

UNIVERSITY OF KWAZULU-NATAL

**CRUMBLING HOUSING AND FAILED PROMISES: A CRITICAL STUDY OF
CORRUPTION IN LOW COST HOUSING IN THE PHOENIX AREA**

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DEDICATION

TO

All the people of the great country of South Africa that are daily impacted by the scourge of corruption and are in a constant battle against an enemy that seems overwhelming. May you never give up and continually fight for a better future for all.

“To oppose corruption in government is the highest obligation of patriotism.”

Edward Griffin

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ABSTRACT

Since the ending of apartheid the new South African government inherited a country with a critical shortage of low income housing. While great lengths have been made to address the housing challenge, a major obstacle to this has been corruption. The aim of the study was an investigation of corruption in low cost housing in the Province of KwaZulu-Natal, with a case study on complexes built in Phoenix. The objectives of the study were to assess the scale and types of corruption in the province of KwaZulu-Natal, investigating corruption in low cost housing provision, assess government's response to corruption in Phoenix and proposing methods to combat it.

Using a mixed-methods approach, this study found corruption levels to be high in the low cost housing process in KwaZulu-Natal. The worst impacted sector was procurement, with cronyism and nepotism common. Contracts were awarded to friends and family, which led to the growth in a small elite amassing huge fortunes. The consequence of corruption in procurement was poor workmanship. While many homes have been built across the province, up to R1 billion might be needed to rectify shoddy work. Other instances of corruption included bribery to pass shoddy work, corruption in the waiting list system, housing subsidy fraud and BEE fronting. The case study of Phoenix mirrored what was happening across the province. Poor workmanship and non-compliance with building standards emerged. The company involved in the project was linked to a controversial businessman, who had been previously convicted of corruption. Residents were forced into unrealistic rental tenancy agreements, which cost more than it would have to but the unit. Many residents fell behind on payments and were evicted, had their water and lights cut off or had items stolen from their homes. It furthermore emerged that the developer had illegally received government funding.

Corruption is a major problem in South Africa and impacts on the poor and most marginalized in a society. Corruption impacts on the homeless and is helping to entrench the high poverty levels across the country. Thus corruption must be combated to rectify the historical housing legacy of inequality in South Africa.

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ABBREVIATIONS

ABM - Abahlali Basemjondolo

AFU - Asset Forfeiture Unit

AG - Auditor General

ANC - African National Congress

AU - African Union

BAC - The Bid Adjudication Committee

BEE - Black Economic Empowerment

BESG - The Built Environment Support Group

BNG - Breaking New Ground

CEO - Chief Executive Officer

CIDB - Construction Industry Development Board

CLLR - Councilor

CPI - Corruption Perception Index

CBD - Central Business District

EIA – Environmental Impact Assessment

EHPH - Enhanced People's Housing Policy

EMM - eThekweni Metropolitan Municipality

DA - Democratic Alliance

DPSA - Department for Public Service and Administration

HIV/Aids - Human immune deficiency virus / Acquired immune deficiency syndrome

IFP - Inkatha Freedom Party

MEC - Member of the Executive Council

MFMA - Municipal Finance Management Act

MDG - Millennium Development Goals

NHBRC - National Home Builder Registration Council

NGO - Non-governmental organizations

NP – National Party

NPA - National Prosecuting Authority
OECD - Organization for Economic Cooperation and Development
PIE Act - Prevention of Illegal Eviction and Unlawful Occupation of Land
PP - Public Protector
PPP - Public Private Partnerships
PRA - Phoenix Residents Association
PRECCA - The Prevention and Combating of Corrupt Activities Act
RDP - Reconstruction Development Programme
SADC - Southern African Development Community
SAPS - South African Police Services
SIU - Special Investigating Unit
SLMAN - SL Management Consultants
SHF - Social Housing Fund
SHRA - Social Housing Regulatory Authority
TI - Transparency International
TNC - Transnational Corporation
UK- United Kingdom
UN - United Nations
UNDP- United Nation's Development Programs
USA- United States of America
VDA - Vulindlela Housing Project

CHAPTER ONE

INTRODUCTION

1.1 Introduction

Corruption is undoubtedly one of the biggest challenges presently facing post-apartheid South Africa. It can be defined as the abuse of any office - either public or private - for personal gain and is an activity that can take a variety of different forms. Corruption is a complex and multifaceted global curse that impacts on nearly all nations, rich or poor (Gebeye, 2012). It is usually secret and escapes public view, with the main motive being personal enrichment (Cockcroft, 2012). In South Africa, corruption is well entrenched in all sectors of society and permeates throughout the different spheres of the government, state entities and the private sector. According to Hofmeyer, the former Head of the Special Investigating Unit (SIU), an estimated R30 billion of government's procurement budget is lost to corruption every year (Evans, 2013). Corruption is not a new phenomenon in South Africa and was prevalent in the apartheid government. However, due to apartheid secrecy laws and media restrictions, corruption was not widely reported and remained on the periphery of scholarly research agendas (van Vuuren, 2006). This changed with the advent of democracy, a constitutional commitment to media freedom, and platforms to expose corruption like the internet. Government could no longer control and manipulate the dissemination of information available to the public (Vogal, 2012).

The problem with corruption is it poses a huge challenge not only for democratic consolidation, but also for poverty alleviation and development of the country. This is because corruption is most prominent and entrenched in the sectors of government that are tasked with addressing the basic needs of the poor, in areas such as housing, education, water provision and healthcare (Transparency International, 2009). The poor are thus deprived of basic essential services due to the siphoning off of public funds for personal use (Spector, 2012). Thus corruption is deepening the vast socio-economic cleavages endemic in the country caused by decades of state oppression and apartheid underdevelopment (Rangata, 2008). Ordinary citizens become victims and are left helpless, with the poor being the most disadvantaged (Spector, 2012). In South Africa the low cost housing sector is riddled with corruption and is the focus of this study.

This study investigates corruption in the Province of KwaZulu-Natal, with specific reference to low cost housing complexes built in the Phoenix area, situated to the north of Durban. The new South African government inherited a country with a critical shortage of housing from the apartheid regime (SERI, 2013). Since 1994 over three million houses have been built (SERI, 2013). However, this achievement has been dampened by widespread corruption and poor workmanship in low cost housing, with appalling quality and standards and a drain on the public purse (SERI, 2013).

Corruption poses a major obstacle to housing the poor and addressing the critical shortage of low income accommodation in South Africa. Nationally there is still a backlog of an estimated 2 million housing units, with 1,2 million people living in informal settlements across the country (Financial and Fiscal Commission, 2013). While over 200 000 houses are built every year, this housing backlog continues to escalate (Bradlow, 2011). This has placed tremendous pressure on the government to deliver and has resulted in much frustration in the process that leads to political unrest, service delivery protests and violence, and is aggravated by corruption.

The major area where corruption occurs is around the procurement processes (SERI, 2013). Tenders rules and regulations were frequently broken and flouted. Tenders are often awarded to friends and family, with a number of housing officials doing business with government, and also violating conflict of interest regulations. This has resulted in widespread sub-standard workmanship, excessive housing construction delays, drastic increases in irregular expenditure, and ultimately lack of delivery. It was estimated that poor workmanship alone will cost the KwaZulu-Natal Human Settlements Department over R1 billion to repair and rebuild shoddy structures across the Province (Mbanjwa, 2011a). Other areas where corruption is occurring include the housing subsidy system, housing waiting lists, bribery of housing inspectors, inflating of purchase prices of housing, and Black Economic Empowerment (BEE) fronting.

In order to gain a low cost house or move up the housing waiting list a bribe is often required (SERI, 2013). In some cases women were even expected to provide sexual favours for local government officials in order to obtain a house. The housing subsidy scheme is another area of concern. Corrupt government officials provide fictitious information to gain housing grants for themselves and their families (SERI, 2013). These housing subsidies are limited and are

meant to help the poor obtain a house. Lastly, BEE fronting is becoming popular in the tender system where companies use African individuals as ‘fronts’ to obtain contracts.

While corruption is clearly widespread in KwaZulu-Natal, researching it is no easy task. Research on corruption is still relatively new in South Africa (Rangata, 2008). This is because corruption is a secretive topic and there is a lack of data on the subject (Rahim and Zaman, 2009). This has contributed to scholarly neglect and marginalization of the study of corruption (Perry, 1997). Undertaking research on corruption is often challenging the intellectual and political status quo, and investigating the most powerful individuals and groups in society – politicians, government bureaucrats and business sector – and other shady figures that lurk in the background (Perry, 1997). This greatly constrains the ability of the researcher to investigate or measure the nature and extent of corruption (Rahim and Zaman, 2009).

The study sought to investigate how corruption is occurring in low cost housing in KwaZulu-Natal, what are the types of corruption evident, who is committing them, how much is being lost, and lastly, what are the impacts on the poor and the general public domain. The specific focus is on a case study of corruption in low cost housing built in the former Indian township of Phoenix. In the Year 2000 the eThekweni Municipality resolved to utilize landfill sites across Phoenix for the building of low income housing complexes (Court Document, 2013). These landfill sites were called infill sites and were large areas of vacant municipal land scattered throughout Phoenix. The Municipality decided that 70 percent of the low cost units would be allocated for households earning less than R7500 a month (Court Document, 2013). The intention of the Municipality was that the residents of the new low cost housing units would obtain ownership at a cost of R29 000, which would address the housing shortage in Phoenix (Court Document, 2013). Woodglaze Trading, linked to Jay Singh, won the contract to build the complexes.

The complexes in Phoenix were fraught with many problems, including poor workmanship across the complexes, allegations of corruption in housing allocations, potential human rights abuses - including cutting off of essential services and illegal evictions - and, lastly gagging orders to prevent community leaders from talking about these issues in public, especially to the media.

Woodglaze Trading also bought the land from the eThekweni Municipality at prices below the market value and according to the Social Housing Regulatory Authority (SHRA),

Woodglaze Trading irregularly received grants from government. Lastly, over 63 percent of the occupants earn above the R7500 threshold and would not have been eligible for low cost housing (SHRA, 2013).

The widespread complaints of poor workmanship include leaking pipes, plaster on walls eroding, paint peeling off, doors incorrectly fitted, and major sewage leaks (SHRA, 2013). This prompted residents to form a community organization, the Phoenix Residents Association (PRA), to fight for the residents' rights. Many have refused to pay monthly rentals which cumulatively exceeded the total purchase price of the house. This has reportedly resulted in residents being illegally evicted from their houses, having items stolen from their premises, and some were even assaulted by security guards hired by Woodglaze Trading. Against this background, this study investigates how corruption is occurring in low cost housing in Phoenix, and the government's response to combat this scourge.

1.2 Motivation for study

There are two reasons why the undertaking of research on corruption is important in the South African context. Firstly, corruption in South Africa is a human rights issue and directly poses an obstacle to poverty alleviation and the development of the country (Transparency International, 2009). While corruption is not necessarily the root cause of poverty and inequality, it definitely helps to entrench and trap people in a vicious cycle of poverty from which it is difficult to escape (Pearson, 2001). Corruption impacts on the day to day lives of many people and their basic human rights are violated. When people have to pay bribes in order to access food, health care, housing, education, electricity and jobs, then their basic human rights are violated. Those members of society that cannot afford to pay bribes are the most adversely affected by corruption (Pearson, 2001). This includes the poorest and most marginalized groups in society like women, children, foreigners and individuals with disabilities (Beyerle, 2014).

This is specially so in terms of accessing low cost housing, where corruption influences who obtains a dwelling and who is excluded. Housing and shelter are a basic human need and is essential for development and an important indicator of socio-economic well-being. Corruption in the Province of KwaZulu-Natal undermines the government's effort to improving the quality of life of the poor. Corruption adversely affects millions of lives in South Africa and can be viewed as a form of oppression (Beyerle, 2014).

The second reason why corruption research is so important in South Africa is due to the scholarly neglect of this theme of study (Rahim and Zaman, 2009). While there is hardly a week that does not go by without some mention of corruption in the media, it is still largely untapped as a field of research and has largely been confined to political studies because there is limited data on it (Rahim and Zaman, 2009). Also, investigating corruption is dangerous, and can be a matter of life and death. This is because researchers can become subject to intimidation and even threats to their safety and well-being by the corrupt. It can be damaging to the future careers of researchers whose employment options can be limited. Thus the motivation of this study is to help stimulate scholarly debate around the subject matter of corruption and lay the initial framework for future research.

