government has been, according to Mc Donald and Pape, virtually silent on the dramatic cutbacks in intergovernmental transfers, effectively accepting its fate of unfunded mandates. Local government has been pushing hard to collect the full cost of municipal services without challenging the state for a larger slice of the national budget (2003: 32).



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5. Harsh Measures

One of the main problems and concerns associated with the cost recovery theory in South Africa are harsh measures adopted by municipalities in enforcing communities to pay. The failure of the Masakhane Campaign led to harsh ways of enforcing consumers, such as legal action, threats of eviction, cutoffs, physical intimidation and abuse. For example, Members of the Soweto Electricity Crisis Committee in Johannesburg were shot at in front of the mayor's house in April 2001 as they protested against cutoffs. "Some families returned from work to discover their homes auctioned for non-payment of services, with their belongings on the streets," (Mc Donald and Pape, 2004:31).

In essence, the problems associated with cost recovery in water service provision are very much linked to basic anti-commercialisation, commodification of water services and the reduction of the state's role as the provider of basic services.

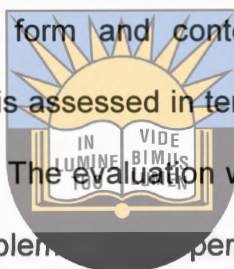


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CHAPTER SIX
THE EXAMINATION OF WATER SERVICE PROVISION IN
QUEENSTOWN- A CASE STUDY

Introduction

The case study seeks to demonstrate evidence on the impact of privatisation and several flawed processes that have been followed in public-private partnership implementation. The process, form and content of the Queenstown water services management contract is assessed in terms of theory, practice and gaps identified for recommendations. The evaluation will reflect the current status quo of the contract in terms of its implementation, performance and management.



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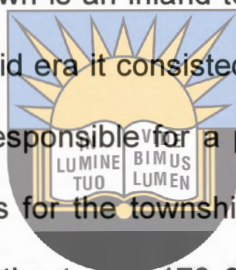
The analysis and review of the Queenstown Municipality (now known as Lukhanji) water management contract has to be understood within the socio-economic and legislative framework that underpins the provision of water and sanitation in South Africa. Water services and sanitation programs are not only about creating jobs, but are also concerned with adhering to the constitutional rights of citizens and improving the lives of the poor majority.

As a result of the policy and legislative shift, the South African government through the former Department of Constitutional Development promoted Municipal Services Partnership policy by piloting it in the Eastern Cape and other provinces. Queenstown was identified as a pilot project and as such it is now

imperative to review the application of Public Private Partnerships for the provision of water in that municipality as well as examine its achievement within the context of GEAR and policy shifts as outlined in the previous chapters. The focus of the evaluation is also in terms of measuring the current status of the project from a financial, technical and institutional perspective.

Locality

In the Eastern Cape, Queenstown is an inland town with approximately 192 000 households. During the apartheid era it consisted of three local authorities; white local authority (Queenstown) responsible for a population estimated at 22 000, and two black local authorities for the townships; Ezibeleni and Mlungisi both responsible for a population estimated at 170 000 living in formal and informal housing. The social and economic conditions of Mlungisi and Ezibeleni reflected the limited resources allocated to them during those apartheid years.



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Amalgamation of Authorities

It has been the responsibility of the local authorities to supply the required service to the communities. The three municipalities were amalgamated after 1994. The Council has prioritized its spending on water and sanitation. According to the Ecsecc Research Report, there are few industries in Queenstown and the therefore bulk of water is consumed by households. Before 1992 the Queenstown local authority was responsible for water services and sanitation. The Ezibeleni and Mlungisi local authorities were responsible for collecting the tariffs. Formal houses have in-house metered connections and

informal settlements had access to water and sanitation through standpipes and communal toilets. They had to pay a flat rate. There is no cross subsidisation of tariffs within the municipality. Only households earning R1 300.00 or less receive a rebate of 40%.

Key role-players in municipal affairs and service delivery issues are the Councilors, the Management, the South African Municipal Workers Union (SAMWU), and the South African National Civic Organisation (SANCO),

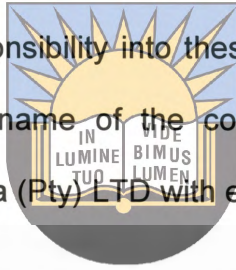


Privatisation of Water and Sanitation Services

Before the election of the new council in 1995, which amalgamated the local authorities in Queenstown, water, sanitation and other services such as the fresh produce market, the abattoir, swimming pool, and maintenance of the cemetery, were privatised. Some of the municipal assets were sold. Water and sanitation services as well as operational and management functions were contracted to a private company called Aqua Gold. The contract term was later extended to twenty five years to include both Mlungisi and Ezibeleni black townships. The municipality's role was and still is, to set up and collect tariffs. This is regarded as customer management. The municipal equipment was also leased to the private company. When the new council took over in 1995, they expressed their concerns over the term of the contract.

