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AN INSTITUTIONAL ANALYSIS OF MUNICIPAL ENTITIES: THE CASE OF CITY POWER

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An Institutional Analysis of Municipal Entities: The Case of City Power

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Abstract

This study seeks to analyse the performance of City Power, a municipal entity in the City of Johannesburg Metropolitan Municipality (CoJ). The creation and functioning of municipal entities was inspired by the core ideas of New Public Management on managerialism, corporatisation and contracting. These tenets have found expression in local government reform in South Africa and are meant to bring about efficiency in the provision of public services.

Using neo-institutionalism as an approach to the study, evidence points to the fact that the relationship between the CoJ and City Power has led to some of the performance challenges experienced by City Power. Over-time, the CoJ leadership have made business decisions on behalf of City Power using political considerations. This has ultimately led the paper to conclude that City Power is no longer an arms-length entity, but it has rather taken the shape and form of a service department within the CoJ. This is also reflected in the fact that its challenges are typically those found in local government settings.

Key words: New Public Management, Neo-Institutionalism, Local Government, City Power, City of Johannesburg Metropolitan Municipality, Municipal entities

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Chapter 1: Introduction

1.1. Introduction

The 1994 general elections transformed South Africa into a liberal and inclusive democratic state. The relatively peaceful transition was preceded by long periods of deeply entrenched racial inequalities and civil protests. Upon its ascendance to power, the African National Congress (ANC) had a momentous task of addressing the backlogs in development and service delivery. State Owned Enterprises (SOEs) were seen as the perfect vehicle to drive the socio-economic development agenda as well as to expand service provision to the poor and previously disadvantaged. However, SOEs have presented their own set of challenges relating to accountability, democratic control as well as transparency. These challenges have further been illuminated with the continued government bailouts, corruption, maladministration and external influence as reported by the Public Protector's *State of Capture* report released in October 2016 (Public Protector, 2016).

According to the report, the 'capturing' of the state was largely enabled through appointment of boards of directors and CEOs as well as the interference and influence by the shareholder i.e. government. *The Betrayal of the Promise* report indicates that the repurposing of SOEs was preceded by a cabinet reshuffle, by the then President Jacob Zuma who appointed his key allies to the Public Enterprises portfolio (Swilling, et al., 2017) (Public Protector, 2016). The Department of Public Enterprises oversees eight of about 300 public entities across all spheres of government in South Africa. Four of the eight public entities under that particular portfolio account for about 87 percent of the SOE turnover (Cheteni & Khamfula, 2018). This perhaps indicates the importance of the department or portfolio. Nonetheless, this also brings to the fore two of the major challenges of SOE governance; firstly, government must exercise ownership while not exerting undue influence. Secondly, the competing interests by multiple principals leads to a multiplicity of goals (OECD, 2015).

Considering the aforementioned, little attention has been given to how state entities or agencies in the provincial and local spheres of government have been governed and their relationship to the state. This paper focuses on how the relationship unfolds in local government. This sphere of government is particularly crucial as it is said to be the closest to the people and is essentially the coalface of delivery of basic services.

However, Booysen (2015) states that it is this sphere of government that is probably the weakest and its dysfunctionality is attributed to the lack of political and management will

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to make sound appointments, the inability to pass budgets and failure to gain unqualified audits. Politicisation is probably the most deleterious of all the problems besetting local government. Councils have become the subject of high political contestation and party loyalty has trumped meritocratic principles (Olver, 2016).

From 1994, the ANC opted for a strong decentralised system of government with a strong emphasis on addressing service delivery backlogs created by the apartheid remiges. The introduction of the Municipal Systems Act in 2000 meant that local government became more politicised, as this allowed municipal councillors to have a say on the appointments of municipal managers and those managers or directors that report to them. According to Reddy (Reddy P. S., 2016) the move by the ANC was also to ensure that the leadership of the municipality also shared the same vision and ideology of the ruling party to facilitate local development. However, this has often meant that loyalty and adherence to party policy has led to prioritisation of cadre deployment over experience, skills and autonomy (Olver, 2016). The broader implication has been that municipalities are now governed by political considerations dictated by the political philosophy of the governing party.

Local government has been a sphere where the politics of patronage have played themselves out and often with negative consequences on service delivery. In most cases, those in office account more to their political principals than the communities they are meant to serve. State institutions have also become contested and are serving multiple principals or factions of the ruling party. A cyclical relationship has emerged whereby resources and opportunities are distributed through patronage networks to regenerate power of the ruling elite (Booyesen, 2015) (Reddy P. S., 2016) (Olver, 2016).

In both 2016/2017 and 2015/2016 local government audit outcomes, the Auditor General reported that municipalities continue to regress in terms of irregular, fruitless and wasteful expenditure (Auditor-General, 2016; Auditor-General, 2017). On municipal entities, “the General Report on Audit Outcomes for Local Government for the years 2009 to 2015 lists noncompliance with laws and regulations, lack of internal controls, supply chain management transgressions, unauthorised, irregular, fruitless and wasteful expenditure and corruption as some of the key failures of municipal entities” (Gumede, 2017, p. 2).

This leads to the assertion that performance of municipal entities generally mirrors the performance of local municipalities. Peters (2013) further emphasises the point by stating that there is a link between performance of the municipality and the performance of the

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municipal entity. Furthermore, in instances where there is poor governance within the parent municipality, the municipal entity also suffers the same fate (Gumede, 2017). This is rather paradoxical as municipal entities are essentially established to have operational autonomy, to be innovative, responsive and to improve performance.

1.2. Rationale

In 2017 the City of Johannesburg Metropolitan Council (CoJ), under the Democratic Alliance (DA)-led coalition, passed a motion to begin re-integrating some of their municipal entities in the municipality. This meant that municipal entities would no longer function independently and would report to the municipal manager and council as opposed to a board of directors. The City of Johannesburg Mayor, Herman Mashaba, has attributed this decision on the fact that “the Johannesburg metro had a complicated structure of municipal entities, with an even more complicated relationship with the core of the city. The city was the sole shareholder of these entities, but they operated under the Companies Act and were semi-autonomous of the city” (Cox, 2017, p. 1).

Mashaba has also questioned how a city can be responsible and accountable to its residents for fast-tracking service delivery when it does not have complete control over the municipal entities that implement service delivery (Cox, 2017). One of the municipal entities in question is the power utility, City Power, which is the subject of a case study in this paper.

Considering the above, the paper will therefore seek to answer the following research questions:

1. What is the relationship between CoJ and City Power?
2. To what extent has the relationship between CoJ and City Power created performance challenges for City Power?
3. What are the reasons for the observed performance challenges within the context of local government in South Africa?

Using institutionalism as a theoretical framework, the focus of the paper is on the formal and informal rules and links between the municipality and the municipal entity. These rules account for the performance challenges experienced by City Power. The literature review also discusses New Public Management (NPM) and the transformation of local government service delivery in South Africa. The essence of NPM is to utilise private sector values and management tools in delivering a public service. The adoption of NPM by local government in South Africa laid the foundation for alternative service delivery arrangements such as municipal entities.

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1.3. Conceptualising Municipal Entities

There is generally a large overlap in the conceptualisation of SOEs, public utilities, municipal entities and other autonomous public agencies. This paper will use the municipal entities concept to denote autonomous agencies in the local government sphere. Municipal entities are independent organisations that perform municipal services on behalf of the municipality. These entities are created to deliver specialised services and to relate closely to their customers. The entities are wholly owned by the municipality and have the primary objective of providing services originally provided by Council. The municipality maintains policy and implements direction, while allowing company boards and management to exercise relative autonomy in the execution of their fiduciary duties, in terms of the Companies Act (Khumalo, Ntlokonkulu, & Rapoo, 2003) (Gumede, 2017) (Peters, 2012).

Gumede (2017) defines municipal entities as ring-fenced businesses that have a mandate to deliver a public service, which can also operate independently from the municipality. The purpose of this initiative is to lessen the bureaucratic constraints faced by public entities by incorporating private sector delivery models. Rather than full-scale privatisation, municipalities are afforded the opportunity of taking advantage of private sector efficiencies while maintaining public accountability and transparency.

Such a provision is under Chapter 8 of the Municipal Systems Act (South Africa, 2000) which is dedicated to the provision of municipal services, including mechanisms for delivery. Section 76 of the Act defines internal and external delivery mechanisms. Internal mechanisms are defined as delivery by a department or administrative unit, a business unit established by the municipality or any other component of the administration (Peters, 2012). External mechanisms include municipal entities, another municipality, and an organ of state, Community Based Organisations (CBOs) or Non-Government Organisations (NGOs). Furthermore, Section F of the 1998 White Paper on Local Government, provides an alternative service delivery arrangement to assist government in improving service delivery and facilitating economic and social development (Peters, 2012).

1.4. Methodology

The study is qualitative in nature, as it concerns human action from the perspective of actors. According to Neuman (2011) qualitative research methods use non-linear logic paths, meaning there are no fixed steps taken during the research process. New data can be collected along the process and it also means new themes can occur and be integrated in the study. The qualitative approach is best suited for this study as it allows

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for open-ended questions, flexibility and allows respondents to elaborate more on certain issues or topics. These attributes allow the researcher to obtain in-depth information on the subject matter.