1.3 Geographical connections

Corruption had for long remained on the periphery of political, economic and international relations research. However, during the late 1980s and early 1990s there was an eruption of interest in the subject matter of corruption (Cockcroft, 2012). According to Bracking (2007) the tide of opinion on corruption changed dramatically. The global world became less tolerant towards it (Bracking, 2007). This was due to the growth in media channels and the advent of new advanced technologies like the internet, cellphones, Youtube and social media platforms like Facebook and Twitter (Vogal, 2012). The exchange of information globally occurred beyond the control and purview of government censors. Critical scholars and activists started to explore and expose the harsh reality of corruption and its impacts on countries around the world. Even with this huge growth in interest in corruption, it was largely ignored by geographers as a whole (Brown and Cloke, 2004). In fact apart from a few notable exceptions, Brown and Cloke (2004) and Perry (1997), the study of corruption was ignored in the discipline.

Geographers however, can contribute in numerous ways to the study of corruption. This is because corruption is not only poorly understood, but also has many spatial dimensions and attributes (Brown and Cloke, 2004). Geography is a discipline which is primarily rooted and grounded in the real world, and corruption is a tangible world problem experienced at various different spatial scales (Perry, 1997). It varies greatly between geographical areas and countries (Gebeye, 2012). One of the core features of Human Geography is a concern for space and place. According to Perry (1997) political corruption is a place characteristic and a spatial variable. This means corruption is a spatial feature of particular places. For example,

corruption occurs in some areas more than others like India, North Korea and 19th century North America (Brown and Cloke, 2004). Another way to view corruption as a spatial attribute is through particular categories of places which are more prone to corruption than others. For example, ports, border crossings and economic hubs are places that are more inherently corrupt than churches, mosques or children's play grounds (Brown and Cloke, 2004). Another feature of Geography is it explores and has a deep concern for spatial differences. Why is one place more corrupt than the other? Is it because of a country's ideology, economic system, poverty, lack of democracy or moral beliefs? These are debates that geographers thrive on and thus there is no reason why corruption should not be expanded as a focus of study within the discipline.

Corruption occurs and intersects at different scales from the global, to national, to regional and local (Brown and Cloke, 2004). For example, the famous arms deal saga in South Africa in which not only local politicians and companies were involved in corruption, but also large foreign global corporations in the UK, France and Germany. Brown and Cloke (2004) argue that geographers are well placed to make great strides in terms of accentuating the importance of how different types of corruption operate at vastly different geographical scales, and how they are influenced by national and international political cultures.

Lastly, there is a neoliberal dimension to the resurgence in corruption (Brown and Cloke, 2004). Since the 1960s Marxist geographers have been deeply involved in exposing the harsh realities of the capitalist society and its impacts on the poor. Corruption is very much a part of this exploitative system and is in many instances the driving force of many of the world's political systems. Corruption influences the global banking and financial systems - including Wall Street - and can result in the misallocation of foreign aid, is used to prop up certain governments at the expense of others, and often underpins many business undertakings (Brown and Cloke, 2004). Therefore corruption is a distinctly geographical field of study.

1.4 Aim

The aim of the study is to investigate corruption in the low cost housing sector in the Province of KwaZulu-Natal, with specific reference to a case study in Phoenix, North of Durban.

1.5 Objectives

The objectives of this study are to:

- I. Assess the scale and types of corruption in the KwaZulu-Natal Human Settlements Department and in the eThekweni Metropolitan Municipality (EMM) Housing Unit.
- II. Investigate corruption in low cost housing provision in Phoenix.
- III. Assess the government's response to housing corruption in Phoenix.
- IV. Evaluate measures and responses to combat corruption in low cost housing projects and propose alternatives.

1.6 Methodology and study area

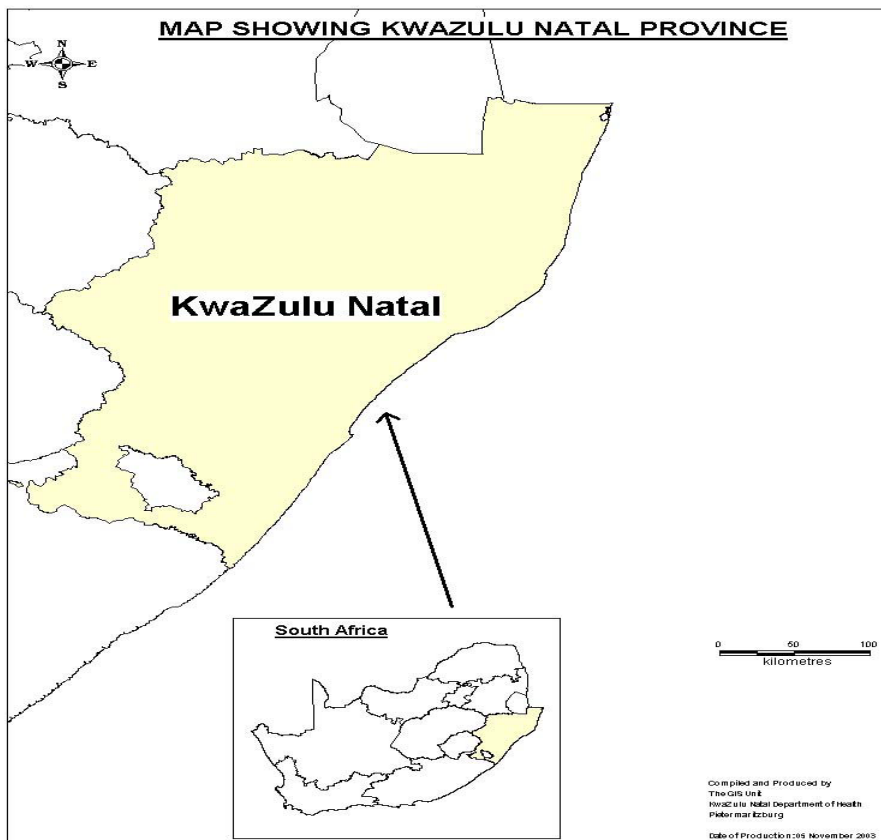
This section explains the research techniques adopted in this study. When conducting research on corruption one of the biggest obstacles is limited data and secrecy around the subject (Rahim and Zaman, 2009). While corruption has been around since the beginning of human civilisation, it has been a taboo topic which resulted in scholarly marginalisation (Uslaner, 2008). Corruption is a very sensitive topic and has potentially major consequences when exposed (Cockcroft, 2012). This greatly constrains the ability of the researcher to conduct research on corruption. In trying to research a problem that is as secretive and complicated as corruption, the biggest challenge is thus a methodological one (Rahim and Zaman, 2009). According to Tanzi (1998) if one had the ability to accurately measure corruption, it would probably have been eliminated from society by now. Even with the growth of interest in corruption, there is no accurate way to measure it. Thus, there is a view that one is one trying to measure that which cannot be measured (Rahim and Zaman, 2009).

The most commonly produced data on corruption is by Transparency International (TI), which provides a ranking system of over 190 countries. However, this data has limited practicality within a country and can only be used for comparative purposes between different nations (Rahim and Zaman, 2009). TI provides quantitative data on corruption based on expert perceptions and does not focus on qualitative data such as real people's experiences, the root cause of corruption and how it is impacting on the day to day lives of the ordinary person. With these challenges in mind, this thesis will use a case study approach,

using both qualitative and quantitative data. The first part of this section provides an overview of the study area. The second part of this section explains the methodology adopted in this study.

1.6.1 Study area

The current study is on corruption in housing in the Province of KwaZulu-Natal. KwaZulu-Natal is one of South Africa's nine provinces and is roughly 92,200km² in area. The Province is situated on the east coast of South Africa and has a population of approximately 10 819 130 million people (KwaZulu-Natal Provincial Government, 2014). The capital of KwaZulu-Natal is Pietermaritzburg and is the second largest city in the province. The largest city is Durban, which since 2000 is part of the eThekweni Metropolitan Municipality (KwaZulu-Natal Provincial Government, 2014). In total, KwaZulu-Natal is divided into eleven districts. Figure 1.1 contains a map of the Province of KwaZulu-Natal.



Source: Department of Health (2011)

The case study area for the research project is Phoenix, which is a former apartheid Indian township, located 20 kilometres north west of Durban CBD (eThekweni Municipality, 2015). The township was official established in 1976, but the area has historically been occupied by Indians whose roots in the area extend to a settlement started by Mahatama Gandhi in 1904 (Pillay, 2008).

In the mid-1970s during the height of apartheid, people of different races were forcibly removed and separated from each other in terms of the Group Areas Act (1950) (Pillay, 2008). Dormitory townships were set up on the outskirts of cities for the African, Indian and Coloured populations. One such township was Phoenix, which was officially declared a township in 1976 and was set up as a municipal housing development project and residential area for Indians (Pillay, 2008).

Since 1976, Phoenix has developed into a vibrant community and houses a large percentage of Durban's Indian population (Pillay, 2008). Phoenix has grown considerably since 1976, and despite vast inequalities, it is in many respects a thriving and expanding area. Phoenix has a real sense of place, a rich Indian culture and a strong community network. It is home to nearly 200 000 people, with 93 percent being of Indian or Asian decent (eThekweni Municipality, 2015). Being only 20 kilometres from Durban CBD, this has afforded Phoenix residents with more opportunities for job prospect than other traditional townships. There is however, a need for more low cost housing in the area, and this is the orientation of this study.

The four complexes which are the focus of this study are located in Eastbury, Stanmore, Foresthaven and Longcroft (Table 1.1). All four complexes were built for purposes of low cost housing. All complexes are well situated and are located near key services such as medical facilities, schools, public transport, shops and places of worship. This makes them ideal locations for providing shelter for the poor and they are not only close to key services, but also job prospects .The areas where the complexes are located are represented in Figure 1.2.

Table 1.1: Location of the various complexes in Phoenix

Complex	Location
Eastbury	The complex is situated off the intersection of Eastbury drive and Phoenix highway.
Stanmore	The complex is situated off Rudmore road and Grove end drive.
Foresthaven	The complex is situated off Treehaven place and Berghaven road
Longcroft/Rydavale	The complex is situated just off Ridalvle drive and Longcroft drive

Source: SLMAN (2012:28)

1.6.2 Methodology

This section focuses on the methodology adopted for this study. The methodology for any study is very important and is the blue print for how the research will be conducted. Given the challenges to undertaking research on corruption outlined in the introduction to this section, this project adopted a case study approach.

1.6.2.1 Case study approach

The case study focuses on low cost housing built in the former Indian township of Phoenix by Woodglaze Trading. A case study is a research strategy that focuses on a larger issue within single settings (Eisenhardt, 1989). It is the detailed examination of a single example (Flyvbjerg, 2006). While case studies have become a popular research tool, it has not always been recognized as a proper scientific approach (Dubois and Gadde, 2002). The main criticism of this approach is that case studies are too small to make any generalisations or to add any value to the greater theory on a particular issue or subject (Gerring, 2007). For example, how can corruption in low cost housing in Phoenix be applied to the greater theory on corruption. However, this criticism of the case study approach is over simplified (Dubois and Gadde, 2002). The case study approach is a research method that investigates a phenomenon in its real life context (Gerring, 2007). Case studies typically combine various data collection methods. For example archives, interviews and observations. They are versatile and can use both qualitative and quantitative techniques. It helps to provide a better understanding of a complex issue, as well as extend knowledge on a particular subject. It provides detailed and good quality information (Gerring, 2007), and can help create a better understanding of an issue (Flyvbjerg, 2006). For example, the degree to which a phenomenon like corruption is present in a given group, in this case the Phoenix area and how it - corruption - varies across cases (Flyvbjerg, 2006).

The case study approach employed to help provide information on corruption and poor workmanship in the low cost housing complexes in Phoenix. There have been allegations in the media and by residents about widespread corruption with regards to the low cost housing units that has been built by Woodglaze Trading. These allegations included poor building workmanship, corruption in housing allocations and evicting tenants for non-payment of high, illegally determined rents (Erasmus, 2014b). The case study was used to understand

what was really happening in the area and the effects of corruption on the day to day lives of the citizens of Phoenix, using mixed methods.

1.6.2.2 Mixed methods

The study employed a mixed or multi-methods approach to the research problem. A mixed methods approach is a research design for collecting data using a combination of both quantitative and qualitative techniques into a single study (Johnson and Onwuegbuzie, 2004). The mixed-methods approach has gained in popularity in social sciences since the 1980s, because it provides a more complete, holistic view of a problem.

Quantitative techniques deals with data that can be measured. Qualitative data is subjective information which cannot be measured. An important issue is when to employ a mixed methods approach. A mixed methods strategy should be used when both qualitative and quantitative data together provide a better understanding of a problem, compared to when each technique is used separately (Johnson and Onwuegbuzie, 2004). Mixed methods can provide a more holistic understanding of a complex phenomenon like corruption (Johnson and Onwuegbuzie, 2004). This especially when there is both sets of data available.