Details and the Nature of the Contract

The former Queenstown Transitional Local Council (TLC) entered into a contract with a private company called Aqua-Gold in 1992, for the operation, management, and maintenance of the water and sewerage system for a period of twenty-five years. The contract covered only the area of the Queenstown jurisdiction of the white authority and excluded the black townships of Mlungisi and Ezibeleni, until 1995 when an addendum to the contract was signed, extending the company's responsibility into these areas. The contract was also amended to reflect the new name of the company, now called Water and Sanitation Services South Africa (Pty) LTD with effect from the 1st July 1995.



In essence, the contract is a delegated management contract, whereby WSSA is responsible for maintaining and operating the water purification works, the sewerage works and the reticulation system, and for ensuring the delivery of water to peoples' households. The company is not responsible for fitting in new connections to the households.

The municipality remains responsible for tariff setting, reading meters, billing and collecting tariffs- in other words, what is regarded as the customer management function. It also retains ownership of all assets, leasing the water and sewerage works and the reticulation system to the company for the duration of the contract.

In terms of the evaluation report compiled by WZC (PTY) LTD and commissioned by the Municipal Infrastructure Investment Unit (MIIU) in 2003, the reasons for

outsourcing water and sanitation services by the then Queenstown Municipality were:

- the need to obtain additional expertise and resources;
- the need for refurbishment and on going repair and replacement of water and wastewater system;
- the need to have a large quantity of water meters replaced;
- the investment required for the sewage treatment plant extension;
- the ongoing deterioration of services delivery; and
- the lack of adequate funds to effect improvement.



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The report further states that the political views regarding privatisation and outsourcing at the time were positive due to the successful privatisation of the abattoir and the fresh produce processes. In addition, the municipality was facing financial and service delivery difficulties..." (MIU, 2003: 9).

In terms of the contract, WSSA bears the costs of management, operation and the maintenance of the system. These include personnel, routine maintenance, repairs and replacement, electricity, chemicals and consumables, quality control, monitoring and risk of performance inefficiencies or non conformance. The municipality then pays WSSA a monthly payment consisting of the sum of a fixed charge and variable charge broken down as follows:

- the fixed charge covers all fixed, operational, and financial costs of WSSA;

- the first variable charge applies to the volume of water metered at individual house connections for the previous month throughout in the town in kilolitres. It should be noted that this charge also includes treatment cost of sewage; and
- the second variable charge applies to the volume of raw water used from DWAF's Waterdown Dam in kilolitres.

In addition, WSSA is paid "a fixed rate for the installation of new water and sewage house connections, meters provided and any disconnections and reconnections the municipality may request" (MIU, 2003:20-21)



Repairs, Maintenance, and Capital

In terms of the contract, WSSA is responsible for 1km of water networks and 1000 domestic water meters per year during the first four years, and with the 1995 amendment the company is now responsible for two and a half kilometers of the network per year and 2000 meters. The company also took responsibility for financing the extension of the sewage treatment plant. The cost of financing is incorporated into the monthly amount that the municipality pays the company and the costs are spread over the 25 year period.

Reporting and Monitoring

The contract makes provision for WSSA to submit a monthly report to the municipality detailing amongst other things, the amount of water treated and water metered. The Service Charter serves as a guide in terms of performance

measuring and meeting targets. According to Mr. Hoko there are two forms or levels of reporting to the municipality. These are in the form of technical reports to the Technical Committee meetings and the client meeting reports. The reports cover Human Resource, Industrial Relations, Water extraction and Maintenance, Health and Safety.

Payment Arrangements

The municipality pays the company a monthly amount calculated on the basis of a formula contained in the contract. The formula takes account of fixed costs such as equipment, chemicals and labour. It also includes a certain charge per kilolitre of water metered by the end-user. This means the company is responsible for water lost between the water treatment plant and the end destination. There is also provision for the costs to be adjusted when the price of materials, such as chemicals, goes up. The price adjustments are made on the basis of indices developed nationally for each category of goods. The inclusion of the escalation and variation clause is there to protect the company so that any price fixed at the time of signing the contract may be revised upwards. The present approval process is done by the Town Engineer, using the Price Adjustment Formula stipulated in the contract.