The paper sets out to understand institutions in the relationship between the City of Johannesburg Metro Municipality and City Power and how that has impacted on the performance of the municipal entity that is City Power. Taking this into account, it is therefore in the view of the author that qualitative research methodology is most appropriate in this specific study as rules in institutions can be both formal and informal and therefore, in order to understand the informal rules of the game, which are not always written down, one needs to understand the interactions of the social actors and the social actions in their natural settings.

A case study research design was preferred for this paper as it relies on a specific unit of analysis in pursuit of understanding a particular phenomenon in a specific context. Gerring (2007) further states that a case study approach is useful in that it is the study of a unit or small units in order to understand other similar units or a larger class of similar units. City Power serves as the unit of analysis in this paper and findings on this case study might help in the understanding of governance challenges in other similar municipal entities or other entities in the provincial or national spheres of government. Methods of collecting data in this case study include observations, interviews and documents (Leedy & Ormond, 2010).

Data was collected from both primary and secondary sources. Primary data was collected by using interviews with various individuals, stakeholders and role players. Secondary data was obtained from newspaper articles, organisational documents or reports and investigative reports from external agencies such as the Auditor-General. These methods of data collection were used to ensure triangulation, which, according to Leedy and Ormond (2010), is useful in validating data from multiple sources. In addition, Thietart (2001) states that triangulation allows the researcher to benefit from the two approaches and counter balancing the defects of the one approach with the qualities of the other. Lastly, the interviewees have chosen to remain anonymous and for ethical considerations, the data collected during the interviews will be kept confidential.

1.5. Chapter Outline

Chapter 1: Introduction & Background

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This chapter introduced the research topic, description of the background, rationale for the study and research questions. This chapter also outlined the research methodology used, sources of data and how the research was carried out.

Chapter 2: Literature Review

The main purpose of the literature review will be to unpack the concept of neo-institutionalism as well as to discuss the concepts of managerialism, corporatisation and contracting as New Public Management principles.

Chapter 3: Case Study: City Power

Through the process tracing methodology, the chapter will trace back key pieces of information that seeks to explain issues related to performance of City Power in relation to its relationship with City of Johannesburg Metropolitan Municipality.

Chapter 4: Analysis

This chapter interprets and analyses the research findings by answering the research questions.

Chapter 5: Conclusion

This chapter draws the general conclusion of the study.

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Chapter 2: Theory and Literature Review

2.1. Introduction

This chapter outlines the theoretical underpinnings of 'neo-institutionalism' which is used, in this paper, as a framework for analysing City Power's relationship with the City of Johannesburg Municipality. The theory of institutionalism is used to understand the interface between formal and informal rules between the two organisations. The second part of this chapter discusses New Public Management (NPM) and focuses on three key tenets that typically define local government reform in South Africa, which are: managerialism, corporatisation and contracting or public-private partnerships. The last section outlines how the NPM principles have been applied in practice and the unintended consequences they have created within local government in South Africa

2.2. Neo-Institutionalism

The theoretical approach to the study is based on the study of institutions within organisations and the state. In particular, it draws on 'neo-institutionalism' within the fields of political sciences, sociology as well as economics, and generally examines how institutions shape the behaviour and conduct of public officials. The concept of 'neo-institutionalism' refers to a collection of schools of thought that include rational choice institutionalism, sociological institutionalism, and historical institutionalism. The aforementioned schools of thought share a common claim that institutions influence the political strategies adopted by individuals, firms, groups and governments, while subsequently affecting political behaviour and policy outcomes (Hall & Taylor, 1996).

It is important to note that 'neo-institutionalism' draws its foundation from earlier institutional approaches, referred to as 'old institutionalism', which is mainly based on the seminal work of Thorstein Veblen and John Commons. According to Hodgson (1998), 'neo-institutionalism' contrasts old or classic institutionalism, in that the latter was only concerned with describing the nature of formal principles of constitutions and structures and not necessarily concerned about the role of the individual. Neo-institutionalism on the other hand, explores a more systematic explanation of the role institutions play on the political behaviour of individuals as well as for the actual and symbolic results of government policies. In addition, March and Olsen (1984) coined the term neo-institutionalism to distinguish the approach from traditional institutionalism and similarly argued that political behaviour is not just embedded in an institutional structure of rules, norms and expectations. Rather, it is a consequence of rational, though bounded, calculated decisions of individuals. The authors argue that the best way to understand behaviour, whether individual or collective, is through the 'logic of

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appropriateness' that individuals acquire through their membership in institutions (March & Olsen, 1984, p. 23).

Furthermore, the core ideas of institutionalism encompass habits, rules by individuals and their evolution over time. Individuals interact to form institutions, while individual purposes or preferences are moulded by socio-economic conditions. These habits and rules both reinforce and are reinforced by institutions in that they play an essential role in providing a cognitive framework in which to analyse data (Hodgson, 1998).

One of the other main protagonists of neo-institutionalism, Douglas North (1990), emphasises that informal constraints often connect the past with the future and assist one to understand the type of change that is required to take place. These informal constraints are described as institutions. Institutions are not only formal rules of the game, but also include the informal rules. In essence, North (1990) argues that the formal rules of the game need to be backed up by the informal rules for them to work; meaning for any piece of legislation to work it needs to be enforceable. Furthermore, governance arrangements as well as stakeholder dynamics form part of an inter-dependent rules of the game, which set the parameters for the interactions among stakeholders. Stakeholders will in turn work to try and (re-)shape the rules of the game to their advantage (North, 1990). These rules exist in the minds of individuals within a particular organisation and are a reflection of various cultural conditions.

North (1990) further argues that these informal rules originate from the individual's mental models and general belief systems in society over time. Cairney (2011) also states that rules can be informal, and he describes them as habits and practices that develop over time without them necessarily being written down. In addition, informal rules exist when the formal rules are not necessarily enforced by the state, governments or organisations, and therefore third parties seek to create their own set of rules. Therefore, the mix of formality and informality, written regulations and unwritten understandings provide a lens on how organisations operate. The regulating power of formal institutions differs from culture to culture. In some societies it is weak and in others it is strong, therefore, for formal institutions to regulate or work as they should, they often depend on the informal institutions (Rosta, 2011).

The one difficulty with this approach is determining the ability to then identify and understand the informal rules. One then must ask: how are institutions then identified and understood? Ostrom (1990) provides a possible answer, and states that informal

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rules, because they are not written down, can only be understood when they are within an organisation and/or one decides to study them in-depth.

Overall, institutions have various meanings and definitions. However, for the purpose of this paper, institutions are defined as a set of formal and informal relationships within which humans and organisations interact and perform. Institutions matter as they mediate on what ought to be done (rules), what gets done (capability) and the effectiveness with which it gets done. Institutions are also a divergence between the formal rules (legislation, etc.) and what actually transpires in practice (Ostrom, 1990).

In the context of this paper, historical institutionalism, which is a variant of neo-intuitionism, is the best approach in understanding the performance challenges faced by City Power. This approach seeks to understand political culture or political institutions in various settings in order to determine why reforms produce different results in different countries or different contexts. Sanders (2006) states that history matters in the study of politics and variables should be situated in the appropriate context. To understand the actions of players or political actors, one must take cognisance of the historical development of the organisation, and the original and distinct culture and problems in which it arose.

In essence, historical intuitionists recognise formal and informal institutions; however, they further argue that these institutions exist within a particular political and cultural context. “They are interested in the whole range of state and societal institutions that shape how political actors define their interests and structure their relations of power to other groups” (Steinmo, Kathleen, & Longsteth, 1992, p. 2). Examples of institutional contexts are the rules of electoral competition, the structure of party systems, relations amongst other branches of government, and the structure and organisation of economic structures such as trade unions (Steinmo et al 1992).

The relationship between the CoJ and City Power does not exist in a vacuum, therefore this paper seeks to understand the nature of the relationship as well as how the political institutions within local government have shaped the actions of actors. This lens helps us understand the performance challenges that City Power is facing.

2.3. New Public Management (NPM)

The general essence of NPM is to utilise private sector values and management tools in delivering a public service. Emphasis is on transferring business and market principles and management techniques from the private to the public sector, which is in line with

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the neoliberal understanding of state and economy (Dreschler, 2005). Hood (1991, p. 4) outlines the doctrinal components of NPM as follows:

- Hands-on professional management in the public sector
- Greater emphasis on output controls
- Explicit standards and measures of performance
- Shifts to disaggregation of units in the public sector
- Shift to greater competition in the public sector
- Stress on private sector styles of management practice
- Stress on greater discipline and parsimony in resource use

These doctrines are a set of principles meant to bring out the nature and workings of New Public Management.

It should, however, be emphasised that the definition of NPM and the practice thereof follows the framework of general applicability, meaning the definition and application thereof varies from country to country and largely depends on the laws, culture and belief system (Ntliziywana, 2017). Hood (1991, p. 10) refers to it as a “public management for all seasons” offering an all-purpose key to better provision of public service. According to Pollitt et al (2007), the NPM is nothing more than a ‘shopping centre’ where the governments and experts shop for management instruments closest to their tastes. Therefore, NPM presents a range of choices rather than a single option and its success relies on its ability to improve operational efficiency.

2.3.1. Managerialism

NPM represents an attempt to correct the shortcomings of traditional public organisation efficiency and service delivery to citizens and therefore stresses the importance of managers to manage and to be given discretionary space (Hood, 199, p. 1). The principle driving NPM is to give greater autonomy to managers and to decentralise decision making power from policy makers. This principle, also known as ‘letting managers manage, requires managers to personally account for the increased resources, tasks and responsibilities, which makes it less legitimate for politicians to interfere in the administration (Ntliziywana, 2017, p. 64). NPM therefore advocates for managers in the public sector to be autonomous and have wider discretion in order to be service oriented.