The study employed a mixed methods approach and will use both quantitative and qualitative data. The vast majority of research on corruption uses a quantitative approach. This was popularized by TI in their ranking of corruption levels for each country (Rahim and Zaman, 2009). Quantitative data was also more readily available on corruption in the form of reports and documents on corruption, as well as convictions in court. A similar trend is evident in South Africa. Every year there are numerous reports that contain information on corruption in South Africa. The Auditor General (AG) provides detailed information on how much is lost to corruption and the number of individuals involved. The SIU and Public Protector (PP) conduct special investigations into corruption when required.

There are two problems with quantitative data. Firstly, not everybody that undertakes in corruption will be caught and convicted. Hence, using official convictions of the corrupt to try gauge insight into how widespread venality is, will be futile. In South Africa corruption convictions are hard to come by, because of political meddling at the highest levels. Also, using quantitative data merely provides numbers and provides no insights into why corruption is occurring, how it is occurring and what are the impacts on the vast majority of the populace. In a country with high poverty, unemployment and inequality, corruption will

undoubtedly worsen these social problems. However, this does not mean that quantitative data should be disregarded. Instead a combination of quantitative and qualitative data is used.

1.6.2.3 Data collection

Primary data was obtained from two main sources. Firstly, from media analysis. Media analysis is very important in this study and can become a primary source of data. This is often because the media is often the only source of information on a sensitive and secretive subject like corruption. This is especially so in the Phoenix case study where the media exposed details about corruption in the low cost housing project. Therefore, media analysis is an important tool in the collecting of information on corruption. Secondly, primary data came from court cases attended and court documents obtained. The Phoenix low cost housing development was a matter that was fought in court between the residents of the PRA and the developer.

Secondary data came from a number of key areas. These include: AG Reports, SIU Reports, PP Reports and from private consultants investigating corruption like the Manase Report and SLMAN.

a) Primary data

1.6.2.4 Media analysis

One of the techniques used to collect data in the study is through the media in South Africa or namely media analysis. Perry (1997) notes that scholarship is often depended on the work of others, particular journalists who have skills in the discovery of deliberately concealed data. This is no different with corruption which is a subject that occurs covertly and is surrounded by secrecy and denial. This, according to Perry (1997), does not mean that scholars themselves should not investigate corruption, but rather that standard social science research methodology were inappropriate.

Media analysis can be defined as the deconstruction of media using quantitative or qualitative research methods. Quantitative media analysis is more structured but a restricted form of data gathering, while qualitative methods involve the open discussions and debate on themes and content (Johnson and Onwuegbuzie, 2004).

Media analysis has many advantages and is often a neglected source of data. Mass media can provide social scientists with useful data on how society reacts to various social, economic and political issues. Media analysis can provide important historical and cultural insights into society over time through analysis of texts. The disadvantages of media analysis is that it relies strongly upon the researcher's interpretation. Furthermore, the media can be sensationalist, and sometimes use unsavoury methods to obtain information (Johnson and Onwuegbuzie, 2004).

With these challenges in mind the study obtained data from various sources of media. This includes newspapers, television news and on the internet. The bulk of the data from the media came from newspaper articles. These include both from national and local sources. Newspapers were regularly bought and scanned for any information on corruption. A further way to obtain newspaper articles was from SABNIET. SABNIET contains a collection of daily newspaper articles that is scanned and stored daily in its database. Newspaper articles were accessed from SABNIET from 1997 to 2014.

1.6.2.5 Court cases

An important source of data on corruption in the Phoenix case study came from court documents and records. The PRA and Woodglaze Trading both resorted to court challenges against each other. Woodglaze Trading sought a gagging order against the PRA leader Mervin Govender for making defamatory remarks against the company. The PRA sought action against evictions and the intimidation of its members. Woodglaze Trading furthermore appeared in court after the Asset Forfeiture Unit (AFU) attached the Phoenix complexes. The court cases began in the beginning of 2013 and continued into 2014. Five court sittings were attended and notes were made. The court documents were either provided in pdf form by the PRA or were requested and printed at the court house.

b) Secondary data

1.6.2.6 Due diligence study

A further data set providing valuable information on the Phoenix case study was a due diligence study. The due diligence study was commissioned by The First Metro Housing Company in order to provide sufficient information on legal, financial, technical and administrative data on the low cost housing complexes in Phoenix (SLMAN, 2012). The

purpose of the due diligence study was to make an informed decision on whether to acquire the Moko Phoenix Project from Woodglaze Trading. The due diligence report was undertaken by SLMAN and produced in February 2012.

A due diligence report is essentially an important tool used to prevent bad business transactions from occurring. Its aim is to provide the most accurate reflection and information on a company/project that will be useful in the valuing assets and in negotiating a price (SLMAN, 2012). According to SLMAN (2012) due diligence process is an investigation of a business prior to signing of a contract.

The due diligence study focused on the following key elements which were relevant for this thesis: financial and legal and compliance, tenant audit, information technology and lastly property and product (SLMAN, 2012). Consultations between the different actors included Woodglaze Trading, First Metro Housing Company, Social Housing Regulatory Authority (SHRA), the eThekweni Municipality and the KwaZulu-Natal Human Settlements Department.

1.6.2.7 Social Housing Regulatory Authority Report

Another important document produced on the low cost housing complexes in Phoenix was commissioned by the SHRA who appointed Indyebo consulting to conduct the review. The final report was an extensive review of the Moko Housing Project which was released on the 23rd of July 2013. The audit's main focus area was on the accreditation and payments that were disbursed to Moko/Woodglaze. This was to establish the usage of funds awarded to Moko/Woodglaze by the Social Housing Fund (SHF) and to examine the contractor agreements to detect fruitless and wasteful expenditure.

SHRA had disbursed a Restructuring Capital Grant to Moko/Woodglaze, but the project was not in the restructuring zone. Some of the information came from the SLMAN Report, but investigations were conducted by Indyebo. The report is not for court purposes, but rather an investigation that can be used by the SHRA for possible disciplinary proceedings that may follow. The objectives of included: to review the SHF transactions with funding that was disbursed to Moko/Woodglaze; assess the contractual terms and conditions between the SHRA and Moko/Woodglaze; evaluate compliance to policies and procedures by the investment subcommittee; and lastly, identify potential or actual conflicting interest.

1.6.2.8 Manase Report

One of the most important documents utilized in this study was the Manase Report, which was produced after a lengthy probe, commissioned by the Department of Co-operative Governance and Traditional Affairs into the eThekweni Municipality. This was after evidence of corruption and maladministration in the Municipality was revealed in the 2010/2011 AG Report. The AG found that the Municipality had illegally spent R532 million and that 10 councillors had business interests in the Durban.

The Manase Report comprised more than 7000 pages and uncovered major fraud and corruption. The Report was initially kept secret and only a summarized version was made available to Durban councillors who had to sign a confidentiality clause. However, due to pressure from 11 applicants, which consisted of media, political parties and lobby groups, in terms of the Promotion of Access to Information Act, the Manase Report was publicly released in June 2013.

The report indicated major irregularities including the flouting of tender procedures, abuse of overtime procedures, councillors doing business with government, poor workmanship and the lack of control of budgets. Top officials were named in the report and included eThekweni former Municipal Manager Mike Sutcliffe, former Mayor Obed Mlaba and former Head of Housing Cogi Pather. Current officials included Treasurer Krish Kumar and Deputy City Manager Derek Naidoo. The Manase Report (2012) recommended that disciplinary proceedings be taken against all officials implicated and that funds be recouped.

Some of the findings of the Manase Report (2012) included:

- Irregular expenditure of over R2 billion in three years.
- Councillors offering sex for low cost housing.
- Officials did not take all reasonable steps to prevent irregular expenditure
- 161 eThekweni municipal officials doing business with the Municipality.
- Major irregularities in metro police, with 14 officers being taxi owners.
- Major poor workmanship and over expenditure in housing projects across the Municipality.

The Manse Report thus provided valuable evidence on corruption in housing and became a key source of data for the project.

1.6.2.9 The Auditor General of South Africa

The AG of South Africa was first established in 1911 and was ratified in 1996 in terms of Section 181 (1) (e) of the Constitution of the Republic (DPSA, 2003). Chapter nine of the Constitution endorses the AG as an independent body and states that it must be impartial and perform its role without fear, favour or prejudice. The AG reports on all finances - including accounts and financial management - of all government administrations at national, provincial and local levels. Furthermore, its reach extends to any institution that receives public funds. The AG releases annual reports of financial performance of government. In this study the AG Reports were sourced in two ways. Firstly, an email was sent to the AG requesting relevant documents, and there was positive response within three weeks. Secondly, AG Reports were sourced on the website of the Department of Human Settlements.

1.6.2.10 The Public Protector of South Africa

The PP of South African is another chapter nine institution established in terms of the Constitution. Its directive is to investigate improper conduct, maladministration and abuse of power in government. Furthermore, it also helps to resolve related disputes, through mediation, conciliation, negotiation and other measures to ensure fair and responsive public sector decision making and service delivery (DPSA, 2003). This to help strengthen South Africa's constitutional democracy and provide an accountable government to the people. The current PP is advocate Thulisile Madonsela. The PP Reports were downloaded from its website.

1.6.2.11 The Special Investigation Unit of South Africa

A further independent government body investigating corruption and maladministration in South Africa is the SIU. The SIU is a statutory institution accountable to the President and parliament. It investigates various misdeeds including corruption and maladministration, and institutes civil litigation to recover losses by the state. It works closely with many other government organisations including the AFU and South Africa Police Service (SAPS). Relevant documents were identified and downloaded from the SIU website.

1.6.2.12 Ethical considerations

Corruption is an extremely secretive and sensitive topic that affects many lives around South Africa. When undertaking research on corruption compliance with proper research ethics is important. Approval to undertake this study was obtained from the Ethics Committee of the University of KwaZulu-Natal. The ethical code followed included respect for the rights of the respondents and to ensure that no harm comes to them. Residents were assured that their details were confidential. However, any investigation of corruption requires some form of covert research and this study was no exception. Corruption is a very secretive issue and thus at times covert mode has to be adopted to obtain information. This was because community activists and local journalists have been attacked by private security companies when trying to uncover the truth about corruption in Phoenix. According to Spicker (2011) while some may see covert research as unethical and a deception, most of the covert research was conducted to protect identities of participants and the researcher. Information from sources will be kept secret, in order to protect individuals. Even while conducting covert research rules and ethics were adhered to, and none of the participants were prejudiced in any way

1.7 Structure of thesis:

This study is divided into five chapters. The first chapter contains the introduction and provides a general overview of the study, including a motivation, the geographical relevance, and the aims and objectives. It also, presents a background to the study area and the methodology adopted in the research.

The second chapter consists of the literature review and provides an overview of the previous research on the subject of corruption. The chapter reflects on the task of defining corruption, examines the different forms of corruption, assesses theories of corruption, analyses the causes and consequences of corruption, evaluates the controversial task of measuring corruption and lastly, the strategies to combat it.

Chapter three focuses on corruption in the South African context. Reference is further made to corruption in low cost housing.

Chapter four is divided into two main sections. Part A focuses on corruption in the Province of KwaZulu-Natal. This includes both KwaZulu-Natal Human Settlement Department and EMM Housing Unit. Part B of Chapter Four focuses on the case study of Phoenix.

The final chapter contains the evaluation, theoretical reflection and the conclusion for the study.

1.8 Conclusion

According to Omar (1999), South Africa is engaged in a critical struggle against an enemy that could threaten the very social fabric of our society. It is a threat to democracy, the rule of law and the very human rights culture that South Africa is trying to build after decades of oppression (Omar, 1999). This enemy poses one of the single greatest challenges to housing the poor across the country. This enemy is corruption and it cannot be ignored by scholars anymore.

Scholarly neglect of the study of corruption can largely be attributed to methodological challenges faced by researchers when dealing with this theme (Perry, 1997). This is because corruption is a secretive and sensitive topic. A case study approach using multi-methods was used, drawing from both primary and secondary data. Primary data were obtained from media reports and court cases. Secondary data were obtained from various government sources and included the Manase Report, the SLMAN Report and records of the AG, PP and SIU.

Finally, while there is no easy way to overcome the methodological difficulties that any study of corruption poses, the researcher had to continuously improvise and adapt to the challenges. This is because corruption can no longer be seen as just an economic misappropriation of money, but a major crime against humanity that impacts the hardest on the most vulnerable groups in society. It does this through impacting on essential services like housing, the focus of this study.

CHAPTER 2

LITERATURE REVIEW

2.1 Introduction

Corruption is a complex and multifaceted problem and takes diverse forms in different countries (Cockcroft, 2012; Vogal, 2012). A major problem with understanding and studying corruption is that it is often condemned more than it is adequately explained (Gebeye, 2012). According to Klitgaard (2000), corruption has been around since the beginning of human civilization. The first book on corruption entitled *Arthashastra*, was written over 2000 years ago by an Indian ruler who detailed the negative effects of corruption (Tanzi, 1998). However, even though corruption is widespread and impacts on every society, it is an issue that has been ignored by scholars until recently.