Dispute Resolution and Mechanisms

A dispute resolution process is spelt out in the contract and conditions for the termination of the contract are covered as an escape clause which details circumstances for such. The contract makes provision for resolving any dispute

over fees and accounts and every payment is strictly done in terms of the contract.

Process Towards the Conclusion of the Management Contract

The formulation and the nature of the Queenstown management contract was influenced by the changing national economic policy environment and the international experiences of privatisation which were flowing into South Africa. WSSA utilised international experts to draw the attention of the municipality and market its services within the local government sphere. Evidence gathered through the interviews conducted during the study reflects that the process of privatisation was initiated and driven by the former Town Clerk of Queenstown, Mr. Anthony De Klerk. Besides, who appears to have been firm on the idea of private sector involvement in service delivery. The Queenstown water and sanitation management contract has drawn both positive and negative criticism from different stakeholders and beneficiaries.

Hence, some of the critics have pointed out the underlying objectives of privatisation as a problem as well as the process followed in concluding the contract. It has been argued that when the first contract was signed there was absolutely no consultation with communities. The then Town Clerk took the decision. It was only when the contract was amended and was to be extended to the black townships of Mlungisi and Ezibeleni that, some form of a forum was set up to discuss the matter. However, it is even contested that the matter was indeed brought to a forum for discussion, except to mention that,

The first time the community got to hear about the contract was in 1994 when SANCO called a public meeting in Mlungisi to address a number of issues. At this meeting the issue of Aqua-Gold was raised because people wanted to know if there would be any jobs available in the company. The content of the contract was however never discussed. (Ecsecc Report, 1999: 41)

Contrary to the above views, the MIU Evaluation Report (2003) states that, at the time of entering into the contract, there was no legislation that required and stipulated community consultation processes as a requirement from the municipality.



However, the report states also that regarding labour consultation;

The Municipality and the trade union representatives consulted by WZC agree that a long and thorough process of labour consultation was followed in accordance with the provisions of the contract. This process extended over 18 months. The employees were properly informed by Aqua-Gold through a mass meeting and also on a one to one basis. They had a choice – if they did not want to join Aqua-Gold, they could be re-deployed. Forty-eight employees, the majority of whom were SAMWU members, transferred to Aqua-Gold. ...No employees were retrenched and the contract stipulation that the position, salary, and other working conditions shall be at least equivalent to those of the municipality was adhered to. (MIU, 2003:10)

In reference to the tendering process, the report states that the municipality put out an open ended tender (request for proposals) calling for prospective bidders, and only two companies responded. There was also no complex legislation to comply with, besides the Cape Municipal Ordinance, No 25 of 1974, which was followed.

Most stakeholders interviewed, which include SAMWU and SANCO, have cited very limited consultation which was conducted in passing based on particular issues. For Example, the South African Municipal Workers Union argued that they only heard about and discussed the contract in as far as its impact on workers, at a time the contract was already in existence. During the time of extending the contract, most people interviewed argued that there was no other option left for the Mlungisi and Ezibeleni except to join the existing contract arrangement. This was mainly because all water services workers were transferred to Aqua –Gold, the equipment and plants were leased to the company. In other words, a situation was created where the incoming administration had no other option to extend the contract because of the actions of the previous council. In a nutshell, there are different viewpoints expressed by different reports and stakeholders consulted. The Esec report of 1999 reflects a bad scenario, and the MIU reflects positively on the issue of consultation. The bottom-line is that there was no legislative prescription on the issue of consultation at the time.



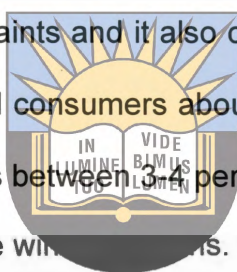
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Quality and Sustainability of Service Delivery

In terms of the MIU Evaluation technical report, (2003) the roles and responsibilities of the parties are derived from the original and extended contract obligations. The service standards are not specified in the contract, for example the expected response time to complaints, pipe breaks and leaks, among other things. WSSA is simply required to meet the legislative quality standards for the

treated water and effluent discharge as well as perform its management, operation and maintenance duties as a “reasonable and prudent operator.” However, WSSA has instituted its own Service Charter with Key Performance Areas agreed upon with the municipality and working strictly in accordance with it.

According to the Customer Liaison Officer at WSSA, the company has been very efficient in responding to complaints and it also conducts monthly surveys to test the views of the community and consumers about the service. The officer claims that the number of complaints is between 3-4 per month and mostly relate to pipe bursts, which happen during the winter months.