However, managerialism has its own shortcomings in that its attempt to “free” managers from control and rule-based routines has resulted in more regulation, oversight and process control (Vabo, 2009). Moar (1999) also emphasises that creating arms-length relationships between policy makers and public sector managers has in fact produced

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more, not less, politicisation of the bureaucracy. He argues that managerial reforms in six parliamentary regimes between 1980 and 1996 have resulted in politicians increasingly having a fear of loss of control over policy implementation and thus senior public service positions have become more politicised (Moar, 1999). Ntliziywana (2017) argues that in the case of local government in South Africa, managerialism ceases to be effective as there is over-regulation in the local government sphere. A law regulating local government actually impedes manager's discretion and their ability to perform. Rather than being innovative and addressing the tasks at hand, managers have to struggle through understanding local government laws and ticking boxes for compliance (Ntliziywana, 2017).

Furthermore, the view that private sector managerial practices should be adopted by the public sector may not necessarily work in the public sector and this is simply because the public and private sectors are different. Considine & Painter (1997, p. 12) argue that "most areas of public service and administration have distinct political, ethical, constitutional and social dimensions" and it therefore renders it different from the private sector in that a public manager must balance all these aspects with limited resources. Moreover, critics argue that the managerialism approach ignores the fact that the public manager, in practice, is faced with the burden of 'politics' (Alford, 1993). Often, public managers experience political interference or having to manage competing interests from various stakeholders. Therefore, to the "extent that the manager's job is 'public', politics is intrinsic to his or her very task. It is open ended and all pervasive in a democratic society. To attempt to deny or exclude it is to wish away the unavoidable" (Alford, 1993, p. 137). Closely related to managerialism, as a means for resolving the shortcomings traditional bureaucracy, is corporatisation.

2.3.2. Corporatisation

Corporatisation, also referred to as Agencification, is a core element of the NPM doctrine and largely refers to the transfer of government activities or functions to agency-type organisations or entities outside of government departments (Christensen & Laegreid, 2006). For purposes of this study, the government entities in question are municipal entities. The NPM doctrine has a predisposition to decentralise and thus the idea behind corporatisation is that municipal entities would operate similarly to private sector organisations and they will be able to find innovative solutions to management problems and reduce the costs of providing efficient service delivery.

Polidano (1999) states that corporatisation entails converting line departments of government into free-standing agencies or establishing semi-autonomous agencies or

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public entities, run by their own boards of directors, which render public functions on behalf of the departments. Corporatisation is mainly meant to solve problems of poor performance of the traditional bureaucracies and allows for separation of policy making and implementation (Moar, 1999). Furthermore, Agencification aims to include increased efficiency, strengthened and clarified responsibility and accountability lines, a more encouraged and professional administration and a more service-oriented administration (Schick, 2002).

Corporations or agencies have a contract or an arm's length relationship with the parent municipality for the provision of municipal services. In terms of this relationship, the parent ministry or municipality appoints the management of these entities and retains one hundred per cent ownership, however, the corporation operates with flexibility associated with the private sector and independent from municipal bureaucracy (Ntliziywana, 2017) (Nyamukachi, 2004). The logic of agencies is that each service must have its own unit, which then gives it the incentive to execute on its sole responsibility efficiently (Schick, 2002).

Schick (2002) argues that although agencies are at arms-length from the parent municipality, the relationship is in such a way that the agency remains bound to the parent municipality in the form of performance targets, assessment of results, contracts and framework documents spelling out responsibilities. However, it should be noted that, performance monitoring and assessments is of little value if those entrusted with the responsibility are simply not interested or have no capacity to execute. Furthermore, Perez-Lopez, Prior, & Zafra-Gomez, (2015) emphasise that there is no guarantee that agencies bring about a higher degree of efficiency and in fact, without proper measures of ensuring accountability, agencies or corporates may become instruments to which local governments channel their increasing levels of debt.

The autonomy of agencies raises a question of democratic accountability and at the centre of the debate is whether arms-length corporations do not erode the role of the state in providing public services. Schick (2002) adds to this debate by outlining three factors; firstly, that the language used by corporates moves from dealing with tax payers as citizens but more as customers and that the language is more befitting a commercial relationship than a political relationship. Secondly, the relationship between agencies and customers is no longer defined by rights and obligations but rather by who can afford to pay for the service. Thirdly, Schick (2002, p. 21) argues the following:

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...agencification parcels out responsibility among quasi-autonomous enclaves, but that it is a key part of rethinking the role of the state. In historical perspective, the state is special as the national repository of public authority. This specialness is being eroded for while the state may have a monopoly in exercising government authority, it does not have monopoly in providing services. Services do not depend on legitimacy and authority, but on getting the job done, satisfying customers, and efficiently producing outputs. Once the state is cast as a supplier, it is prudent to select the form of organisation and mode of delivery that are best suited to the particular task, even if the upshot is a weakened state....

The provision of public service is generally the domain of the state and critics of the agency model suggest that through Agencification, the state or government has generally outsourced its primary responsibility.

Rhodes (1994) also asserts that alternative service delivery mechanisms such as agencies bring about a complexity and obscure who is accountable to whom. This complexity of systems decreases the ability of individuals to understand the system, which in turn reduces public participation and limits access to decision-makers (Rhodes, 1994). Accountability is a central and contentious theme in the relationship between parent municipalities / ministries and their agencies. How does one strike the balance between autonomous agencies and accountability? Lynn Jr (1998, p. 34) identifies the root challenge of government accountability as “the delegation of sovereign authority to [non-elected] officials empowered to act in the name of the people and their representatives and the resulting necessity to maintain control over those officials’ actions”. Essentially, those who are elected have the responsibility to hold officials or those providing a service accountable.

The aim of the NPM doctrine is to generally decentralise public services and the creation of agencies gives effect to this notion. The idea is that parent departments/ministries devolve power to agencies that provide a singular specialised service through a “business like” operating model and thereby making it efficient. However, the unintended consequence of decentralisation is that it creates fragmentation and loss of coordination and political control in the delivery of services (Perez-Lopez, Prior, & Zafra-Gomez, 2015) .

The general argument is that delivery of services is transversal, meaning it cuts across multiple functions and departments, and therefore it needs coordination to prevent overlap, duplication and inefficiency. Closely linked to corporatisation is contracting or

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outsourcing, which is another means of simulating business practices to deliver government services.

2.3.3. Contracting

Contracting, also referred to as outsourcing or public-private partnerships, is the transferring of service delivery to private companies with the aim of improved efficiency. Contracting stems from the 'contract' between the state and private individuals or firms, whereby the latter funds and provides public services and both parties share the associated risk. The private sector also participates in the decision making on how to best provide a service or product and the production and delivery of the service, which is normally the domain of the public sector (Forrer, Kee, Newcomer, & Boyer, 2010, p. 476). Essentially, public-private partnerships are the middle ground between privatisation and full state control of the provision of services.

The advantage of using the private sector in delivering services is that there is a degree of competition amongst the service providers and this in turn lowers costs and inefficiencies (Perez-Lopez et al, 2015)(Forrer, Kee, Newcomer, & Boyer, 2010). Contracting also serves to mobilise business skills from the private sector, which are then infused into the provision of public services (Ntliziywana, 2017).

Perez-Lopez et al (2015) assert that there is a goal conflict in the provision of public services by private companies. This is because the goal of private firms is to maximise profit and those of local government is to maximise social benefit. When conflict occurs, it is generally to the detriment of the public. Therefore, reconciling private sector interest with public obligations is not necessarily an easy task and needs greater control from the government (Rosenau, 1999). In addition, Rosenau (1999) argues that public-private partnerships do not always guarantee access and equity to the vulnerable groups in society and at times cost calculation takes precedence.

Another issue arising from the public-private partnerships is accountability. Generally, private companies are not held to the same accountability standards as the public sector. For instance, private companies are not compelled to disclose their financial statements for scrutiny and therefore accountability mainly depends on government's ability to enforce the contract (Rosenau, 1999).

2.4. New Public Management and South Africa's Local Government

The introduction of public service reforms by the ANC government in the late 1990s has constituted an important part of the transformation process in South Africa. This was at the back of the inheritance of an undemocratic and racially fragmented public sector,

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which consisted of the national, provincial and “homeland” administrations (Naidoo, 2015). According to Kuye (2006) the public service was, in general, highly centralised with top down administrative and managerial practices. The NPM paradigm was used as a tool to inform the new governance framework which focused on bureaucracies and state departments (Fraser-Moleketi, 2006), (Kuye, 2006). NPM was viewed as a break with apartheid’s racist, inefficient and partisan Weberian model of service delivery (Ntliziywana, 2017).

NPM went on to become policy and practice and was cascaded down to local government in South Africa. This was part of an overall process to prioritise delivery of basic services to previously underserved communities in South Africa. The local government dispensation was introduced in 2000 and with it came the adoption of Municipal Systems Act (Act 32 of 2000) which regulates planning, service delivery, performance monitoring and public participation. When drilling down to service provision, Section 73 (1) of the Act asserts that the municipality has a duty to ensure that all members of the local community have access to minimum levels of basic municipal services (Ntliziywana, 2017) (Khumalo, Ntlokankulu, & Rapoo, 2003).