This changed with the end of the Cold War - 1989-90 - which resulted in an increased interest in corruption research (Cockcroft, 2012). This was related to the collapse of totalitarian states in Eastern Europe and the trend towards democracy and greater openness. Also, as neoliberalism became almost hegemonic with the privatisation of state assets and enterprises, opportunities for corruption increased. There was increasing recognition of the negative effects of corruption, especially in terms of the abuse and misallocation of public resources, with the poor being the ultimate victims (Uslaner, 2008). This focus on corruption was also spurred on by the growth in the vast number of media channels - local, regional, national and international - and the advent of technologies like the cellphone, internet, and social media platforms Facebook and Twitter (Vogal, 2012).

Even with this growth of interest, corruption is still a difficult topic to research. There is little consensus around the definition of corruption, identifying its causes and policies to combat it. However, in trying to research a problem that is as secretive and complicated as corruption, the biggest challenge is a methodological one (Rahim and Zaman, 2009). According to Tanzi (1998) if one had the ability to accurately measure corruption it would probably have been eliminated from society by now. Even with the growth of interest in corruption, there is no accurate way to measure it. Thus, there is a view that one trying to measure that which cannot be measured (Rahim and Zaman, 2009).

A further problem is mainstream research 'confines' corruption to the developing world, a symptom of political backwardness and low levels of development and it is seen to be an issue that has been long eradicated from most western nations (Brown and Cloke, 2004).

However, corruption is a universal problem, which is endemic in both the developed and developing world (Cockcroft, 2012). It is evident from the Enron scandal in 2001 to the greed of bankers that led to the 2008 economic crises. Corruption is truly a global curse, with major political, economic and social consequences, and thus cannot be ignored.

The aim of this chapter, is to review the published and unpublished research on corruption, and to assess the different theoretical interpretations in order to provide a framework for this study. This chapter is divided into seven sections. The first section deals with the difficult task of trying to define corruption. The different types of corruption are explored in the second section. In the third section the various corruption theories are assessed. The different causes of corruption are discussed in the fourth section. The methodological challenges associated with trying to measure corruption is discussed in the fifth section. The consequences of corruption is discussed in the sixth section. Measures to combat corruption are assessed in the final section.

2.2 Defining corruption

One of the first major challenges in dealing with corruption is the difficult task in trying to define it (Uslaner, 2008). Definitions of corruption can range greatly from the decay of society to a single act of bribery (Cockcroft, 2012). According to Koetzle and Sandholis (2000) nearly every published work dealing with corruption from the 1960s has tried to deal with the problem of defining it. A large percentage of time in the early 1990s at corruption conferences was spent debating definitions (Tanzi, 1998). However, there is still no consensus on a universally accepted definition. Throughout the literature definitions of corruption can be discussed at great length without providing any value to the reader (Lambsdorff, 2007). Thus the following section will explore the difficult task in defining corruption.

The biggest problem in trying to define corruption is that it means different things to different individuals. It also varies greatly between different societies and countries in terms of legal interpretation (Hodgkinson, 1997, Spector, 2012). Furthermore, cultural and traditional norms of a country can influence definitions of corruption. Corruption can be viewed by some as a traditional practice by which things get done (Spector, 2012). Gifts are awarded to civil servants for services rendered, which some consider an acceptable practice. This makes defining corruption a complicated task.

The word corruption originates from the Latin word 'corruptio', which means decay, wicked behaviour and rottenness (TI, 2009). In the Oxford English Dictionary there is a list of nine definitions of corruption. However, these definitions have little to do with political corruption and deal more with moral decay in society. The contemporary dictionary meaning is very broad and refers to anything, person or situation that has changed for the worse as corruption (Van Der Merve, 2001). Thus it can be argued that society has become corrupted, a person doing wrong has become corrupted and a principal has become corrupted. In this sense the word corruption becomes useless and combating corruption a near impossible task. If everything that is bad is attributed to corruption, then how can one actually tackle this scourge?

Hodgkinson (1997) warns that a strictly narrow definition of corruption can lead to further problems. For example, in the past definitions of corruption confined it to the illegal sphere, but not everything that is legal is ethical or right. Some corruption actions would be excluded from it. For example, in some societies nepotism is not considered as a form of corruption (Cockcroft, 2012). The task of defining corruption is such a complex one that international organizations like the OECD, Council of Europe and UN conventions do not define corruption but rather distinguish between different corrupt offences. However, according to Ogundiya (2009) the study of corruption is hampered by the lack of an adequate definition and thus one must be found.

Generally it can be argued that corruption is the abuse of entrusted power, which includes both the use of public or private office for personal gain and this definition will be used in this study (TI, 2004). It does not necessarily involve money changing hands, but may take many other forms like influence peddling or granting of favours (TI, 2004). This definition of corruption has been widened to include the abuse of all offices and is not confined only to the public sphere. Corruption nearly always involves the accumulation of money, assets or power illegally, and at the expense of the good society (Cockcroft, 2012). The definition of corruption includes public officials extorting or accepting bribes for services they have been tasked to perform, the use of connections and of personal influence to accomplish an action outside legal channels and finally the breach of codes of conduct and standards that result in conflicts of interest (Spector, 2012).

In conjunction with this definition, different types of corruption will be discussed in the next section to enhance the meaning of corruption and provide a greater understanding on what is, and what is not, a corrupt offence.

2.3 Different types of corruption

While there are debates about the definition of corruption, there is some agreement around the different forms it can take. Andwig and Fjeldstadt (2000) published one of the most holistic categorizations of the different types of corruption. These include bribery, embezzlement, fraud, extortion and nepotism. The different types and forms of corruption often vary greatly between geographic areas, nations, and over time (Spector, 2012).

2.3.1 Bribery

Bribery can be viewed as a most common form of corruption and can be defined as the payment – of either money, luxury items or a percentage of a contract – to influence another (Andwig and Fjeldstadt, 2000). The aim of a bribe is to gain an undue advantage, usually for government favour or in resource allocation (Otusanga, 2011). Bribery is a serious crime in which the giver and the recipient are complicit. Just the offering of bribes is a serious offence in most countries, including South Africa, at least in theory. According to Andwig and Fjeldstadt (2000) there are many types of bribes identified in the literature. These include a tip, a gift, a perk, discount, tax exemption, a ticket, a kickback, a contract, a percentage of a contract, a donation, a promotion, a job and so on. According to TI (2009) there is a number of different ways in distinguishing between the various types of bribery. The act of offering a bribe is known as active bribery, while the act of accepting it is known as passive bribery. International bribery that crosses borders is known as transnational bribery. The World Bank estimated that \$1 trillion is paid in bribes globally every year (Otusanga, 2011).

2.3.2 Embezzlement

According to Andwig and Fjeldstadt (2000) in some definitions embezzlement is not considered as a form of corruption. Corruption is seen as a process that occurs between two individuals, for example bribery. However, embezzlement only needs one individual and can be defined as theft of resources by the very people who are in responsible for administering them (Andwig and Fjeldstadt, 2000). Embezzlement occurs when individuals, either in the government or private sector steal from their own company or organization and this is a form of misappropriation of funds (Otusanga, 2011). Embezzlement can take many forms and can

include the off budget transfers of assets, property or money; the manipulation of privatisation processes, and the extraction of a state's natural resources (Otusanga, 2011).

2.3.3 Fraud

The third type of corruption is fraud which is an economic crime that involves trickery, swindle or deceit (Andwig and Fjeldstadt, 2000). Fraud involves the manipulation and distortion of facts, information or expertise for personal gain. Fraud is a much broader legal term than bribery or embezzlement. Fraud can occur when state agencies or state representatives participate in illegal trade networks, counterfeit and racketeering, forgery and smuggling (Andwig and Fjeldstadt, 2000). Money laundering is considered to be fraud and is the process whereby corrupt resources such as 'dirty money' are channelled through legitimate avenues and enterprises in order to conceal the source, nature, legality and ownership of the proceeds (Otusanga, 2011). A further form of fraud is identity theft or the providing of fake documents in order to obtain advantage that would have not been normally obtained. This is common practice in corruption involving the procurement of government contracts (Otusanga, 2011).

2.3.4 Extortion

Extortion is when money or any other resources is obtained through the use of some form of threat, of violence or coercion (Andwig and Fjeldstadt, 2000). Money, contracts, gifts, jobs and so on are obtained by those who have the power to do so (Andwig and Fjeldstadt, 2000). The most common type of extortion is blackmailing. Extortion does not always involve actual violence, but the mere threat of it can cause people to engage in corrupt acts (Andwig and Fjeldstadt, 2000). Extortion can also involve kidnapping, murder and physical harm. When people think of extortion they usually think of the mafia. However, often in reality the real mafia is the state. The state through the threat of increase in taxes, brutal force, fees and other methods can often coerce different groups like market vendors, business people, political leaders and travellers into paying money (Andwig and Fjeldstadt, 2000).

2.3.5 Nepotism

Favouritism, cronyism or nepotism is the biased redistribution of resources, money or contracts to family members, friends or cronies (Andwig and Fjeldstadt, 2000). This is a major type of corruption in South Africa where tenders are awarded to friends or family without proper procurement processes being followed (CASAC, 2011). Often when there is a

conflict of interest in the awarding of contracts this is not declared. Favouritism is different to other forms of corrupt acts like bribery or embezzlement in that it does not result in the accumulation of resources by the government official breaking the law. Rather the government official awards contracts and tenders whereby others benefit (Andwig and Fjeldstadt, 2000).

2.3.6 Other ways to distinguish corruption

Heidenheimer's three part coloured coded classification reflects peoples and societies' tolerance and acceptance of a questionable practice like corruption. The classification divides society's tolerance and acceptance as black, grey or white (Johnson and Sharma, 2002). Black signifies that the vast majority including the elite and masses condemn the practice and would want to see the crime punished. Grey indicates that some groups might see the practice as bad, while others may not. For example, gift giving to public servants is a grey area (Lambsdorff, 2007). White is corruption that is accepted and seen as tolerable (Johnson and Sharma, 2002). Both the masses and elites would not want the punishment of those engaged in white corruption.

Another way to distinguish between different types of corruption is by differentiating between petty and grand corruption. Petty corruption involves small amounts of money like fixing parking tickets, rewarding a doctor for letting one jump the queue and getting favourable treatment from low level officials (Uslaner, 2008). It is small scale payment to officials for services that should be free (Perry, 1997). Then there is grand corruption which involves large sums of money, huge kickbacks and often senior officials are involved (Uslaner, 2008).

While there is a vast amount of ways to characterize corruption, the study will use both a definition and Andwig and Fjeldstadt (2000) different forms of corruption to define a corrupt offence. The definition of corruption used in the study is the abuse of entrusted power which includes both public and private office for personal gain and can take the forms of bribery, embezzlement, fraud, extortion and nepotism. Some examples of corruption using the above classification are contained in Table 2.1 which is adapted from the eThekweni's guide to examples of corruption. Many of the examples are evident in the case of low cost housing, the focus of this study.

Table 2.1: eThekweni Municipality's (nd) examples of fraud and corruption

<ul style="list-style-type: none"> • Any breach or disregard for the Municipal Finance Management Act
<ul style="list-style-type: none"> • Any breach or disregard for the Supply Change Management Policy
<ul style="list-style-type: none"> • Accepting or the giving of anything material value to gain undue favour
<ul style="list-style-type: none"> • Any conflict of interest
<ul style="list-style-type: none"> • The deliberate failure to report acts of dishonesty
<ul style="list-style-type: none"> • The deliberate withholding of information which would provide insight or assist in investigating irregularities
<ul style="list-style-type: none"> • Extortion by municipal employees in the performance of their duties
<ul style="list-style-type: none"> • Failure to put in place controls internally, thus causing loss to eThekweni
<ul style="list-style-type: none"> • False sick leave, overtime or qualifications
<ul style="list-style-type: none"> • The forgery or alteration of any financial document relating to transactions with the Municipality. These include cheques, bank drafts and stock records
<ul style="list-style-type: none"> • Housing subsidy fraud
<ul style="list-style-type: none"> • Illegal or irregular sale of Municipality property
<ul style="list-style-type: none"> • Irregular allocation of low cost houses
<ul style="list-style-type: none"> • Irregular destruction, removal or inappropriate use of records, documents, furniture, fixtures, material and equipment
<ul style="list-style-type: none"> • Misappropriation or theft of funds, securities, supplies or assets
<ul style="list-style-type: none"> • Procurement fraud
<ul style="list-style-type: none"> • Any other dishonest, fraudulent or corrupt act

Source: eThekweni Municipality (nd)

2.4 Theories of corruption

Corruption is a multi-faceted problem with many different potential causes and unintended consequences (Cockcroft, 2012). There is much debate around the issue of corruption and thus theorizing it becomes a complicated task. According to Graaf (2010) the importance of theorizing lies in the fact it aims to reduce confusion, simplify evidence, discard incorrect facts and incorporates new ideas into the subject. It also helps to bring focus and direction to research. Thus theorizing becomes an important task for any study.