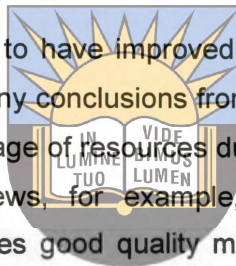
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He argued that depending on the area, they are able to attend to leaks and bursts within two hours and five hours maximum, as per the Service Charter. Indications are that service delivery is smooth running in all areas covered by the contract, to the extent that the municipality engages them also for adhoc operation and maintenance duties in areas outside the contract, such as rural villages within its boundaries. The Customer Liaison officer explained that according to them, they register and attend to all complaints. A complaint differs from contact with the client when reporting, it is when it is written or a client physically goes to their office to complain.

According to some residents, there were differences with regard to the quality of service provided to different areas. Although in terms of access to water the contract was extended to previously disadvantaged townships of Mlungisi and Ezibeleni, there have been different perceptions and realities with regard to services. Some have argued that the company was slower in responding to emergencies to the traditionally black areas. According to the Ecsecc report (1999);

In general, services seem to have improved in Mlungisi and Ezibeleni. It is difficult, however to draw any conclusions from this as Mlungisi and Ezibeleni suffered from severe shortage of resources during the apartheid years. There were in fact different views, for example, according to SAMWU shop stewards the company uses good quality materials and chemicals and the water pressure and quality of water are fine. They were also aware that there was consistent monitoring of the water quality. (Ecsecc, 1999: 42)



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It has also been established that in terms of the contract, the company is not responsible for investing in new infrastructure or meeting targets of extending the services to other new areas. It has also been reported that ever since the company took over, they have been able to provide water in an uninterrupted way; however, most interviewees doubted whether the municipality would be able to provide and sustain the provision of water once the contract has come to an end.

According to the contract there is no provision for building the capacity of local government so that at the end of the contract period it is able to take back the

responsibility for “...operating, maintaining and managing water and sanitation services,” (Ecsecc Report, 1998:44) . However, the recent report by MIIU (2003) claims that,

The trend is for PPP contracts of this size and nature to stipulate that the contractor should adhere to legal requirements regarding the employment equity and specific skills training. This contract was concluded before the relevant legislation existed and does not include any such clauses. Notwithstanding this, WSSA places high priority on training. For example one of the shop steward with whom discussions took place has completed a chlorine certificate, health and safety training, N1, N2, and N3... The laboratory assistant at the water works is a local student studying for a Technikon Diploma in Analytical Chemistry who has been contracted by WSSA and given an opportunity to complete her practical studies with the company. (MIIU, 2003: 34).

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This reported is further supported by the recent presentation made by the, Commercial and Marketing Manager of the Municipality on the 18th December 2006 at Amathole District Municipality, where he claimed that, in terms of success, the company has completed more than 120 trainee days in the last 4 years, and trained 18 staff members. However, there are also complaints that the contract does not cover household repairs, that has been left to the consumer, whereas in the past the municipality used to provide such household services.

To maintain quality standards and sustain performance, the WSSA maintains the sewage treatment standards set by the Department of Water Affairs permit for

treated effluent quality and undertakes a number of analyses at regular intervals.

According to the WZC report,

The Municipality uses BN Kirk Pretoria as an external laboratory and WSSA uses B N Kirk Natal to monitor quality compliance. In normal circumstances effluent discharged into the system and treated effluent must comply with the environmental regulations and the South African quality standards, WSSA is fully liable and the municipality is indemnified against any claims..WSSA nevertheless, works closely with the Municipality to address non-conformances. (MIIU, 2003:31)

Cost Implications and Cost Recovery Process

In terms of the technical report presented by the MIIU Evaluation report (2003),

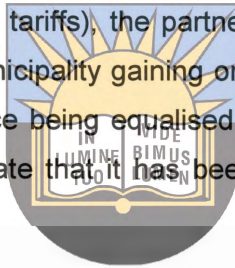
community perceptions are that they are paying more for water services as compared to the time when the municipality was providing the service. Their argument is based on the fact that by its nature the company is there for profit making. The company and municipal officials have reported that there are no major cost recovery problems, due to the immediate disconnection of services for non-payment.