NPM principles on managerialism, corporatisation and contracting express themselves in various sections of the Municipal Systems Act. Firstly, the Act imposes managerialism on municipalities and externalising service delivery. Ntliziywana (2017:21) states that municipalities are required by law to confer wider discretion and autonomy to managers, basically managers must manage. Secondly, the legislative framework requires municipalities to become efficient and service-oriented entities. Under the Municipal Systems Act (2000), municipalities can engage or contract external agencies and corporations to provide or render services on their behalf (Khumalo, Ntlokankulu, & Rapoo, 2003).

Thirdly, the legislative framework encourages what Hood (1991) describes as a shift of disaggregation of units in the public sector, meaning that provision of services can be contracted out to the private sector. This is to breakdown the monolithic structure of bureaucracy by contracting out products or particular services in municipalities. Chapter 8 of the Municipal Systems Act (2000:p8) explicitly states that “a municipality may provide a municipal service in its area or a part of its area through an external mechanism by entering into a service delivery agreement with any other institution, entity or person legally competent to operate business activity” (Ntliziywana, 2017).

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The creation and functioning of municipal entities, like City Power, was inspired by the core ideas of NPM on managerialism, corporatisation and contracting. These tenets have found expression in how local government was reformed in South Africa and are meant to bring about efficiency in the provision of public services. Efficiency presupposes performance.

2.5 NPM Principles in Practice

It would appear that the implementation of NPM principles has not produced the intended results. NPM has, at times, produced unintended consequences in South Africa's local government and this is understood through the lens of neo-institutionalism, which suggests that institutions exist within a particular political and cultural context. As stated before, local government has become over-regulated and therefore management discretion has been limited, as managers find themselves having to understand all the laws governing local government as well as compliance practices. On the other hand, discretion has extended to issues such as recruitment processes in municipalities, which has privileged political calculation in making appointments and granting of promotions over professional and administrative considerations (Chipkin, 2016). Tshishonga (2015) also argues that the ANC's 'cadre deployment' policy, adopted in its 2007 national conference, has become widespread at municipal level and this has resulted in inappropriate appointments which often lead to incompetence.

Corporate entities are no different from ordinary municipal departments or administration, therefore there is no incentive to have corporatised entities, and this is because the regulatory framework subjects corporate entities to tight controls as ordinary service departments (Ntliziywana, 2017). Furthermore, corporatisation was never fully expressed in the law.

In their report entitled the *Contact State*, The Public Affairs Research Institute characterises South Africa as the contract state and argues that the provisions of contracting have brought about unintended consequences, such as the following:

1. "Service delivery in South Africa is decreasingly performed by government administrators and increasingly performed by private companies which tender for this role.
2. The role of public servants has changed from that of administrators to that of managing contracts and the quality of service delivery often depends on how well these contracts are negotiated and enforced.
3. The system of awarding contracts is today so decentralised and fragmented that it is difficult to coordinate activities between departments and tiers of government

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and to exercise oversight of the system as a whole. The decentralisation of procurement has produced thousands of sites where local groups compete for resources and opportunities” (Brunette, Chipkin, Tshimomola, & Meny-Gilbert, 2014).

It is therefore argued that the unintended consequences, as stated above, reflect the informal institutions that have emerged from the adoption of NPM tenets in local government. City Power as a municipal entity exists within this context.

2.5. Conclusion

There are many definitions of NPM and what it entails, but one common aim and objective of NPM reform, is to make governments effective and responsive to citizens’ demand for better services. This chapter briefly discussed the three main tenets of NPM, which are generally applicable to the South African local government context. The unintended consequences of NPM reforms, according to the literature, are that in some instances they do not result in efficiency, often lead to fragmentation and bring to the fore questions of accountability.

South Africa’s local government framework reflects the principles of New Public Management and these principles were adopted as a mechanism to address service delivery backlogs created by the pre-1994 apartheid system of government. The local government framework in the form of various legislation such as the Municipal Systems Act are the formal rules or institutions used to guide Municipalities in exercising their mandate in delivering basic services.

However, it is argued that formal rules alone are not enough for one to understand factors that contribute to how organisations, governments or the state works, and they therefore need to be studied and understood together with the informal rules. Neo-Institutionalism provides a lens in which we seek to understand the relationship between CoJ and City Power, Chapter 3 begins to unpack this relationship by discussing the conceptualisation, formation as well as some of the performance challenges facing City Power.

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Chapter 3: Case Study: City Power

3.1 Introduction

The preceding chapter outlined and unpacked New Public Management. This chapter seeks to demonstrate how it has been applied at a municipal level in South Africa. The first part of the chapter provides a brief overview on how the then Greater Johannesburg Municipal Council sought to resolve, through a transformation process, a financial and institutional crisis in the late 1990s. The second part focuses on the thinking and ideas behind a service delivery model, conceptualised through the *iGoli 2002* strategic plan, which evolved into the creation of municipal entities meant for efficient service provision.

Lastly, the chapter pays attention to the establishment of City Power, as a municipal entity, its mandate as well as the organisational and political challenges it faces. The chapter uses evidence from documentary sources and interviews conducted.

3.2 Background and Context

In 1997 the Greater Johannesburg Municipal Council (GJMC), which was later renamed as City of Johannesburg (CoJ), faced impending financial crises resulting from low tax compliance and a fragmented system of budgeting and expenditure. This had generally undermined the Council's ability and effort to deliver services in an efficient manner. At the core of the problem was the fragmented governance system, which had been broken up into four councils and one overarching Metropolitan Council (Savage, Gotz, Kihato, & Parnell, 2003). This was owing to the inherited system of governance where segregation was enshrined into law and therefore meant that the white population had a better revenue base and could afford better services in comparison to the black and coloured populations (Brandeis, 2013).

The pre-1994 Johannesburg Municipality consisted of 16 municipalities which were then merged into four Metropolitan Local Councils, governed by a citywide body, the GJMC as shown in figure 1 below (Selepe, 2004). According to Woldermariam, Widner, & Bacon (2012), the Greater Johannesburg Municipal Council was weaker than the Metropolitan Local Councils it oversaw. Each of the Metropolitan Local Councils decided on their priorities, approved their own budgets and spent on infrastructure projects without sufficient financing. Apart from the finances, the GJMC also faced major institutional crises, inter alia, the lack of focus on service delivery, top heavy management structures and a general lack of coordination, which resulted in duplication and inefficiency (Reddy S., 2003).

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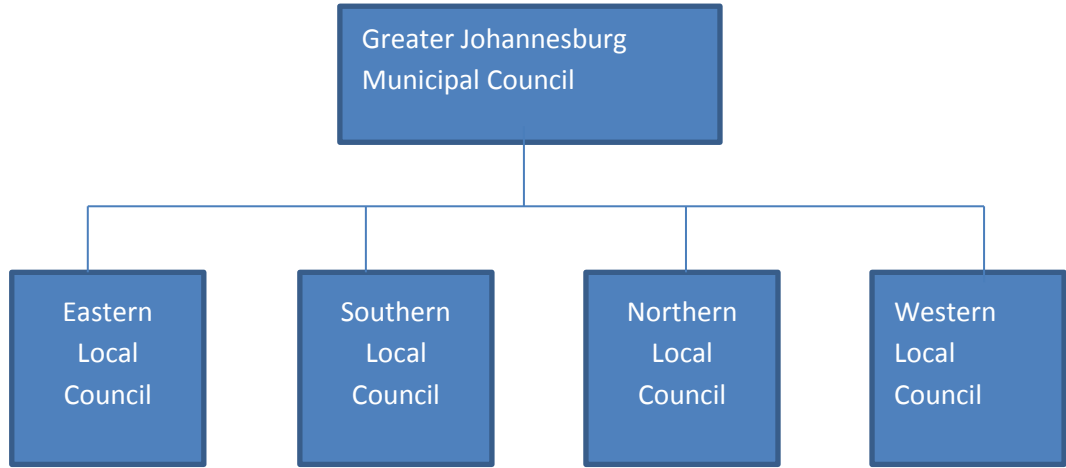


Figure 1: Johannesburg Municipality structure in 1999 (Selepe; 2004)

Savage et al (2003) also point to three challenges facing the GJMC's service delivery capability, which were, firstly, inadequate information such as the lack of raw data to understand developmental patterns and trends and so on. Secondly, there was generally a weakness of strategy whereby the GJMC did not give much attention to the long-term strategic planning in relation to service delivery. Lastly, the GJMC had no appropriate service delivery institutions, i.e. there was little attention paid to the differential nature of service delivery sectors. The GJMC was not attuned to countrywide developments in their sector and therefore there was no room for innovation (Savage et al 2003) (Smith, 2006).

3.2.1 iGoli 2002

In 1999, an organisational review committee, spearheaded by then City Manager Ketso Gordhan, was put together in an attempt to deal with the factors underpinning the institutional and financial crises. The organisational review team ushered in the *iGoli 2002* plan with its main objective being to deal with the fragmentation by restructuring the different Metropolitan Local Councils into one single Metropolitan Council and to ensure service delivery. The central theme to the restructuring was decentralisation, whereby there would be financial ring fencing and institutional autonomy where managers were to be given full control over both the costs and customer revenue base associated with the service they provide (Smith, 2006). According to Woldermariam et al (2012). "Ketso Gordhans' plan built on popular New Public Management theories of public sector governance, which emphasised the merits of decentralisation and managerial autonomy for inducing better performance within government institutions" (Woldermariam et al, 2012:6).