The following section explores the different theories of corruption identified in the literature. Theories identified tend to focus on corruption as an economic crime that has impacts on the political mechanisms of a state. This neglects the most important factor regarding corruption, which is corruption ultimately impacts on humans, with the worst impacted being the most vulnerable groups in society including the poor, immigrants and women and children (UN, 2013). Thus the study proposes a paradigm shift towards a human rights approach. This gives corruption a 'human face' and brings greater attention to the social impacts of corruption (Pearson, 2001).

2.4.1 Corruption theories

The following section will explore some of the corruption theories identified in the literature. These include the weberian, structural functionalist, institutional economic, system, marxist, institutional design, post-positivist, criminology, and human rights approaches.

2.4.2 Weberian approach

This approach is based on German sociologist Max Webber and can be linked to his ideas of modernity (Rubinstein and Maravic, 2010). It views corruption in an evolutionary manner whereby it will disappear with western progress. For Weber societies constantly change and ultimately progress and with this progression corruption will cease (Graaf et al, 2010).

Corruption is evident in early 'primitive' societies and would vanish with the growth in a professionalised bureaucracy (Rubinstein and Maravic, 2010). Most indices of corruption show that today the least corrupt nations are the most advanced in terms of socio-economic development, which include the best education systems, free press, highest minimum wages and best health care systems. Many of the most corrupt states in Africa score the lowest on indices of modernisation (Rubinstein and Maravic, 2010). Thus with western development corruption would be eliminated from a society. However, corruption is also evident in many western countries

2.4.3 Structural functionalist

This theory has its origins in Fred Riggs' 1964 work on the theory of a Prismatic society (Zwart, 2010). This theory views society as a complex and coherent system which is made up of a number of parts that results in solidarity and stability. In this system societal phenomenon have some sort of function, including corruption (Graaf et al, 2010). Corruption

is not viewed as a flaw in the system, but as an inherent part of the system, especially in developing societies. Structural functionalists thus examine corruption and ask the question of what role or function does corruption play in a given society (Graaf et al, 2010). For many developing nations corruption is used to bypass bureaucratic restrictive red tape that causes delays in the approval of business licences and permits.

2.4.4 Institutional economic approach

This approach is associated with Rose-Ackerman, who undertook research on corruption in certain organisations (Graaf et al, 2010). Her findings were that every organisational structure is vulnerable to malfeasance by corrupt officials (Graaf et al, 2010). This approach views corrupt officials as rational maximisers and is based on the premise that individuals are most likely to choose the most profitable course of action. The individual is seen as a rational being whose primary interest is him/her self (Graaf et al, 2010).

Corruption occurs because private wealth and public power essentially overlap (Rose-Ackerman, 2010). An individual offers a bribe to a government official in return for a favour, like the avoidance of housing regulations. These bribes increase the personal wealth of various government officials (Rose-Ackerman, 2010). Since Rose-Ackerman's work there has been great interest in this approach and is by far the most popular theory explaining corruption. This approach has since been adopted by economists undertaking research on corruption.

This approach also uses models to show how corruption impacts on economic efficiency and fairness (Rose-Ackerman, 2010). This can lead to an uneven distribution of resources, create red tape and lower the quality of state services (Rose-Ackerman, 2010). Tanzi (1998) and Mauro (1996, 1997 and 2002) used data from a large sample of countries to illustrate corruption's negative impacts on the economy. According to Mauro (1996), in corrupt societies, government and official functionaries devote more time competing for positions of economic power and seeking rents, than actually governing and doing their jobs.

2.4.5 System approach

This approach divides society into separate value systems (Graaf et al, 2010). Corruption is then a product of when systems overlap. For example, when the values of the economic system overlap with the political and legal system (Graaf et al, 2010). Corruption thus occurs

in a network of structures which interlink politics and business. This is further worsened by the neoliberal privatisation of the public sector (Graaf et al, 2010).

2.4.6 Marxism

While Karl Marx did not go into detail on corruption, his work laid the foundations for future research on the topic. Contemporary Marxists introduce a class analysis into corruption research. Corruption is a very much part of the international capitalist system through trading in resources, banking, investment and how Western corporations operate in the Developing World (Alam, 2007). Corruption allows the ruling class to thrive and help sustain and accentuate their wealth, power and position. It is one of the most effective tools of the ruling class and reduces income and wealth distribution to the bare minimum (Alam, 2007). Therefore it is near impossible to combat corruption unless the underlying foundations in the capitalist society, the class dynamics are changed. Corruption is an important vehicle for accumulation of wealth (Alam, 2007).

2.4.7 Institutional design

This approach argues that it is institutions that shape behaviour and thus political systems are more likely to be prone to corruption than others (Graaf et al, 2010). At the core of this theory is the notion of political competition (Graaf et al, 2010). Questions asked include which system is more corrupt, presidential or parliamentary, and federal systems or unitary systems.

March and Olsen (1989) argue that individual behaviour including corrupt ones, can be shaped by institutional values, symbols and myths. Values have to be positive in order for there to be a progressive impact on behaviour, in order to discourage corruption. Corruption is thus seen as the rejection of values of public organisation for the selfish pursuit of personal gain (Peter, 2010).

2.4.8 Post-positivist

This approach views corruption as a social construction and has its origins in Johnston's work (Graaf et al, 2010). Johnston defined corruption as the abuse of power according to a nation's legal and social standards for private benefit. Johnston stimulates debate on what the notion of abuse is, what are the social standards and lastly private benefit. These aspects change, intersect and vary in different spaces and at specific times (Graaf et al, 2010). Johnston is essentially interested in how conflict and clashes occur across boundaries between the 'public

and private, politics and administration, institutions and sources of power, state and society, private and collective interests and the allocative limits of the market' (Graaf et al, 2010:18).

Hence, it is from this cultural and constructivist perspective that our ideas of corruption emerge. Corruption can only be understood with reference to its social setting (Graaf et al, 2010).

2.4.9 Criminology approach

Corruption is a form of crime. Criminology focuses on the individual by using criminological theories and applying them to study corruption (Graaf et al, 2010). Graaf and Huberts (2008) used corruption cases in Netherlands and showed the importance of the psychological nature of the individual. Corrupt officials were seen to be popular due to their ability to get things done. The corrupt were mostly male and were often seen to be valuable to their organisation. Corruption can also be either a causal factor or a side effect of crime like organised crime, corporate crime and state crime (Graaf et al, 2010).

2.4.10 Critical theoretical reflection

Each of the theories take a unique and different view of corruption. However, corruption is a complex and complicated phenomenon with scholars having many different views (Graaf et al, 2010). One theory cannot adequately explain corruption in its totality. Therefore much disagreement still occurs amongst scholars, which hinder the understanding and combatting of this problem (Graaf et al, 2010).

There is thus increasing argument for a multi-approach to corruption that combines a number of theories. An approach that does not just view corruption exclusively through a political, economic or social lens, but combines all the approaches (Huberts, 2010). At the core of this approach is a multi-level strategy which takes into consideration the different levels at which corruption occurs. These levels include micro - the individual - , meso - group - and macro - society - (Huberts, 2010). Adapting this approach acknowledges that corruption occurs at multiple scales and there are various contributing factors. No one single factor can adequately explain corruption. Instead of focusing on one approach in combating corruption, a multi-pronged attack will be more appropriate and this is best encapsulated in the human rights approach.

2.4.11 A human rights approach

Corruption ultimately impacts negatively at the individual level, especially the poorest members of society (UN, 2013). Thus there needs to be a shift to a new overarching framework that focuses less on corruption as an economic or political problem, and more on how it impacts on the poor. Such a shift is provided by the human rights approach which will be adopted in this study.

In the last 60 years there has been an incredible growth in the human rights discourse internationally. The human rights approach has its origins in the international Bill of Rights which sets out rights and freedoms that are considered as universal, regardless of culture, religion and political beliefs. These rights are considered as essential for all people to exist. Human rights are now regarded as inherent - apply to humans -, inalienable - cannot be taken away- and universal - applicable to all persons - (Pearson, 2001).

Initially the rights were considered as independent of each other and there were even some discussions to rank them. However, since the Vienna Declaration and Program of Action in 1993, the rights are considered indivisible, interrelated and interdependent. There has thus been a move to a more holistic view and an acknowledgement that rights cannot be realised or protected in isolation from each other (Pearson, 2001).

2.4.12 Human rights and corruption

When applying a human rights approach to a subject like corruption, the overall focus is on the fundamental rights of people (Pearson, 2001). There is thus a realisation that individuals have rights which must be protected. The dominant theories of corruption have been political or economic in nature. This study proposes that this focus is narrow and that a paradigm shift must occur to a human rights approach (Pearson, 2001). This is a shift from viewing corruption as the misappropriation of wealth and political instability to one that focuses on corruption as an abuse of fundamental human rights.

Corruption impacts on numerous rights, including rights to affiliation, rights to political participation, rights to non-discrimination before the rule of law, rights to health and education and lastly rights to favourable work conditions (Pearson, 2001). Where human rights are not protected, corruption is likely to flourish (TI, 2010). For example in a society that limits free speech and restricts the media, it will be very hard to hold the powerful in check. Under such circumstances corruption will flourish.

Throughout this study it will be evident that corruption ultimately impacts the hardest on the most vulnerable groups in a society like the poor, immigrants, women and children. This is because the poor are often powerless to change the status quo and furthermore do not have the money to pay bribes (UNDP, 2004). Corruption benefits a narrow elite at the expense of the vast majority (TI, 2010). Furthermore, corruption often impacts on essential services like health care, education, housing, water, electricity supply and public work programs. These are the very services needed by the poor for development. Thus when one billion Rand is lost due to shoddy workmanship, instead of building new houses for the poor, scarce funds are used to repair work associated with corrupt practices.

Since the UN Convention against Corruption in Seoul 2003, corruption is now viewed as a crime against humanity (UNDP, 2004). Adopting a human rights approach helps to focus attention on corruption and its impacts on the ordinary people who are at risk and vulnerable (ICHR, 2009). Often the literature on corruption ignores the suffering of the poor in favour of a vast amount of information on the economic and political impacts that do not engender the same focus as a human rights approach would. The political and economic viewpoints have failed to bring the appropriate attention to corruption. A human rights approach also provides guidance for the implementation of corruption combating policies (ICHR, 2009).

If corruption is shown to violate people's rights, it is likely to provoke greater public outrage (ICHR, 2009). When the populace becomes more aware of the consequences of corruption, there is more likely to be support for policies to combat it. This is very important because most anti-corruption measures fail because there is a lack of political will to influence these policies. Hence, if there was greater public support for such measures, there will be greater pressure on governments, political organisations and enforcement agencies (ICHR, 2009).

A human rights approach should involve a broad outlook on the systematic impacts that corruption can have on a society. A human rights approach helps to highlight obligations and accountability that states have to combat corruption (Pearson, 2001).

2.5 Causes of corruption

Just like there are many different forms of corruption, there are a variety of factors that contribute to it (Caiden et al, 2001). According to Heywood (1997) the complexity of the task to identify all the causes of corruption is so challenging that it renders comprehensive assessment a near impossible task. In instances corruption may manifest itself similarly in

some countries, however the underlying causes are often different (Spector, 2012). There are a number of causes of corruption that have been identified in the literature including political, economic, globalization, colonialism, ideological, psychological, external, geography and socio-cultural (Caiden et al, 2001). Some of these factors are directly related to corruption. For example, some people are naturally flawed and are thus likely to be prone to be corrupt when the opportunity arises. Other forces like globalization and geography are contributory causal factors.

It is common in the literature that most scholars identify political or economic processes as the chief explanatory causal factors for corruption. The state intervenes in the economy and lays out a framework for economic, political and social activity (UNDP, 1997). It establishes property and individual personal rights, provides protection through the police and army, sets up courts where private disputes can be settled, provides goods and services not supplied by private markets, corrects market failures, helps the vulnerable and so on (UNDP, 1997). The common denominator is the state undertakes in actions that should be in the interest of its citizens and individuals that reside within its borders. However, this does not always happen and the state can become an instrument of repression and oppression (UNDP, 1997). Senior politicians and government bureaucrats can manipulate state institutions like the judiciary to enrich themselves. Political and economic factors are viewed as the primary factors influencing corruption.