However, it must be noted that, the MIIU (2003) evaluation report indicates,

In terms of the Systems Act, the Council has a Credit Control and Debt Collection policy in place, but it is not strictly applied to water supply services, due to Council's obligation to provide Free Basic Water (FBW) and the current infrastructure not allowing control over the volume of water supply to the individual even... If the consumer does not pay the norm is rather to disconnect his electricity supply (MIIU, 2003, 16)

It has also been reported that, during the first year of the contract, the municipality managed to realize savings of about 17.9%. However, this has not been proven in terms of clear calculations. The MIIU report, claims,

In 1995 the cost saving to the Municipality was estimated at 17% resulting in water price remaining constant for 3 years. This saving was calculated on the capital funding of pipeline replacement, and structured meter replacement programme. Although, the Municipality has instituted tariff increase in the subsequent years (refer to tariffs), the partnership has been able to sustain these savings with the Municipality gaining on the rehabilitation of its system and water sanitation service being equalised throughout the municipal area. An analysis of costs indicate that it has been lower or at least in line with inflation. (MIIU, 2003:18).



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However, the same report also notes that, the Council has an overdraft of 7million and is heading for financial difficulties if this situation is no dealt with. The Council claims that it is impractical to take legal recourse to deal with defaulters, and does not wish to increase tariffs to increase the revenue base. Instead the Council has resorted to a water restriction policy to control expenditure. This is done by applying a trickle-flow restriction devise on the consumer's property. (MIIU, 2003:16)

In terms of a concession fee which is normally catered to ensure that the institution structures and processes are monitored for compliance, the contract does not provide for a concession fee. It is claimed that it would have increased the costs if it was included in the contract. In terms of the contract the

Municipality has leased its assets to the company at R1 per annum and all outstanding debt remains the liability of the municipality as well as insurance costs. WSSA bears the responsibility in terms of repairs or replacement of certain items in consultation with the municipality. These include the following:

- Electronic-mechanical equipment, valves, vehicles, plants, and equipment, minor civil works and replacement of leaks, filter sand. The municipality bears the costs of replacing civil works, the sewer networks and expansion programmes (MIU, 2003:20)

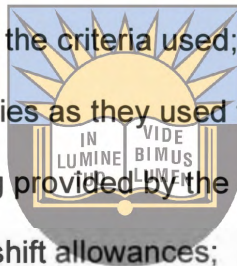


Employment and Working Conditions

The impact of the partnership on the workers in terms of qualitative and quantitative improvement ~~has been~~ ~~printed~~ ~~very~~ negatively. As early as September 1998, it is reported that the Queenstown municipal workers marched to the municipality protesting against the privatisation of services as well as demanding the municipality should take them back from the private sector as municipal employees. According to the Ecsecc research report, SAMWU shop stewards and workers want to be re-employed by the municipality. Working conditions are not better under WSSA, and promises that were originally made have not been kept. In fact they argue, "...in many ways conditions are worse," (Ecsecc, 1998:38).

The company employed about sixty workers. The workers were transferred from the municipality to the private company. Some of the concerns raised by workers related to the following:

- being overloaded with work;
 - retrenchments because of union involvement but workers who resign, are dismissed or retire are not replaced;
 - their bonuses were modified to performance bonuses of which they were not aware of the criteria used;
 - no housing subsidies as they used to obtain from municipalities;
 - there is no training provided by the company;
 - non-existence of shift allowances;
 - no stop order and reasonable loan facilities for workers;
 - no affirmative action, outsider gets first preference for new jobs;
- and
- Leave days have been reduced to 15 as compared to 30 days applicable to municipal employees.



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According to the report, the union, SAMWU, expressed great dissatisfaction with the contract. They raised objections both to the concept of privatisation, and the fact that the company failed to live up to its promises after they had been transferred from the municipality. The shop stewards felt that the workers had been misled into agreeing to transfer to WSSA because they were told conditions would be better. While no workers were retrenched during the transfer process,

there has been a process of natural attrition. In other words workers who resign, retire, or are dismissed are generally not replaced. The number of jobs has declined as a result," (Ecsecc, 1999: 43).

In addition to the labour related problems or declining working conditions, there were a number of other problems that relate to the content, the form and the process followed in establishing and managing the contract. These include:

- building the capacity of the municipality and prepare them for long term sustainability of the service provision function. The contract did not make provision for internal capacity building.
- there was limited use of local labour and emerging contractors; and
- the degree of accountability and governance issues were not clearly defined.

In fact, the contract itself was silent or vague on a number of critical issues such as monitoring mechanisms, definition of roles, and other areas due to non-existence of a regulatory framework at that time.

A number of those interviewed confirmed that for a longtime and even now most communities do not know anything about WSSA, they regard the municipality as the provider of services. This is particularly so, because it is the municipality that sends accounts, collects payments and disconnects for non-payment of services. One of the interviewees, Lolwana, stated that accountability is the issue over which the municipality and SANCO clash.