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With respect to service delivery, the *iGoli 2002* outlined that the GJMC would retain its core functions of policy setting and providing strategic direction and would set up service delivery companies to provide services on its behalf (SALGA, 2011). Johannesburg municipal services were therefore corporatised into quasi-independent units, which were established as new companies, with the GJMC as the sole shareholder and each company having its own board. The aim was that the units, referred to as entities, would have clear delivery targets, significant flexibility in operations and organisation and be similar to private companies. The thinking was that companies would bill for services, collect their own revenues, raise capital for projects and make capital expenditures in order to improve and extend service with the approval of a board. Furthermore, corporatisation would allow the GJMC to retain control of the different functions but also free the utilities of the administrative constraints of City council procedures (Woldermarium et al, 2012) (Smith, 2006) (SALGA, 2011).

The GJMC established service delivery companies according to the following three service delivery functions:

- Utilities, for managing three major trading services, i.e. water and sanitation (Johannesburg Water), electricity (City Power) and refuse collection (Pikitup). The vision was that these three service delivery companies would generate revenue and use that revenue to run their own operations, essentially, they would be self-sufficient. The GJMC would set the fees these companies could charge residents and through service delivery agreements between the companies and the GJMC, the GJMC would devise their business plans, revenue targets and expenditure limits. This set of companies are clustered together because they provide billable services to residents (SALGA, 2011) (Woldermarium et al 2012).
- Agencies such as the Johannesburg Roads Agency were established to manage those critical services that were essential for the city but could not generate significant revenue to be self-sufficient. These agencies do not bill the public for services and are entirely dependent on GJMC funding.
- The third type of companies is referred to as corporatised entities and were created for services that could create user fees such as the civic centre, zoo and bus service. These would generate revenue but not enough to be self-sufficient.

Table 1 below summarises the types of companies and the names of companies in each service delivery segment.

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City of Johannesburg Entities		
Utilities	Agencies	Corporatized Entities
City Power	Johannesburg Roads	Johannesburg Zoo
Johannesburg Water	City Parks	Metrobus
Pikitup		Johannesburg Theatre
		Johannesburg Fresh Produce Market
		Johannesburg Development Agency
		Johannesburg Property Company
		Metro Trading Company
		Johannesburg Tourism Company
		Johannesburg Social Housing Company

Table 1: City of Johannesburg Entities

To ensure accountability and to provide oversight, the GJCM set up a Contract Management Unit (CMU) with its core function being monitoring contracts on behalf of the GJCM, define tariffs in line with the GJCM’s policies and to apply penalties for noncompliance. Furthermore, the CMU, which reported directly to the City Manager, developed key performance indicators in relation to the entities. These indicators served as a basis for performance management agreements between the GJCM and the entities.

In summary, the *iGoli 2002* plan brought about institutional reforms in the Greater Johannesburg Municipal Council and, amongst other features, it brought about the creation of a corporatised service delivery model in the form of utilities such as City Power. Furthermore, the plan also split the strategy and implementation functions whereby strategy was the core function of the central municipality administration and implementation was devolved to the entities. The main reason for establishment of municipal entities was to ensure efficient and cost-effective service delivery process.

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3.2.2 Establishment and Mandate of City Power

The South African Constitution empowers municipalities with the responsibilities of the reticulation of electricity. The rationale behind the constitutional provision was to allow for innovation and transformation of the distribution patterns characterised by the apartheid regime logic. In particular, during apartheid, Eskom mainly provided electricity to the townships and homelands, while white municipalities distributed to white suburbs. In order to realign the vision of a more inclusive and non-racial South Africa in 2004, a legislative framework for municipal entities came into effect through amendments of the Municipal Systems Act (2000) and Municipal Finance Management Act in 2004.

Informed by the *iGoli 2002* strategy, City Power was established in 2001 as an electricity utility for the City of Johannesburg Metropolitan Municipality. Its main function was to provide electricity and network services to all its customers. These included the purchasing, sale and distribution of electricity; constructing networks; connecting customers, repair and maintenance of networks; and installation and maintenance of public lighting. However, City Power does not generate electricity but rather purchases power from the national generator, Eskom, and acts as a reseller to residents in areas of the City of Johannesburg as a revenue enhancement mechanism. City Power currently has about 410 000 customers, and, it is not the sole provider of electricity in the City of Johannesburg as the Sandton and Soweto areas are serviced by Eskom (City Power, 2018).

The City of Johannesburg (CoJ) regulates City Power in the form of a Service Delivery Agreement. The Service Delivery Agreement regulates the service provided by City Power in respect of financial issues (such as tariffs and capital expenditure), human resource issues (such as skills development), delivery targets (maintenance of assets and addressing assets) and standards of customer care. The National Energy Regulator (NERSA) also plays a critical regulatory role by setting minimum requirements and standards (City Power, 2018).

City Power is governed by the Companies Act 71 of 2008. The Companies Act makes it mandatory for business and affairs of the City Power to be managed by a Board of Directors. The Board of Directors is appointed and removed by the CoJ. The Board is empowered to appoint the Chief Executive Officer or the Managing Director (City of Johannesburg Governance Framework). All respondents interviewed for this research assert that in fact NERSA regulations and Companies Act are the only pieces of legislation that are different to those governing CoJ, meaning that the same pieces of legislation governing City Power are those governing CoJ.

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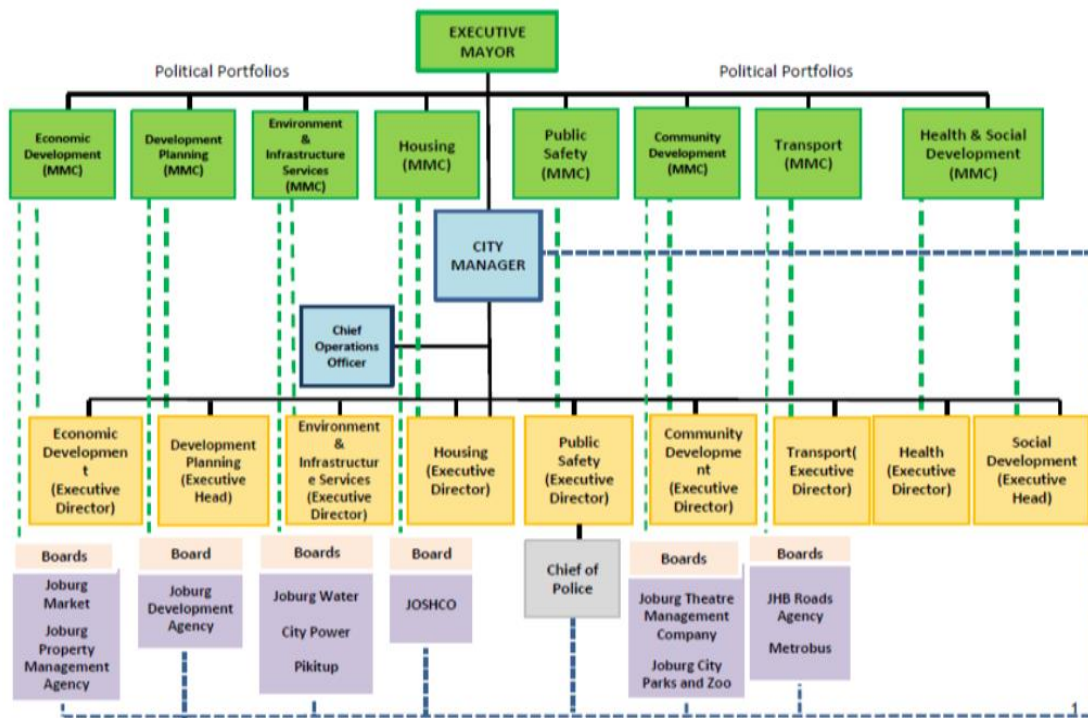


Figure 2: CoJ Governance Model (City Power, 2018)

The above diagram demonstrates the governance structure of CoJ, where there are three layers of governance. Firstly, the political portfolios which report to the Executive Mayor, secondly, the departments that report to the City Manager. Entities are located at the bottom of the structure where they report to the various boards as dictated by the corporatisation model. City Power is located under the MMC of Environment and Infrastructure Services for political oversight and performance monitoring through the CMU. The diagram depicts the relationship between the CoJ and City Power.

3.3 Political Challenges

Since its formation, City Power has been plagued by long existing and deep-rooted problems, which manifested in the form of the mismanagement of finances, governance failures, billing problems and the inability to provide residents with uninterrupted electricity supply. Already in 2002, there was tension between the CMU and the utilities over priority setting. Woldermariam et al (2012) note that the corporatisation model prescribed that utilities be self-sufficient and therefore management’s interest was to generate revenue. This differed from the goal of the CMU, who through developing key performance indicators, were advocating for a “pro-poor service delivery philosophy”.

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The “pro-poor service deliver philosophy” would ultimately lead to a strategy on indigent citizens and this had an impact on revenue of the power utility.

3.3.1 Revenue, Billing and Customer Relations

Revenue and billing has perhaps been the most contentious issue in the relationship between CoJ and City Power and this was picked up during the interviews with respondents (Interviewee 1, 2018) (Interviewee 2, 2018) (Interviewee 6, 2018). They highlighted that revenue and billing, which was taken over by CoJ around 2009, has led to the poor performance of City Power. The story goes that in 2006, under the stewardship of Mayor Amos Masondo, the CoJ started with the conceptualisation of *Project Phakama*, stemming from a need for improved customer relationship management and to develop a sustainable revenue base (Interviewee 6, 2018). Essentially, *Project Phamaka* was seen as the final transformation phase, of improved service delivery, stemming from the *iGoli 2002* plan. According to Mohlakwa (2012, p. 40) “the primary mandate of the project was to re-design business processes and implement an integrated IT solution for the entire customer relations and revenue management functions across the City”.