2.5.1 Political

Corruption is often attributed to the activities of the state and the monopoly and discretionary power that it yields (Tanzi, 1998). Therefore Gary Becker - a Nobel laureate in economics - immediately stated the obvious. If one abolishes the state, one can effectively abolish corruption. The state is seen as the primary cause of corruption. However, in reality one cannot abolish the state. This is because modern civilized society cannot function without a state which has many broad functions in society that no private sector could perform. Of course Becker does not expect there to exist a stateless world, but what he emphasizes is the capitalist view that the smaller the state, the less likely that corruption will take place. Essentially, neoliberalism reforms help to diminish malfeasance (Weyland, 2006).

This is a remedy that has been prescribed to many developing countries across the world, to reduce the power of the state, decentralize responsibility and authority to the local level and outward to private corporations and individuals (Lambsdorff, 2007). Therefore excessive

government intervention, market restrictions and a burdening bureaucracy are to blame for corruption (Lambsdorff, 2007). All three allow undemocratic government officials to gain large amounts of unchecked power and engage in wealth accumulation through corruption. Too much power in too few hands allows them to accumulate vast resources at the expense of the majority.

Privatization is often seen as a way to combat corruption and as a bonus was supposed to increase economic efficiency (Lambsdorff, 2007). Privatization helps to remove certain assets from state control that would be abused by corrupt officials (Ackerman, 1999). Economic resources that are allocated by market forces lead to fewer opportunities for corruption (Weyland, 2006). Downsized regimes are said to have less opportunity to ‘milk’ its citizens (Lambsdorff, 2007). Evidence for this theory is that the most corrupt nations all have large authoritarian regimes. Thus the argument goes market restrictions and big governments result in corruption (Fitzsimons, 2002). Therefore developing states have been forced to accept economic conditions to restructure their economies in return for loans and foreign aid (Bracking, 2007).

The main criticism against this approach is that neoliberal reforms open up new avenues for corruption (Weyland, 2006). Privatization is often presented as a cure for corruption, but this is not always the case. The neoliberal caucuses, often argue that privatization and an increase of competitiveness will help reduce corrupt incentives (UNDP, 1997). The argument is that policies that lower controls on trade, and remove barriers to entry will contribute to combat corruption (UNDP, 1997). However, this may just open other opportunities for corruption. The Enron collapse in the USA was due to corruption endemic in the private system. Enron was ranked in the top 500 global companies by Forbes for numerous years. In some developed countries like the USA a new payment mechanism is emerging (Arzu Azer, 2011). This is where the wage and compensation packages of senior managers are connected to the shares of their companies. This is a payment mechanism where income is index linked with the market value of shares (Arzu Azer, 2011). This has resulted in a change in incentive from improving the profitability of business to increasing the share value of the company. There is a temptation that could lead to corruption in the form of balance sheet mark up, omitting information and accounting fraud (Arzu Azer, 2011).

Secondly, countries like Canada, Denmark, Netherlands, Norway and Finland have very large public sectors and are also at the top of the list in being the least corrupt societies in the

world. Even when excluding the Scandinavian countries, research showed that not all countries with high spending and larger public sectors will be more prone to corruption than others (Lambsdorff, 2007).

This leads to the question of whether neoliberalism contributes to corruption. The widespread cuts in public expenditure have increasingly undermined the state. In many instances privatization may just change the people doing the corrupting of the citizens, from government to private companies (Lambsdorff, 2007). Also, privatization has generally been poorly implemented across the developing world and this has led to opportunities for corruption (Brown and Cloke, 2004). When privatization occurs, corruption is associated with the manipulation of bidding processes, asset stripping and sales which are often way below market value. As Williams (2001) argues, privatization has amounted to little more than licensed theft of state assets. Privatization merely allows powerful industrial captains to amass huge chunks of public property very cheaply (Weyland, 2006). Global TNCs are involved and have been allowed to operate with increased impunity (Fitzsimons, 2002).

Corruption can occur in a number of ways in the privatization process. There can be collusion to restrict or manipulate the number of firms in the bidding for the state enterprise to be privatized (Ackerman, 1999). Furthermore, when large state entities are being privatized, it is difficult to accurately value their assets as a whole (Ackerman, 1999). This can create opportunities for corruption. Corrupt insiders may have information that the public does not have and there might be situations where information is traded for payoffs (Ackerman, 1999). Even the assessment process can be flawed with some assessors having close ties to TNCs. Corrupt officials can provide information that the company is weak when it is actually doing well. Insiders then can sell the company for way below what it is worth (Ackerman, 1999).

According to Hall (1999) the single biggest area where corruption occurred in the UK and Europe during the 1990s was around public sector contracts and tenders. This was essentially fuelled by government privatization that became increasingly popular in the 1980s during the Thatcher era. The police stated in 1996 in Europe there were 130 serious cases of government fraud with the vast majority connected to the awarding of contracts to the private sector. In the UK, Jonathan Aitkin, a former Minister for Defence procurement, was jailed when he lied about a secret meeting in France and Switzerland with regards to arms contracts and the payment of bribes (Hall, 1999).

Most studies (Caiden et al, 2001; Lambsdorff, 2007 and Weyland, 2006) were inconclusive when deciding whether it is more or less market that causes corruption. Many transitional economies experienced widespread corruption in the process of privatization (Lambsdorff, 2007). According to Weyland (2006) neoliberalism in many cases does not reduce corruption, but merely privatizes it.

Instead of focusing on the economic system, Johnston (1997) identifies four characteristics that can make one society more prone to corruption than another. These include low political competition, low and uneven economic growth, a weak civil society and the absence of institutional mechanisms to combat corruption. When there is strong political competition those in public office can be held liable for their actions. Voters can punish the corrupt by the loss of elections or forcing them out of office. This acts as an incentive not to undertake in corruption and to be sensitive to the interests of the people (Lederman et al, 2005). Low and uneven economic growth also results in corruption due to wealth creation being extremely small or skewed towards the elite. Also, civil society plays an important role in exposing and promoting strong action against the corrupt. Lastly, an independent and effective court system is needed to punish the corrupt and act as a deterrent against future corruption. Thus when Johnston's (1997) four characteristics present in a society, corruption is more likely to be prevalent.

Caiden et al (2002) focus on the public individual as a source of corruption. Public officials are generally powerful and they can decide who gains in society and who does not, who wins and who loses (Caiden et al, 2001). Without such power there would be no point in influencing them. Furthermore, the more powerful they are, the more worthwhile it is to influence them. Therefore, one can argue that the corrupt will seek out the most powerful and the most important in any society (Caiden et al, 2001). Corruption is especially prominent in those cases where public office is confined to a narrow and unrepresentative elite.

2.5.2 Economic

A second factor used to explain the causes of corruption is economic. This is especially the case in the developing world, characterized by weak economies and poverty. Scarcity is clearly a key source of corruption in the developing world. There is just not enough to meet people's needs with frequent shortages common. Temporary shortages according to Caiden et al (2001) can bring out the worst and best in people and humanity. In a series of prolonged scarcity like in many developing world economies, there may be no second chance. People

that are left behind cannot obtain basic resources and thus suffer irreparable harm (Caiden et al, 2001). Failure to gain access could mean certain deprivation and even death. This means people that are in control can squeeze and take advantage of the have not's in society, who are the poorest members. According to the UNDP (1997) this usually means the applicants who are willing to pay the highest are more likely to obtain the good or service. Caiden et al (2001) further explains how poor societies lack sufficient resources to run a country in all sectors, but are especially short of public resources. This means governments are too poor to provide sufficient goods and services to the populace and to maintain public facilities, or to pay public officials a decent wage. This results in a scramble for the few resources that are left. Public monopolization only worsens this situation and often officials may run their public operation like private enterprises. Thus the poor are often the most exploited by corruption.

Civil servants are poorly paid in many countries and this can lead to corruption (UNDP, 1997). Wages can be so low that people can hardly survive. Corruption is then used to help supplement income and essentially becomes a survival strategy. Officials must either have second jobs or engage in corruption (UNDP, 1997). This is especially the case in many African countries. For example in 1986 Zaire salaries only contributed 33% to an official's total income. The other portion of income came from second jobs or corruption (Cockcroft, 2012). However, Perry (1997) noted that well paid officials are no less likely to be corrupt and rarely change their habits, even when given a promotion or salary increase, and thus corruption is likely to continue.

2.5.3 Globalization

While there is growing consensus that globalization is not a new process, it has dramatically increased over the last few decades. This is due to a number of factors, including the advent of air travel, the internet, global communications, general technological progress and the mass transfer of money electronically around the world. With the growing volume of transfers of finances across the globe it has become increasingly difficult to police (Brown and Cloke, 2004). This has made it comparatively easy to commit corruption and hide the benefits across the globe in banks and offshore accounts that have little regulation. Globalization has essentially opened up new opportunities for corruption to take place and to hide it across the globe (Mcfarlane, 2001). Globalization has resulted in corruption becoming

transnational, and the rise in associated crime like trafficking, money laundering and sex slavery.

Corruption, as Caiden et al (2001) noted, is contagious. In a highly globalised world where no society is isolated or cut off from another, corruption crosses boundaries. For example, illegal goods are traded and smuggled through borders. There is the ability to borrow on the international market, and receive aid which can be misappropriated. Furthermore, TNC's have a reputation for bringing corrupt practices into foreign countries in the pursuit of profit. This is aided and abetted by weak international bodies controlled by powerful corporations. Thus it is important to note that it is impossible to look at corruption in the developing world without focusing on the role of northern TNCs. This is because corruption is used in many developing nations by TNCs as a way to obtain lucrative government contracts and access to resources. Thus while corruption is a major issue in many developing countries, it is clear that many foreign TNCs have been part of the problem. Since the World Bank's policy shift towards neoliberalism, structural adjustment plans have been imposed onto the developing world. One of the conditions is privatization and the opening up of markets. This has allowed many TNCs to obtain large contracts and take over many services across the developing world. Many essential services have been privatized and there has thus been a scramble by TNCs to try obtain contracts by any means possible. There is a lack of enthusiasm to investigate corruption by TNCs in foreign countries.

According to Cockcroft (2012) there are four ways that TNCs can contribute to corruption. The first way is market development where bribery and corruption are used as a means to secure orders of high value. It is most prevalent in construction, defence and service supply sectors. A good example is the Lesotho Highland Water Project where foreign TNCs bribed local government officials to gain the contract to construct the dam (Vogal, 2012). The second way is where financial interests of management become divorced from those of the stakeholders. Enron in the USA and Satyam in India are such examples (Vogal, 2012). The senior executives of these corporations were able to manipulate auditors for personal benefit. The third area lies in the mechanisms for the transfer of pricing of products and services sold and traded internationally. Goods are undervalued in an exporting country when invoiced to a buyer in an importing country or a tax haven. An example is in Russia where there was major corruption around the export of gas. Gas would be sold at the fraction of the world price to an intermediate company and then resold in a neighbouring country at a higher price, which deprived the Russian economy of \$50 billion a year between 2000 to 2008 (Cockcroft, 2012).

The fourth route is by legitimizing illegally traded products. This relates primarily to natural resources.

2.5.4 Colonialism

Many have argued that there should be a historical perspective when examining corruption, as many of the developing countries' current problems can be attributed to colonialism (Harrison, 2006). Corruption is seen as a by-product of the manipulative modus operandi of former colonial masters including the British, French, Spanish, Portuguese, Dutch and Germans. Furthermore, with the divide and rule policy, and exploitation of natural resources and labour, colonialism essentially laid the foundation for corruption (Harrison, 2006).

When colonialism ended, African leaders stepped into the very same roles as their former masters, and inherited the very same institutions which they manipulated for personal gain. It became clear that there was merely a change of guard as the new leaders soon started to misuse the state resources and corruption became common practice (Timamy, 2005).

2.5.5 *Psychological*

Psychological causes are a common explanation for corruption (Caiden et al, 2001). Some humans are by nature sweet, kind, obedient; while others are mean, egotistical, greedy and devious (Caiden et al, 2001). Humans are by nature flawed, some are more than others. There are a number of psychological factors that explain corruption.

There is the bad/black apple theories proposed by Holmes (1993). Firstly, there is the idea that some individuals are just naturally evil and will be more prone to commit criminal acts, including corrupt ones. This is an internal psychological factor (Holmes, 1993). Therefore one's own defective character is a cause of corruption (Otusanya, 2011). Some may have impaired empathy and thus cannot see how their own selfish acts can impact on others. There is self-centeredness whereby individuals prioritize their own needs over others. There is entitlement where an individual may believe that he/she deserves wealth or a particular position, and will engage in any action to achieve this goal. Some may have a tendency to blame others and thus avoid responsibility. Lastly, there is thrill-seeking behaviour where committing corruption may create a sense of ecstasy or euphoria (Corruption Watch, 2013b).