WSSA is not accountable to the community; they are accountable to the municipality. But when community raises problems with the municipality they

refer them to WSSA. SANCO itself has no direct contact with WSSA. Any problems that they might have are channeled through the municipality. (Ecsecc, 1999: 45)

This view was also confirmed by the latest MIIU evaluation report. It explained that, in terms of customer management, residents do not talk to WSSA. They still regard the municipality as the accountable institution, despite the fact that the company has appointed a community liaison officer and has satellite offices in Mlungisi and Ezibeleni to deal with customer complaints.



Besides some of the negative reports identified with the contract, the recent report by MIIU reflects drastic improvement on the issues raised above. This evaluation report mentions a number of measures that have been taken to deal with reporting, monitoring, skills training programmes for employees, SMME compliment, and recently Black Economic Empowerment initiatives as mentioned above.

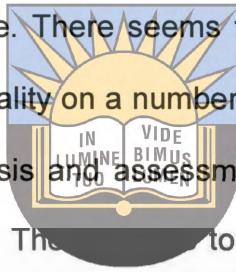
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For example, on the issue of community development, WSSA claims to have a social responsibility programme, which is not part of the contract. The report by MIIU reflects that, WSSA has established the following:

- recreational grounds at Mlungisi and Ezibeleni;
- educational awareness with schools visiting the plants on a regular basis; and
- Control room contributions.

In addition, the regional director for WSSA, states that there are also teams which have been established to deal with education and training, community development, health and safety, HIV and Aids and environmental protection programmes. The skills training programme they offer to their employees is accredited by Local Government SETA.

In short, the management contract seems to be properly managed with records and monthly reports up to date. There seems to be better communication and understanding with the municipality on a number of operational and management issues. However, further analysis and assessment of the contract is necessary especially on financial matters. There seems to be no transparency in as far as providing accurate data in terms of profit and loss to both partners.



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The latest information on the governance relationship with regard to the institutional arrangement is that, Lukhanji Municipality is no longer the Water Service Authority. The Chris Hani District Municipality, now a Water Authority is currently busy with the Section 78 process in terms of the Municipal Systems Act. The Lukhanji Municipality is as from 1st July 2003 a Water Services Provider for its own area and has now entered into a Service Delivery Agreement (SDA) until section 78 process is concluded and a decision taken with regard to the role of WSSA and its involvement.

However, this has not affected the current arrangement with the management contract. Instead Chris Hani District Municipality has also signed another contract with WSSA to service the rural areas. The District Municipality has to honour the existing WSSA contract and inherit it. According to the plant Manager for WSSA, there is a possibility that the company may become an implementing agent for Likhaji municipality and its rural areas. Indications have been made in an adhoc arrangement that they are already doing some work on the instructions of the Council and on a mutually agreed negotiated arrangement.



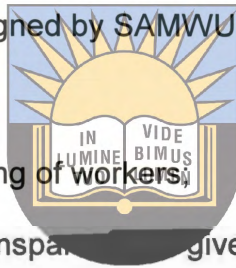
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CHAPTER SEVEN

FINDINGS, RECOMMENDATIONS AND CONCLUSION

Existing studies and literature reveals that there are a number of problems and challenges associated with the nature, process and content of the contract signed with the Queenstown municipality. These problems originate from gross diversion from the set Regulatory Framework as outlined through the Municipal Service Provision Agreement signed by SAMWU and SALGA. These include:

- involvement of trade unions;
- there must be ongoing training of workers;
- job appointment must be transparent and give effect to affirmative action;
- high standard of health and safety;
- financial records must be open and transparent, with broad participation in budget prioritisation of needs;
- performance guarantees by the company;
- monitoring mechanisms and stipulated penalties for non-compliance; and
- stakeholder participation in decision- making; and so on.



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Although a number of problematic areas have been raised, particularly with the Queenstown management contract, there is generally a need to tighten the identified gaps by adhering to the stipulations and recommendations outlined in the Regulatory Framework for Municipal Services. In addition to this, the nature

of the contract needs to be reviewed especially the increased role of the private sector, as opposed to the public sector.