The CoJ service delivery model, which consists of Utilities, Agencies and Corporatised Entities (UAC's), not only created fragmented services but it also meant that residents had several access points to the Municipality (Interviewee 6, 2018). For example, as was alluded by a respondent, a customer was receiving separate statements or bills from each of the utilities. Therefore, the CoJ saw a need to consolidate its fragmented revenue management and customer interface into a single accountable customer facing organisation. The revenue and customer interface value chain was implemented through a SAP Integrated IT System. The total cost of *Project Phakama* would amount to about R450 million and implementation ran from 2006 to 2010 (Mohlakwana, 2012).

Project Phakama became a “Pandora’s Box” for the City and its entities. Beside normal challenges associated with such major IT projects, there were other factors that contributed to the failure of the project. Mohlakwa (2012) points to external factors that include change of leadership, restructuring of the organisation and the change in service provider. Furthermore, she (Mohlakwana, 2012) points out that local government is politically driven and therefore projects of such nature are often politically motivated before they are operationalised. This point was further supported by one of the respondents who mentioned that during the implementation phase, the City was briefed on the challenges that were likely to occur at the end of the project. The leadership in the City chose to go ahead with the implementation anyway as there was a political goal

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that had to be achieved. The City's service delivery model at the time meant that the utilities were controlling more budget than the City Manager and therefore the decision to centralise revenue management was to shift power back to the City Manager's office (Interviewee 2, 2018) (Interviewee 6, 2018). Figure 3 below indicates that currently the budget resides with CoJ and City Power is allocated funds at the discretion of CoJ. An example is the differences for Repairs and Maintenance, where City Power applied for 16.6% and CoJ proposed to allocate 11.5%. From this example it is apparent that there appears to be misalignment between the expectations of the two organisations.

City Power Johannesburg (SOC) Limited				
Budget 2018/2019				
Budget Guidelines				
	Proposed budget	City Power Applied 2018/19	2019/2020	2020/2021
CPI	5.4%	5.4%	5.4%	5.9%
Salaries increases	6.1%	8.1%	6.1%	6.4%
Interest on Loans	10.25%	10.25%	10.50%	10.75%
Repairs and Maintenance (Increase)	11.5%	16.6%	11.5%	5.9%
General Expenses (Increase)	5.4%	11.3%	5.4%	5.9%

Figure 3: CoJ Budget Allocations to City Power (City Power, 2018)

In addition to the centralisation of the budget and the implementation of *Project Phakama*, revenue, billing and customer relations of City Power were now a CoJ function through the Group Shared Revenue Services Department. According to the one of the respondents, *Project Phakama* started what we now colloquially refer to as the 'Joburg Billing Crisis' (Interviewee 6, 2018). At the core of the crisis are data inaccuracies as well as overbilling of services. According to a respondent, City Power often refuses to take responsibility on issues relating to billing and collection of revenue as it is no longer their function. This has ultimately led to an erosion of accountability and responsibility. Furthermore, this model has meant that a centralised unit outside City Power receives customer complaints and this has its own set of challenges as those who are meant to resolve the complaints are not receiving the complaints. With the implementation of *Project Phakama*, the City Power Board and executive management have been disempowered (Interviewee 1, 2018) (Interviewee 6, 2018).

In 2013, the CoJ conceded that it was unable to collect about two thirds of the R18 billion owed to it by consumer debtors. The overbilling and data inaccuracies (such as

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addresses and spelling of names) resulted in non-payment from Johannesburg residents. The Auditor General also found that the city could not provide “sufficient appropriate audit evidence in instances where source and recorded billing data differed” (Mawson, 2013, p. 2). The Auditor General noted that estimates were done for an “extended period of time” and the city could not provide sufficient audit evidence for disregarding actual meter readings (Mawson, 2013).

In 2013, the power utility set about resolving their billing crisis and increasing revenue, by procuring new smart meters for an estimated amount of R1.2 Billion. In 2017 a forensic report probe revealed that the costs had escalated to an amount of R2.8 Billion and the deal, which was awarded to Vivian Reddy, a close associate of Jacob Zuma, was awarded irregularly. The smart meters were procured without any endorsement from CoJ and upon installation some of the meters had no software linking them to the central billing system (Interviewee 2, 2018) (Interviewee 6, 2018). According to African News Agency, “Many residents had received bills for hundreds of thousands of rand for electricity which they could not possibly have used... and where residents had made enough fuss, such as in Mayibuye in Ivory Park, newly smart meters were removed after community uproar. City Power bridged the system for residents to receive electricity which was unmetered and free of charge ...” (Africa News Agency, 2015). This compounded the billing crisis and loss of revenue as some of the meters were not functional and, according to one of the respondents, to date City Power cannot account for some of the meters (Interviewee 6, 2018).

Around 2014 there was a discussion in the CoJ about taking back the billing to entities. One of the main concerns was that the City was not able to hold the utilities accountable as they do not collect revenue and did not have access to the SAP system. A respondent also alludes to the fact that in one of the visits to City, Cooperative Governance Minister Pravin Gordhan had mentioned that the viability of entities should be reviewed. Mayor Parks Tau had also proposed that UAC’s be re-integrated back into the City. The move was apparently not supported by City Power’s Board Chairperson Frank Chikane and Luthuli House, the ANC Headquarters (Interviewee 5, 2018).

The 15 Year Review of Local Government published by SALGA in 2015 also highlights the following:

the recent proposals emerging from within the City of Johannesburg for the reincorporation of some of the entities back into the City due to discontent with how these entities operate. The main concerns relate to factors such as the

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perceived independence of the entities, the lack of direct accountability to local communities, the difficulties in detecting and correcting challenges, limited control on the part of the Municipal Manager with the need to defer to the Entities Board and the avoidance of responsibility when challenges arise.

Entities appear to be leadership sensitive with poor leadership resulting in underperformance and service delivery breakdown. The capacity for contract management tends not to be at the level required for effective control. The management of the entities are often more senior and sophisticated than the internal staff undertaking the monitoring of performance within the municipality making accountability difficult (SALGA; 2015:53).

3.3.2 Accountability

In the wake of the Democratic Alliance (DA) takeover of the municipality in 2016, Mayor Herman Mashaba announced the intention to reintegrate City Power back into the municipality to ensure accountability, improved governance and service delivery at the power utility. The concerns raised by respondents from the City is that it has proven difficult to have effective control over the utilities and one example used is that when the CoJ needs information from an entity it first needs to go through the board chairperson who would then instruct the CEO or Managing Director (Interviewee 5, 2018). As the municipality, they feel that they have limited say and control on service delivery, which is their core function. Furthermore, an executive director in a municipal department is much more scrutinised than a CEO or MD in an entity, not only are they far removed from communities but at times they are protected by the Board (Interviewee 5, 2018). Decentralising operations through the choice to corporatise, the CoJ has reduced its political involvement, which is often necessary, for instance, in redirecting resources to areas where there is a need for political intervention (Interviewee 5, 2018) (Interviewee 1, 2018).

In 2017, the City's finance Member of the Mayoral Council (MMC) also reported that the utility, which accounts for 40% of the City's revenue, was on the brink of collapse due to its poor financial position. In the same year the Managing Director was released from his contractual duties owing to an investigation on financial mismanagement and poor governance. At the end of its term in March 2017, the entire City Power board (previously chaired by Frank Chikane) was replaced by an entirely new one. The reason stated for the removal of the Board Chairperson was that he was protecting the then CEO Sicelo Xulu. Xulu who was accused of facilitating the awarding of the 2013 smart meter contract

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to Vivian Reddy’s company, Edison Power. Interestingly, Xulu was exonerated from all the allegations in March 2016, during the ANC’s term of office in CoJ.

3.4 Organisational Challenges

3.4.1 Contractors

In one of the interviews conducted, a respondent alleged that the core service, the engineering department of City Power has been outsourced. Other respondents also alluded to the fact that City Power was unable to retain engineering skills, and there was therefore a need to outsource. Lack of tools, work vehicles and incapacity have been identified as some of the issues besetting engineering services at City Power (Interviewee 1, 2018) (Interviewee 2, 2018) (Interviewee 5, 2018). The table below indicates that in the years stated, there were more managers than skilled professionals who provide the core function of the company.

Function	2014/15	2015/16	2016/17
Skilled Technical and academically qualified workers, Junior management, supervisors and technicians	147	146	159
Professionally qualified and experienced specialists and mid management Managers and Professionals	380	379	391

Table 2: Managerial vs Technical personnel (City Power, 2018)

One of the respondents also stated that when Mayor Herman Mashaba held a meeting with City Power staff in 2016, they were in shock that almost 60% of the people in attendance were contractors and not actual City Power staff (Interviewee 5, 2018). Another respondent stated that there has been a deliberate and concerted effort on the part of City Power to incapacitate the engineering department to justify bringing contractors (Interviewee 1, 2018). Contractors do the maintenance work, respond to power outages and repair streetlights etc., these are the core functions of City Power. This effectively means that the performance of City Power is largely dependent on the ability to manage service providers or contractors.