Internal psychological factors can be largely explained by the socialization they receive while growing up. This socialization is the main determinant of one's personality. Socialization

occurs through parents, educators, priests and on the playground. This socialization impacts on an individual's future. Thus Holmes (1993) argued that it is often those individuals from broken families or those who have a poor upbringing who become complicit in corruption.

Holmes (1993) also notes that there are external factors, especially an individual's relationship with the peer group by which he or she is influenced. This can be grouped under organisational culture theories (Otusanya, 2011). There are a number of factors here. Firstly, peers exert influence on an individual who feels pressured to act. Secondly, there is peer comparison (Holmes, 1993). This can happen when an individual sees others benefiting from corruption and even getting away with it. The third external factor is fear. Fear can encourage individuals to act corruptly in a number of ways (Holmes, 1993). For example in a hierarchical situation, a person that is subordinate to another may fear the consequences of not acting in the same way to his/her corrupt superior (Holmes, 1993). Another fear is the fear of an under fulfilment of a plan. The fear of not completing a task may drive the individual to engage corruption. Human weakness is the last factor (Holmes, 1993). Individuals find it too difficult to reject generous offers from another (Holmes, 1993).

From a public choice perspective the individual is viewed as being rational and only becomes corrupt when the expected advantages outweigh the disadvantages. For example, when there is more of a chance in getting away with corrupt misdeeds or when the proceeds are large. This theory is supported by Rose-Ackerman (1978), Klitgaard (1988) and Graaf (2007).

2.5.6 Geography

Another factor linked to the causes of corruption is geography. Lambsdorff (2007) argues that geographical variables can foster corruption in a number of ways. It is argued that the larger and more spread out a country is, the more likely that corruption will take place (Goel and Nelson, 2010). This is because government, and more particularly central government, have a greater area to monitor for corruption, and it is more likely that officials can get away with corruption as it is nearly impossible to monitor everyone, everywhere. Another factor to take into consideration is the resource curse. This is where high levels of resources are linked to high levels of war and corruption. Hence, the more resources a country has, the more likely that there will be corruption.

The abundance of natural resources creates opportunities for rent seeking behaviour (Lambsdorff, 2007). Most developed nations are not as resource rich as developing countries,

and need huge amounts of natural resources to keep their economies going. Thus for example, in the pursuit of profits TNCs are not averse to paying bribes when necessary. This is especially the case in many African countries like Angola, Somali, Nigeria, Libya, Sierra Leone and the Congo where resources have helped to fund wars and there are high levels of corruption.

2.5.7 Socio-cultural and demographic factors

Other causes of corruption include socio-cultural and demographic factors that make either people or a society more prone to corruption than others. There are significant links between corruption and cultural factors such as religion, power and interpersonal trust (Morris, 2006). In different cultures and societies certain types of corruption may be more acceptable than other types. Furthermore, certain types of corruption may be acceptable in one country and not in another (Caiden et al, 2001). According to Caiden et al (2001) certain countries may have a reputation for corruption due to traditional attitudes towards family and kinship. Another socio-cultural factor is certain countries may have a culture of weak tradition of law and little respect for the rule of law (Caiden et al, 2001).

There are also demographic factors that help explain corruption. One of the most common demographic factors explaining corruption is population. Research has shown in some cases where there is either a very large population or where there is a dramatic increase in population, corruption may flourish (Haan et al, 2006). The reason for this is that there are more chances to commit corruption and get away with it. Officials cannot deal with the increase in numbers and therefore corruption becomes a common way to do business (Haan et al, 2006).

There are also gender differentiations (Haan et al, 2006). Male dominated networks are more susceptible to corruption (Lambsdorff, 2007). In order to advance their own particularistic interests at the expense of others in society (Lambsdorff, 2007). Women are seen to be less corrupt than men. Thus promoting gender equality may be an effective measure to combat corruption. Once parliaments accept men and woman and political and administrative decisions are communicated across sexual genders, the resulting increased transparency can decrease corruption (Lambsdorff, 2007).

The last factor relates to ethnic groups (Haan et al, 2006). Some research has shown that it is harder to collect bribes from other ethnic or religious groups than one's own. Other research

has shown that minority groups are more likely to be corrupt due to their vulnerability (Haan et al, 2006). This is especially the case in South Africa where often foreigners are targeted by corrupt officials.

2.6 Measuring corruption

Another difficult issue is how to measure corruption (Uslaner, 2008). According to Tanzi (1998) if one had the ability to accurately measure corruption, it would probably have been eliminated from society by now. Many methods have been advanced to measure corruption, but few have been successful. One cannot just hand out surveys and ask people if they have engaged in corruption or not. This is because corruption is secretive and has remained a taboo subject for most of its existence (Uslaner, 2008). However, there have been numerous attempts to try and get past the difficult task of measuring corruption and this will be discussed in this section.

While corruption has been in existence since the beginning of human civilisation, it was only in the early 1990s that researchers began to explore methods to measure it (Cockcroft, 2012). The publication of cross country data sets and perception based indexes were influential in this regard (Rangata, 2008). Corruption rankings are the most popular with countries being rated on the severity of the problem, which can also be used in comparison with other states (Spector, 2012).

The most popular method in measuring corruption is the Corruption Perception Index produced by TI which is a global NGO fighting corruption (Harrison, 2007). The CPI provides assessments of the perceived levels of corruption for nearly every country in the world (Lambsdorff, 2007). The CPI started in 1995 and ranks different countries by their perceived levels of corruption (Harrison, 2007). The CPI is a composite index which uses assessments by various risk agencies and surveys of various business people in a country (Lambsdorff, 2007).

The CPI reports on a total of 182 countries on a scale from one to ten, with ten indicating there are no levels of corruption and one indicating the highest levels of malfeasance (Harrison, 2007). The least corrupt countries in the world are New Zealand and the various Scandinavian countries including Denmark, Finland and Norway. The most corrupt countries are Somali, North Korea and Myanmar, which are authoritarian regimes or collapsed states.

South Africa has a rating of 4,8 and was ranked 64th out of 182 countries in 2013. Some notable countries behind South Africa include Italy, China and Greece.

Transparency International furthermore publishes two other corruption perception indexes (Harrison, 2007). The first is the Global Corruption Barometer. This is based on a survey of the public attitudes towards, and experiences of corruption. The last index published is the Bribe Payer's Index which measures foreign firms and their involvement in bribery (Harrison, 2007). However, perceptions should not be confused with reality (Lambsdorff, 2007). While indexes do provide valuable information, this can be limited and does not always provide an accurate picture.

A question that arises is how accurate are the people that do the assessments. For example, one of the agencies that undertakes surveys for 93 of the countries comprises of a group of academics from Columbia University (Lambsdorff, 2007). Can academics from one country give an accurate picture of corruption in 92 other countries? Can the academics even point out South Africa on the map, let alone give an accurate ranking of the country? Thus Brown and Cloke (2004) argue perceptions are based on the views of a narrow elite made up of regional and international businessmen and academics, and not detailed independent research. Another criticism is the perception index has tended to focus overwhelmingly on the public sector. It focuses on the people that take the bribes and not the corporations that do the bribing (Brown and Cloke, 2004). Lastly, the data was purely quantitative and provide little insight into the causes and how corruption is really taking place. It does not indicate which sectors, institutions or practises are prone to corruption and thus help little in the combating of it (Spector, 2012). Despite these challenges, the TI Perception indexes are by far the most popular sources of data on corruption and do play an important role. They can indicate a country's trajectory in terms of levels of corruption. If ranking is improving, this can mean current strategies are working and merit further support. If the ranking is decreasing then this could mean current methods are not working and adjustments must take place (Spector, 2012).

Another popular corruption perception index is produced by the World Bank (Rubl, 2011). This started in 1996 and shares much of the same strengths and weaknesses as the TI perception indexes (Rubl, 2011). Other popular indicators of corruption levels in a country are those assembled by private risk firms (Svensson, 2005). The most popular is the Corruption Indicator published by the International Country Risk Guide (Svensson, 2005).

The indicator assess the likelihood that corrupt acts and bribes are needed when doing business in a certain country. This information is mostly used by firms wanting to invest in other countries.

Recently more attempts have been made to obtain qualitative data on corruption. Victimization surveys are gaining in popularity in some countries. While its biggest weakness is that the results cannot be used to compare between different countries, it does still provide valuable data on people's real experiences (Lederman et al, 2005). This includes information on how corruption occurs and what are the impacts. It provides an important alternative to purely statistical indicators, as victimization or citizen surveys can provide first hand experiences of corruption and where it is occurring (Rubl, 2011). However, in many countries corruption is a dangerous topic and speaking out about it could result in harm.

Corruption is likely to be always difficult to measure. While this section attempted to propose methods to measure corruption, it is a multidimensional phenomenon. There is presently no one method to accurately measure the levels of corruption in a specific country (Rahim and Zaman, 2009). This has meant there has been great difficulty in trying to successfully prosecute corruption cases, especially high profile ones (Caiden et al, 2001). Many corrupt officials are able to escape conviction due to the lack of evidence. Many corrupt leaders are able to escape conviction because they are out of office or dead before their crimes even come to light (Caiden et al, 2001).

Some notable cases include that of Mobuto Sese Seka who was president of Zaire and Mohamed Suharto the former president of Indonesia who is estimated to have stolen up to \$35 billion (Caiden et al, 2001). With the development of quantitative measures there was much hope that this would result in rapid progress in understanding corruption and help create better ways to combat it. However, this has not been the case (Rubl, 2011). Each method will have its own strengths and weaknesses.

2.7 Consequences of corruption

Corruption is a symptom of something gone wrong in a society (Ackerman, 1999). The institutions that are supposed to govern the interrelationships between the citizen and the state are used for personal enrichment to the detriment of the people (Ackerman, 1999). Some observers argue that corruption should not be seen as serious political crime because benefits are personal, but corruption has a vast variety of impacts (Ross, 2003). These include

political, economic, social and environmental and is devastating in all countries rich or poor. The general consensus is that not only is corruption bad, but it also poses a serious development challenge to many countries. Corruption not only destroys the economic fabric of a society, but also the very moral foundations of order (Klitgaard, 2000). This is because corruption ultimately impacts on the weakest members of society, and can exacerbate poverty and inequality, as well as pose the single biggest challenge to advance the development of a country (UN, 2013).

Corruption deals come in many forms and distort the allocation of resources and performance of government in many different ways (UNDP, 1997). The problem is that public officials who indulge in corruption usually gain until either they are caught or penalized (Caiden et al, 2001). This is because while society suffers, the officials benefit from corruption. Corruption can be very profitable, allowing officials to live privileged lives and some even amass huge fortunes. Corrupt officials can entrench themselves in office and do what they want to do while preventing other people from achieving anything at all (Caiden et al, 2001)

The corrupt display contempt for people and society and if this is allowed to continue it often leads to gross crimes against humanity (Caiden et al, 2001). Corruption is a deceit or a lie that sacrifices the common good and public interest for the self-enrichment of a few (Caiden et al, 2001). It deviates from the creation of a good and positive society. The various economic, political, social and environmental consequences of corruption will be explored in this section.

2.7.1 Political consequences

Corruption first and foremost undermines democracy and the general laws in a society (Evans, 2001). Corruption results in a destabilisation of government institutions, it distorts governance practises and it decreases respect for the law (Spector, 2012). Democratic institutions start to lose their legitimacy because of corruption (Evans, 2001). Corruption therefore will undermine political decisions made by the state, and citizens lose faith in the state apparatus.

Corruption impacts on the quality and quantity of services and infrastructure provided by the state for the poor (UN, 2013). This is especially in the health and education sectors. These areas are often given lower priority in corrupt states. This is in favour for capital intensive projects whereby there are more opportunities for rent seeking behaviours.

Corruption can lead to violence in many different ways and governments have even been overthrown because of it. A prime example was during the Arab Spring when corrupt regimes were overthrown (Vogal, 2012). A further way in which corruption causes violence is the attacks against the people that expose it or fight it. These people are prime targets by the corrupt who are looking to sustain their corrupt lifestyles. Lastly, the state often responds violently due to protests and marches against corrupt practices in government (Vogal, 2012).

Another political consequence of corruption is that it can reduce interest in political participation, cause low voter turnout and create general political apathy (TI, 2009). It thus creates a cynical society which engenders a state of hopelessness and intense negativity (TI, 2009). Political corruption is a betrayal of public trust, with the citizen being the ultimate victim (Ross, 2003). The public becomes cynical about politics, politicians and their policies. Corruption robs society and people of good government, services, dignity, integrity as well as a strong economy (Grobler, 1999).