This view was expressed by the then, Mayor of Queenstown, Mr Xoseni, when he argued for,

The possibility of corporatisation as opposed to privatisation. Corporatisation, or forming a parastatal out of the water department, would allow water services to operate more efficiently and pay more attention to financial costs and benefits.” This pointed out that the Restructuring and Regulatory Framework, and Water Services Act, can be interpreted to mean that municipalities have an obligation to explore different public sector delivery options before privatisation. (Ecsecc, 1999:64-65)



As a result, the Department of Water Affairs and Forestry (DWAF) has not only changed its legislation but it also took the initiative of piloting other forms of management contracts such as Build Operate Train and Transfer (BOTT) to increase access to water through RDP projects and Community Water Supply and Sanitation programmes. These projects have been implemented in rural areas. According to Ecsecc;

DWAF arguing that the existing procedures for public contracts were too slow initiated the BOTT projects as a way of fast-tracking the process and speeding up delivery. A number of problems have been identified with BOTT programme....however, while the team recognised the shortcomings of the BOTT programme, it argued that the programme is still delivering water and sanitation infrastructure speedily and should be viewed as pilot project, (Ecsecc,1999:32).

This argument is calling for the option of testing other forms of municipal service partnerships which are community based and driven, and other forms of management contractual arrangements, established along the principles of Build Operate Train and Transfer. These include Public-Public Partnerships which involve the NGO sector in delivery of services. This means mean the involvement and establishment of village and water committees, water boards, and other community and government orientated institutions as vehicles for provision of services.



Other forms that are being tested in the Public –Public Partnership arrangement are those that involve different spheres of government e.g. District Municipality (Water Authority) and Local Municipality (Water Service Provider). These types of PPPs are linked to the decentralisation programme of government powers and functions. The programme for decentralisation is aimed at effective and efficient delivery of services. These are regulated by Service Level Agreements signed by both parties. There is a need for further research on the application of these types of PPP models in a comparative manner.

The gaps and problems associated with the Queenstown water services management contract and other PPP contracts in general, further call for a tighter regulatory framework. As a result the Treasury Department further developed standards and guidelines to manage the process, form and the

content of establishing public private partnerships for municipalities within the legislative prescription of the Municipal Finance Management Act 2004.

The case study also demonstrates evidence on the impact of privatisation and some flawed processes that are followed in its implementation. However, the literature reviewed does not quantitatively present the information on costs and benefits of both the municipality and private company. The reports and evidence gathered definitely expresses the implications of a private sector service that is profit driven. The impact of privatisation on the employment of labour demonstrates the effects of GEAR in relation to job creation.



The nature of these contracts does not take priority with regard to the rights of individual's access to water. Should the private company breach the conditions of contract; the communities will be left without the services. The charging of tariffs to poor communities also interferes with the right to human dignity, if communities cannot not afford to pay the tariffs, the right of access to clean water and sanitation is denied.

In the overall analysis and examination of facts and arguments presented in this study, it has become evident that the delegated management contract for Queenstown is not the best option for water service provision. Although some have argued that it was the first and currently the best pilot project that needs to be properly regulated, other people interviewed have dismissed it and regret that it was concluded. The then mayor of Queenstown even felt that,

The best kind of contract would be one that is not designed to allow maximum profit. The best option would be to form a parastatal for water. The advantage of this would be that the parastatal would be a separate entity. Unlike a department within the municipality, it would keep proper accounts of income and expenditure, and would be responsible for any loss... (Ecsecc, 1998:45).

On the other hand the recent report by the MIIU reveals that with better communication and adhoc innovations introduced by WSSA there is general agreement that the contract proves to be working efficiently for the Municipality. The MIIU evaluation report which the regional director for WSSA claims to have been presented to Chris Hani District and Lukhanji Municipalities, has been accepted and acknowledged as the most comprehensive and accurate.



According to this report,

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The success of the project are acknowledged by both parties to be: - the ability of the municipality to maintain a first class service despite budgetary constraints, maintaining low tariff increases, development of the staff that were transferred to WSSA, the flexibility of the private sector and the work and cost efficiencies achieved, access to outside expertise, i.e specialist from France and economy of scale benefit. (MIIU, 2003:2) .

The report further claims that there has been improvement in terms of access to water. This is confirmed by adhoc activities performed by WSSA in rural areas and areas not covered in the contract, as well as contracts entered with the Chris Hani District Municipality. The report concludes that,

The main reasons for entering into the contract are still valid and these have been addressed in a mutual beneficial manner. Both parties were very positive towards the contract and satisfied with the implementation thereof. A good working relationship exists between parties. The most important problems/concerns identified were the lack of performance guarantee and

service standards (although the latter has been addressed), the exclusion of the sewerage maintenance and sewer replacement and the impact that the exclusion of meter reading and billing have had on the parties. (MIIU, 2003:2)

However, the Queenstown management contract also presents the basis for economic and legislative policy and strategy discussion and review for the best option. As it is, there are fewer benefits to both the municipality and the community. This raises a fundamental question on the objectives, and basis for the contract itself. The relevant question is whether a feasibility study was done before the contract was concluded, or was it not just a flow with the global influences of privatisation.