Over the years, contractors have posed serious challenges for the utility whereby in November 2017, the City of Johannesburg Group forensic investigation department reported they had seized about R80 million worth of City Power infrastructure from current and former sub-contractors. However, this was not the only case that has been illuminated.

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3.5 Conclusion

In addressing their financial and institutional crisis stemming from apartheid era legacies, the GJMC sought to adopt New Public Management principles as an instrument for addressing service delivery backlogs and ensuring efficient service provision. The *iGoli 2002* strategic plan created the building blocks on which the GJMC would respond to the basic needs of the citizenry and to discharge its constitutional mandate.

Corporatisation of electricity provision in establishing City Power, was not meant to only generate revenue for the municipality but to also have the utility run its own operations. Through private sector market principles and managerial techniques, City Power was meant to be independent and self-sufficient. However, evidence presented in this chapter indicates that despite the choice to corporatise, politicians have, over-time, taken decisions on operational issues. The billing and revenue issue points to political interference and are indicative of the fact that the fear of loss of power by politicians leads to more politicisation.

Furthermore, City Power is facing organisational challenges wherein contractors are said to have taken over its technical and engineering capability. City Power has less than 200 skilled technicians and engineers for a customer base of about 410 000. This means that the performance of the organisation relies on its ability to manage contractors. Moreover, outsourcing of the core functions of the entity further devolves service provision out of reach of the CoJ. By using evidence presented in this chapter, the next chapter responds to the research questions.

Chapter 4: Analysis

4.1 Introduction

In chapter 3, the paper presented the evidence gathered from primary and secondary sources of information and discerned the formal and informal institutions. The general themes to the findings relate to City Power's political and organisational challenges. Using the evidence in chapter 3, this chapter provides a response to the research questions.

The purpose of the study was to understand the relationship between City Power and the CoJ, and to assess to which extent the relationship created challenges in relation to performance for City Power. Furthermore, the paper sought to unpack the reasons for the observed performance challenges within the context of local government in South Africa. The chapter is broken up into three sections covering the research questions.

4.2 Research Question 1: What is the relationship between CoJ and City Power?

The relationship between the CoJ and City Power is that of a shareholder and a subsidiary. As mentioned in chapter 3, Chapter 8A of the Municipal Systems Act makes provision for municipalities to set up alternative service delivery arrangements to assist the municipality in providing an efficient service. In line with this Act, the CoJ set up City Power as a company, to assist CoJ with the provision of electricity as a service on behalf of the municipality. The Contract Management Unit within the CoJ, using Service Delivery Agreements, outlines and spells out the relationship and makes provision for political oversight for performance monitoring.

As a point of departure, it should be noted that the CoJ, in its nature, is an institution that operates on a political mandate whereby the Mayor and councillors are elected through local government elections. The political office bearers fulfil a particular mandate stemming from party manifestos and other forms of party policies. The legislative framework relating to local government such as the Municipal Systems Act of 2000 makes provision for political office bearers and their role in municipalities.

City Power, on the other hand, was formed through the Companies Act 71 of 2008. As such, its governance processes are in line with the private sector where the likes of The King Report are used as a guide for corporate governance. The Companies Act makes provision for a board of directors, chaired by a board chairperson who generally dictates how the company should run. Therefore, the mandate of City Power is to provide a

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service and make profit while the mandate of the CoJ is to provide a service guided by political considerations. The relationship between CoJ and City Power is depicted in figure 2 above.

Conceptually, the relationship is supposed to be an arms-length relationship, however, evidence points out that besides the Companies Act 71 of 2008, City Power's operations are also guided by the Municipal Finance Act and the Municipal Systems Act which are the two pieces of legislation that also guide the functioning and operations of municipalities. For instance, the MFMA requires that City Power must submit Annual Financial Reports in accordance with section 126 of the Act, the same section also applies to the CoJ. Furthermore, the City regulates procurement of ICT related goods and services; fleet management; revenue management system and billing; group communication, media and marketing and human resource management (Group governance Framework, 2015). This leads to conclude that the only notable difference between an entity and a normal department within CoJ is the existence of a board. The operations of City Power are subjected to the same legislation as a service department and therefore subjected to the same bureaucratic red tape.

This runs counter to the idea of creating the entity in the first place, as it was meant to be insulated from the bureaucratic red tape stemming from complex local government regulatory framework. NPM principles on corporatisation state that agencies or autonomous entities would operate similar to private sector organisations and they will be able to find innovative solutions to management problems and reduce the costs of providing efficient services. Corporatisation is also meant to solve problems of poor performance of the traditional bureaucracies and allows for separation of policy making and implementation. However, we see that City Power is not insulated from the regulatory framework and the bureaucratic red tape that exists in the CoJ; and we also see in figure 3 that City Power is not independent as the CoJ also runs some of the main administrative and operational functions.

Given that the CoJ operates under political considerations, it is therefore not surprising that City Power has been susceptible to political interference from CoJ. Evidence of this is in the implementation of *Project Phakama* whereby the respondents alluded to the fact that even though the then Mayor, Amos Masondo, and Municipality officials were warned of the potential pitfalls of the SAP system, they chose to go ahead with it anyway and thus 'forcing' City Power's board of directors to support the project (Interviewee 5, 2018) (Interviewee 6, 2018). *Project Phakama* was a SAP IT system that consolidated CoJ

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revenue management and customer interface of all entities and departments under one unit in the CoJ (Mawson, 2013) (Interviewee 6, 2018) (Mohlakwana, 2012).

This supports the assertion that the decision to implement *Project Phakama* was more for political reasons which had to do with the fact that by design, the service delivery model dictated that the combined budget of entities would be much greater than that of the central administration. One of the respondents categorically stated that *Project Phakama* was meant to take the budget and spending back to the central municipality administration, which would give the Municipal Manager more power (Interviewee 6, 2018). Perhaps one key indicator to assess independence, in this context, is how and where the budget is controlled and, in the case of City Power it is evident from figure 3, which sets out the budget guidelines and allocations for City Power, that this key aspect is controlled by the CoJ. This has gone against the vision of the *iGoli 2002* plan which had defined that the utilities would be self-sufficient and would generate revenue and use that revenue to run their own operations (Woldermariam, Widner, & Bacon, 2012) (SALGA, 2011). This leads to the question whether, in reality, City Power is independent from the CoJ?

In summary, the relationship between CoJ and City Power as dictated by NPM, advocates for wider managerial discretion and autonomy and allows City Power to run like a private company, which is able to attract a high skill set to ensure efficiency in the delivery of service. It is argued that, over-time, the relationship between CoJ and City Power has moved away from its initial conceptualisation as per the *IGoli 2002* strategic plan. The plan outlines that there would be financial ring fencing, institutional autonomy and managers were to be given full control over both the costs and customer revenue base associated with the service they provide (Smith, 2006).

Evidence suggests, as shown in figure 3, that City Power no longer determines its own budget as the CoJ allocates a budget as per their (CoJ) discretion and therefore the idea of financial ring fencing no longer exists. Secondly, City Power is no longer autonomous as it has been demonstrated that some of the core functions of the entity are controlled by the CoJ and lastly the entity does not have full control of the costs and customer revenue base as those functions now resides under the CoJ. It is therefore concluded that the relationship between City Power and CoJ has ceased to be an arms-length relationship between shareholder and a subsidiary. It is therefore argued that the

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relationship between CoJ and City Power has been subjected to politicisation stemming from local government settings.

4.3 Research Question 2: To what extent has the relationship between CoJ and City Power created performance challenges for City Power?

As presented in chapter 3, the performance of City Power to increase and secure the supply of energy, which is their main function, must be done whilst reducing the burden of the cost on the consumer and balancing the financial sustainability of the business, delivery of services and shareholder goals (City Power, 2018). It is therefore argued that City Power has performed poorly in reducing the cost on the consumer as the billing crises not only caused customer dissatisfaction but also resulted in customers not willing to pay for service. For instance in 2013 the CoJ was unable to collect about a two thirds of the money owed by its debtors as a result of overbilling and data inaccuracies (Mawson, 2013). In their 2016/2017 Annual Report, City Power also notes its challenges concerning its revenue management. The CEO states that “.... *We need to improve our billing accuracy and collection rate, thereby building customer confidence that will translate to cash in the bank. In 2016/17 our operating expenses also increased which resulted in a much lower profit than expected. Revenue centricity and cost containment efforts need to be strengthened*” (City Power, 2018, p. 12).

The outcome therefore, is that City Power has not been able to contribute adequately to the revenue base of the CoJ. At the centre of the two performance related issues is the introduction of a politically motivated *Project Phakama* in 2009, which ultimately led to the billing crisis in Johannesburg.

A mechanism meant to ensure performance monitoring by CoJ is the Contract Management Unit (CMU). In practice, these mechanisms are not functioning as they should and evidence of this is the fact that City Power was able to procure Smart meters that are not compatible with the CoJ central billing systems and costs of the meters escalated to about R2.8 Billion without any endorsement from CoJ (Africa News Agency, 2015) (Interviewee 6, 2018).

Furthermore, the CMU, has proven to be weak and unable to efficiently monitor the performance of City Power. The reasons are that CoJ members responsible for such a role were much more junior to those they were meant to hold accountable and, secondly, information provided by CMU would essentially end up with the portfolio committee

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chaired by the Member of Mayoral Council (MMC) in charge of that particular portfolio. MMCs generally link the performance of the entity to their own personal performance. The CMU does not have the authority to carry out their functions in a space where politics dominate. A SALGA (2015 :53) report reiterates that management personnel of entities are often more senior and sophisticated than the internal staff undertaking the monitoring of performances.

The Chairperson of the Board, Frank Chikane, wielded considerable power in the CoJ ANC administration, to an extent that he was able to determine not only the direction of the relationship between CoJ and City Power but was also a stumbling block to effective performance monitoring and accountability. Information obtained from interviews points to the fact that in 2015 the then Mayor, Parks Tau, had raised an issue of the entities re-integrating back in the municipality which Chikane opposed with the support of the ANC in Luthuli House (Interviewee 5, 2018). In the ANC, Chikane held more power than Parks Tau and all the other councillors in the CoJ and this also created issues relating to accountability. One such example is how Chikane allegedly protected CEO Sicelo Xulu in March 2016, after Xulu was accused of facilitating the bungled Smart meter tender for Edison Power group (EWN :2016).

The appointment of Frank Chikane as the board chairperson at City Power is in line with the ANC's 'cadre deployment' policy and brings to the fore the challenges related to accountability. At times the cadre feels that they are accountable to the party rather than their employer and often the lines become blurred on the distinction between party and state. In the case of City Power, we see that Chikane had enough power to dictate and direct some of the key decisions related to the power utility. It could be argued that perhaps his presence at City Power brought in its own set of challenges as the power dynamics and rank would dictate to what extent CoJ would hold City Power accountable for poor performance.

It is therefore concluded that the nature of the relationship between the CoJ and City Power has contributed to the poor performance of City Power; and in the main, this is attributed to political decisions that informed operational issues and the inability of the performance monitoring mechanisms to provide efficient monitoring and oversight.

4.4 Research Question 3: What are the reasons for the observed performance challenges within the context of local government in South Africa?

The realities of the relationship between CoJ and City Power are considerably different from the theoretical and legislative expectations. The difference can be attributed to the institutions and rules thereof and how these rules influence the behaviour of the actors within the system. The evidence obtained indicates that institutions reflect the context of local government in South Africa which is driven by politics, over-regulation and corruption.

In the response to question 1, it is clear that the contextual setting of the relationship between CoJ and City Power exists in an environment where there is over politicisation. Therefore, politics have proven to be a constraint on the ability of the corporatisation to take off as was envisioned. Part of the reason that we see politics as a constraint could point to the fact that the CoJ corporatisation model came into effect right when the legislative framework, such as the Municipal Systems Act of 2000 and Municipal Finance Act of 2004, became law. In addition, City Power was established just after the establishment of local government in South Africa in 2000. Therefore, the model came into a new system with new laws, which did not anticipate the over- politicisation. This meant that those formal and informal rules that applied to CoJ were simply carried through to City Power. Part of the challenge could also be that even though laws are there, there has not been any political will to apply them consistently.

The case of City Power has also illuminated the fact that the legislative framework governing municipalities and their entities have generally been left to municipalities and the entities to determine and has not really found its way to legislative framework, which regulates government in general. Chapter 8A of the municipal systems act mainly provides for municipalities to use alternative service delivery arrangements to assist municipalities in providing a specialised service but does not go into the how part of the relationship. This creates room for informal rules to take over and, motivated by political reasons and party loyalty, these are then bound to be the informal rules of the governing party.

Interestingly, when the DA administration took over in the latter parts of 2016, one of the first contentions with City Power was the fact that the MD, Sicelo Xulu was never held to account in relation to his involvement in the Smart meter tender issue. This ultimately led to his dismissal and was also cited as the reason why the contract of the board chairperson and board members were not renewed in early 2017. This highlights how

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the same issue was handled differently by two different administrations in two different political settings and therefore this is a prime example that accountability and performance of City Power is mainly dependent on the extent to which CoJ is able and willing to enforce the rules.

The relationship between the CoJ and City Power exists in a local government context where there are rents and patronage because of contracting and outsourcing. This has generally fuelled corruption and maladministration across government as it takes place in an environment where there is absence of efficient and effective monitoring (Brunette et al 2014). In the evidence presented, it is clear that City Power has the same challenges as CoJ, which leads us to believe that the local government context has gradually dictated the relationship between the CoJ and City Power.

The theory of neo-institutionalism assumes that ordinary people take their cues from a structure, rules or procedures, and customs prevailing from in the polity in which they live. In South Africa, the intersection of the formal institutions of local government with socially embedded institutions such as political culture, has weakened the implementation of New Public Management principles. The case of City Power demonstrates that formal institutions are probably weak or are not enforceable. As such, the informal institutions such as political culture seem to be stronger and therefore dictate the direction and performance of City Power. The formal institutions in this regard are the laws that emanate from the adoption of NPM principles and the informal institutions is the practice that has informed the relationship between CoJ and City Power.

4.5 Conclusion

The creation of municipal entities as arms-length agencies was to offer them greater autonomy and to introduce business practices in accordance with NPM. However, we see that City Power has gradually moved from being an autonomous entity to moving closer to being part of CoJ. This has meant that, in practice, City Power has not been insulated from bureaucratic red tape, as the legislative framework is similar to that of the CoJ. Furthermore, politicisation and outsourcing, which beset local municipalities, provide an explanation for the challenges faced by City Power. The next chapter draws the general conclusions of the paper.

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Public sector reforms have proven to be key in the improvement of delivery of public goods and services. New Public Management prescriptions have proven to be popular in the reform agenda of many developing countries and they have generally been paraded as a means for effective and efficient public service (Hood: 1991). However, the promises for increased efficiency and effectiveness have brought about their own set of challenges and unintended consequences.

In the late 1990s, the then Greater Johannesburg Metropolitan Council decided to adopt NPM principles to their reform efforts as a means to address their financial and organisational challenges. Some of these reforms included managerialism, outsourcing and a corporatisation model meant to bring about efficiency and effectiveness in the delivery of goods and services to Johannesburg residents. This reform process, entitled *iGoli 2002*, led to a decision to create entities in the newly renamed City of Johannesburg Metropolitan Municipality. City Power as a power utility, was born from these reform processes.

The study set the scene and background by highlighting the decision by the CoJ to re-integrate the municipal entities into the central administration of the municipality due their poor performance and inability to control the entities. In the case of City Power, the paper found evidence that, although there are laws and arrangements in place, the relationship between CoJ and City Power has mainly been through the interests of individuals and a political group. As such, the relationship has created its own set of challenges for City Power and its ability to carry out its mandate. An example of this are the political challenges created by CoJ wherein the fear of loss of political power by CoJ has resulted in political, and not business, decisions being taken on the main business functions of City Power.

This has ultimately led to poor performance on the part of City Power. The main argument is that the relationship between the CoJ and City Power has ceased to be an arms-length relationship between the municipality and the municipal entity. Over time, CoJ has gradually pulled City Power into its operational and political space and this explains why City Power has experienced similar challenges as those in local government settings in South Africa.

The paper used historical institutionalism as a framework for analysis, which states that history matters in the study of politics and variables should be situated in the appropriate context. To understand the actions of players or political actors, one must take cognizance of the historical development of the organisation, and the original and distinct

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culture and problems in which it arose (Sanders , 2006). Guided by this lens, the paper set out to:

- understand the history and conceptualisation of City Power and
- outlined performance challenges in respect of City Power's relationship with the CoJ and
- gave an explanation indicating that the challenges experienced are because of the political culture brought into City Power by CoJ, within the local government context.

This paper has therefore provided answers and/or explanations to the research questions, being:

1. What is the relationship between CoJ and City Power?
2. To what extent has the relationship between CoJ and City Power created performance challenges for City Power?
3. What are the reasons for the observed performance challenges in the context of local government in South Africa?

This case study also demonstrates that public sector reform, in this context, should have been more than an adoption of a process or adoption of an approach, but rather about contextual settings, giving attention to political culture and history of the country. In an attempt at participatory democracy, the legislative framework on local government has included the participation of elected officials in part of some aspects of municipal administration. This has subsequently gone on to blur the lines between the political and administrative interface. Coupled with "cadre deployment" and a dominant party system, this has meant a highly politicised local government environment. City Power exists in this environment and, as the case study has demonstrated, this has hampered City Power in executing its mandate.

The difficulty with the local government context (institutions) is that rules are often not written down and often stretch beyond peoples reach, even those affected by it. This leads to political and party culture taking over and having not only structural impact but result in poor service delivery.

City Power's creation was a response to an institutional crisis in the CoJ and those behind the *iGoli 2002* plan had good intentions when designing the corporatisation model structure. However, the corporatisation model was created at the dawn of local government in the year 2000 and there was generally no anticipation of how local

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government would turn out to be. In the years following the institutionalisation of local government, it becomes apparent that politicisation starts being at the centre of local government administration.

With the above in mind, it is therefore recommended that public management reform efforts embody the interaction between socio-economic influences, political culture and the design of the administrative system. In the context of municipal entities, the legislative framework should at least become explicit on how the entity is supposed to function in relation to its parent municipality. Furthermore, for municipal entities to function optimally, they should be “freed” from the local government legislative framework.

What has become interesting in this case study is the fact the Democratic Alliance, as governing party in the CoJ and one which embraces neo-liberal policies, have chosen to go the route of centralisation. This proves that the entities are vulnerable to the rules of those who occupy the political office in the CoJ and as such, the formal institutions are unable to insulate the entities from political pressures that do not coalesce with the envisioned reforms.

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