The obvious answer would be that this contract was done before the Restructuring and Regulatory Framework Agreement and the Regulatory Framework for Municipal Services Partnership were developed by the then department of Constitutional Development. Therefore, there is a reason for the existing flaws. Furthermore, it was indeed a first experience and there were no experts to engage during the negotiation process. In addition to this, it is clear from the process that the company WSSA was not subjected to competition, as it directly approached the municipality and negotiated the contract.

The other lesson that can be drawn from the Queenstown contract is the financial and the credibility risk arising out of the fact that, in terms of the contract it is the municipality that bears the responsibility of accounting to the community and implements punitive measures when there is non payment for services. Whether

residents pay or not, the municipality is still obliged to pay the company the full price for the amount of water delivered and metered to consumers. Thus it is the municipality that must enforce hard policy on disconnection, and as such it is often identified as the cause of the problem.

The rest of the contract has been designed in such a way that it transfers all risks to the municipality. For example, Ruiters G, has argued that, demand risk, performance risk, operating risk, collection risk, force majeure risk, residual value risk are all with the municipality. Added to this, there is also what they call the lock-in factor. In the case of Queenstown, the authority may cancel the contract only after the first half of the contract term only if it gives two year's notice of cancellation of the contract and they must still pay the operator for the remaining years at the rate of 10 per cent of the global amount paid for the previous year before the cancellation. Moreover it must pay out the operator for all investments minus depreciation, plus outstanding amounts, and re-employ the entire workforce at the same conditions as under the operator. (Mc Donald and Ruiters, 2005:154-155) .



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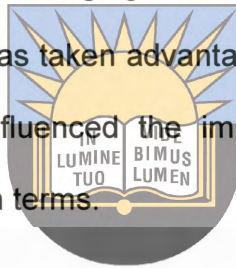
It is very clear that the contract as it stands today, has violated to large extent, conditions and processes stipulated in terms of section 120 (1)(2) of the Municipal Finance Management Act, 2003, which clearly states,

A municipality must enter into a Public Private Partnership if it can demonstrate that the agreement will-

- provide value for money to the municipality;

- be affordable to the municipality; and
- Transfer appropriate technical, operational and financial risk to the private sector. And that the partnership agreement must comply with any prescribed regulatory framework for public private partnership.(Municipal Finance Management Act, 2003:124)

Lack of administrative capacity to monitor and regulate the contract by municipalities coupled with the complex nature of the management contracts posed a serious challenge in managing both the process and content of the Queenstown contract. WSSA has taken advantage of such a situation. Due to its high expertise it has even influenced the implementation of the Regulatory Framework according to its own terms.



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In most cases some transnational companies have used their consultants to define the roles and terms of engagement with municipalities. It is only when there is an existence of strong and active community and worker participation that there can be a possibility of enforced accountability and adherence to contractual agreements. The absence of public participation, transparency, and consensus, leads to a private sector dominated contract and lack of monitoring.

With specific regard to the Queenstown Management Contract, one could argue that there is relatively some improvement in the way it is implemented. However, most of the improvements and innovations happen outside the contract at the willingness and discretion of the company. This raises suspicion and concern about the influence the company might have in securing the extension of the

contract under very loose arrangements. It would be much better if the consumer management function, performance standard, performance guarantees, and monitoring tools are added to the contract.

In conclusion, it can be said that the regulation of Public Private Partnerships and general use of the private sector for providing public service has mixed outcomes both in terms of perception and reality. The Queenstown management contract is but one example of such failures by the public sector in playing its role effectively. One can finally argue that the state as the perceived regulator of management contracts has been ineffective for a number of reasons as stated above. With the limited experience and lack of expertise in negotiating and managing public private management contracts with the local government and other spheres of government, there will still be greater problems with the under capacitated and financially bankrupt municipalities. The Policy and Regulatory Framework may prove to be useless if there are no proper mechanisms set up to monitor and enforce its implementation.



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The failure to build public sector capacity and the weakening of the existing capacity by relying on the private sector makes it difficult for the municipality to ever again take responsibility for delivering services. This becomes worse when one considers the fact that, most private companies find it difficult to enter or get involved in areas where the possibility of making more profits is limited. The end

result of that situation leads to the majority of rural poor communities not having access to affordable services.



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