2.7.2 Economic consequences

Until recently economists have ignored the subject of corruption in their studies. Development economists have long recognized government policies and institutions affect the economy and growth. However, the economic development literature seldom refers to corruption even though it can have a vast array of consequences on the economy and growth (UNDP, 1997).

Recent research across countries, both in the developed and developing world indicates corruption at all different levels is harmful to the economy (UNDP, 1997). Arguably the best research produced on the economic effects of corruption is by Tanzi (1998) and Mauro (1996, 1997; 2002). Both the researchers used data from a large sample of countries to help illustrate the negative impacts of corruption (Johnson and Sharma, 2002). According to Mauro (1996) in corrupt societies, government and official functionaries devote more time competing for positions of economic power and seeking rents, than actually governing and doing their jobs. This rent-seeking not only erodes the capacity of the state and its institutions, but also undermines economic development (Johnson and Sharma, 2002).

Mauro (1997) conducted a study of 106 countries to prove that corruption results in lower levels of investment. This is because corruption creates uncertainty and risk which reduces the incentives for both domestic and foreign investors. Investment is crucial for many

developing countries that are short of capital, public goods and services and employment opportunities (Spector, 2012). Therefore corruption works against development efforts. Corruption attracts shady business that's only focus is on quick questionable profits and violates safety, labour, environmental and regulations, which would otherwise have to be adhered to in other countries (Botchwey et al, 2000).

Corruption can occur in many different ways, including tax evasion. This results in a loss in government revenue and helps contribute to fiscal weakness and macro-economic difficulties (Botchwey et al, 2000). It was reported that for many years thousands of municipal contracts were overpriced by as much as 50 percent in Italy (Cockcroft, 2012). The profits often went to private bank accounts or to fund political parties. Corruption thus can result in or lead to adverse budgetary consequences (Mauro, 1997). Money that is meant for development is diverted away and lost to the economy. For example, in Nigeria from 1980 to 2000 the country's oil revenues exceeded over \$600 billion and yet it experienced negative GDP growth with 70 percent of the country living in poverty. There is not much to show for its vast oil revenues and this is mainly due to corruption (Cockcroft, 2012)

In highly corrupt societies there is an underinvestment in human capital. For example, corruption is negatively correlated to government expenditure on education and health care. Increases in corruption result in lower spending on these essential services (Mauro, 1997). There is a funnelling of scarce public resources to high profile projects that benefit the elite at the expense of much needed projects like schools, hospitals and roads (TI, 2009). The devastating impact is on the poor, because they are the ones that rely the most on public services (Johnson, 2004). This also has a domino effect on the economy. Firstly, a healthy work force is crucial for any business. Secondly, education is important when entering the job market. If education does not provide a good foundation, then a country is going to develop a potential work force that is unemployable, and which rely on government unemployment benefits. A further way in which corruption impacts on human capital is that it taxes entrepreneurship (Spector, 2012). Entrepreneurs and innovators require licences, permits and joining fees. This may require bribes either to enter the market or to deal with excessive red tape. This will reduce profit margins and could prevent entrepreneurs from entering the market. Officials may furthermore want cuts in profits (Spector, 2012).

Corruption and crime go hand in hand. Corrupt businesses are sheltered from competition with legal business (UNDP, 1997). These businesses can do whatever they like without fear

of prosecution. Often politicians and the police are included in illegal business networks. They can gain monopoly power over markets and prevent other businesses that do not pay bribes from succeeding. It is important to remember that corrupt businesses want privilege and not efficiency (Perry, 1997).

Corruption results in the rise of the underground economy (Myint, 2000). The underground or black market exists in many countries in one of two ways. Firstly there is illegal activities like the drug trade, prostitution, child trafficking and smuggling. The second route is engaging in activities that are legal but are not officially recorded to thus avoid taxes (Myint, 2000).

Corruption gives rise to black market activities and contributes to its expansion and entrenchment. The corrupt can determine who benefits and who does not. Thus individuals may come to see that the only way to do business, obtain promotions and so on, is through corruption and thus it becomes further entrenched (Ackerman, 1999). However, job performance and output will suffer. Even individuals that do not engage in corruption may have no incentive to do his/her job knowing that he/she will not be likely to obtain a promotion (Ackerman, 1999). The people that are engaged in corruption are mostly interested in personal gain, and thus again, job performance is sacrificed. Thus government departments and institutions can become ineffective in their functions.

2.7.3 Social consequences

Most of the current approaches examining the costs and consequences of corruption do so from a political or economic perspective (Pearson, 2001). Corruption is viewed as having negative effects on economic growth and political stability of a country. However, these viewpoints are inadequate and fail to understand the real effect corruption has on people's lives (Pearson, 2001). Corruption seriously impacts on peoples' basic human rights (TI, 2009) and is a major contributor to increasing levels of poverty, as public funds to address this problem is fraudulently redirected to the pockets of the rich.

When people have to pay bribes in order to access food, health care, housing, education and jobs, their basic human rights are violated. While all are affected, corruption impacts the hardest on the poor and most marginalized in a society including women, children, people with disabilities and foreigners (TI, 2009). This is because they are often powerless to initiate change and have little space to defend themselves (UNDP, 2004). Furthermore, corruption

can mean the failure to gain access to basic services and goods due to the inability to bribe, which accentuates inequality (UNDP, 2004). Thus there is a need for a drastic paradigm shift to understand corruption as a human rights issue (Pearson, 2001).

Corruption is more than just wealth misappropriation or the abuse of powers. It impacts on people's most fundamental rights and this has been left out of contemporary debates. There has been a tremendous growth in the human rights discourse over the last 50 years and this needs to influence the corruption discourse (Pearson, 2001). Essentially what is needed is to give corruption a 'human face' (Pearson, 2001). According to the 2003 Seoul Anti-Corruption Conference, corruption should be declared a crime against humanity, equal to torture, genocide and other similar crimes (UNDP, 2004). Corruption creates a vicious cycle where the state loses its authority to govern. Critics become silenced, which only will worsen corruption (UNDP, 2004). According to Navi Pillay the UN High Commissioner for Human Rights, corruption kills. This is because the amount stolen due to corruption is enough to feed the hungry globally, 80 times over (UN, 2013).

Corruption impacts on political, social, cultural and environmental rights (Gebeye, 2013). This includes the right to health. Bribes may be demanded to access health care or medicines or being placed higher on the list for surgery in Sri Lanka (UN, 2013). The right to education whereby bribes are required for reports, uniforms and scholarships in Indonesia. Bribery and corruption in the judiciary whereby it jeopardises the right to a fair trial (Gebeye, 2013). There is also a direct link between corruption and violence. Corruption promotes illegal arms trafficking. In the Niger Delta in Nigeria corporations have been complicit in corruption in order to access the oil wealth of the region. Many of the locals have experienced mass environmental devastation of their land and have received very little to no compensation, while benefits accrue to the ruling elite. Therefore rebel leaders and terrorist organisations have taken full advantage of this situation by recruiting young vulnerable men from the impoverished villages (Beyerle, 2014).

Corruption exists in all countries and recognizing it as a human rights issue creates strong global incentive to combat it (EU, 2013). A human rights approach places the spot light on the abuse of power and on power relations within a society. It will help to mobilize citizens because the true cost of corruption is exposed (Gebeye, 2013). With the combating of corruption, it will result in human rights being achieved and thus action must take place.

Another recently debated issue is the link between corruption and poverty (Negin, 2010). Corruption is a key factor responsible for sustaining and accentuating the exceptionally high levels of poverty and inequality in many developing countries (Cockcroft, 2012). Corruption keeps millions in poverty and deprives them of services like health care and education that can help them escape from this trap (UN, 2013). Essential services are both reduced in quality and quantity due to corruption (UN, 2013). The relationship between corruption and poverty is complex, but understanding it is important in order to develop measures to combat it, which would also lead to a reduction in poverty (Spector, 2012).

Corruption often can lead to monopoly power where a narrow elite decides who benefits and who does not (Gebeye, 2012). The poor receive the lowest quality of social services, if any at all (UNDP, 1997). Corruption can have debilitating consequences for the poor. In Kenya it was found that urban citizens were paying bribes once every two weeks and this accounted for 15 percent of their income (Cockcroft, 2012). Bribes become normal as a built-in cost factor for public services and this is very evident in the case of infrastructure investment (Spector, 2012 and UNDP, 1997). This is because in a society where corruption is the norm, officials will design public projects to maximize personal benefits and to minimize the chances of detection. Thus clinics and schools will be avoided in favour of capital intensive megaprojects that offer more opportunities for kickbacks (Spector, 2012).

According to Cockcroft (2012) one of the best ways to examine how corruption impacts on the poor is by reference to the Millennium Development Goals (MDG's) adopted by the UN in 2000. At the turn of the 21st Century, nations across the world came up with a set of eight goals and 18 targets which identify the most important factors that keep over a billion people living on less than one dollar a day, and essentially in poverty. The focus of the goals include poverty, hunger, education, health, gender equality and environmental sustainability (Cockcroft, 2012).

The realisation of each of the MDGs targets have been threatened by that of corruption (Cockcroft, 2012). For example, even hungry people who are fed by emergency food programmes are frequently victims of corruption as local government officials take portions of food supplies and sell them for private profit. In 2009 a study of seven African countries showed that 44 percent of parents surveyed had to pay bribes to get children in schools (Cockcroft, 2012). Lastly, large foreign firms pay local officials bribes to gain access to large

forests which disrupts the livelihoods of locals and insures that the goal of environmental sustainability is not met.

2.7.4 Environmental consequences

Some of the less noted consequences of corruption are environmental impacts. Corruption is very common in the way relations between people and the environment are governed. This has devastating impacts on the environment which is likely to impact negatively on people. Corruption is evident from the cutting down of forests in the Philippines, to the disposal of medical waste in South Africa, to the contracting and drilling of natural gas and oil in Nigeria and Russia, and the control of city land permits in the USA (Robbins, 2000). There is also a high likelihood that corruption is behind the slaughter of rhinos across South Africa. This could be by bribing of border officials to smuggle rhino horn out the country.

Corruption is also common in the consultancy business. Corrupt officials can collude with consultants and consultants may be corrupt themselves (Spector, 2012). Consultants can take bribes or ignore the social and environmental consequences of a project (Spector, 2012). Construction, for example, can be substandard and this can lead to further problems. Corruption can lead to pollution levels with increased negative impacts on the ecological health of an area (Spector, 2012).

Corruption also aggravates the consequences of natural disasters. For example, a 7.4 magnitude earthquake in Turkey on the 17th of August 1999 that left 17000 dead. Spector (2012) notes that earthquake damage is as much a man-made catastrophe as it is a natural disaster. This is because while on paper construction codes were acceptable, they were often not enforced and there was a lack of sufficient controls to ensure effective implementation. Bribes and kickbacks were paid to obtain permits despite there being substandard plans, building techniques and materials. Often building inspectors are bribed to pass substandard work. Therefore this resulted in the Turkey earthquake being far worse and corruption having deadly consequences. A further example is in the Upper Big Branch mine disaster on the 5th of April 2010 in West Virginia that killed 29 miners. An FBI investigation revealed that the mine owners had bribed inspectors of the Mine Safety and Health administration, to ignore inadequate ventilation systems and firefighting equipment (Spector, 2012).

Textbooks and guides on environmental management in both the developed and developing world have completely ignored corruption (Robbins, 2000). Yet it is clear that corruption is a

part of the system. Corruption therefore leads to unsustainable practices and can contribute to destruction of the world's ecosystems.

2.8 Policy responses to corruption

The vast majority of literature that is produced on corruption is dedicated to the task of combating it (Andwig and Fjeldstadt, 2000). However, even with all this focus, one is no closer to solving the problem of corruption, because of two reasons. Firstly, corruption is extremely difficult to control once it becomes entrenched in a society (Caiden et al, 2001). Secondly, there are a vast array of solutions proposed in many publications, but the success of these measures can only be known once they are actually implemented by a country (Lambsdorff, 2007). However, combating corruption is not impossible with countries like Singapore, Hong Kong and Portugal dramatically reducing it (TI, 2009). The issue is that corruption is a multifaceted problem with many different contributing forces and factors (Gebeye, 2012). Strategies must be state specific, as each country has its own unique history that contributes to corruption (Lawal, 2007). The next section will focus on the different solutions that are proposed in the literature to combat corruption.

2.8.1 Prevention versus enforcement

Effective corruption combating measures need to have a combination of both preventative and enforcement strategies in order to effectively address the issue. Prevention strategies must address the underlying causes of corruption and put in place measures to ensure that corruption does not occur (Botchwell et al, 2000). What must be particularly addressed are the failures of policies and weaknesses in the political and administrative institutions (Botchwell et al, 2000).

There must also be effective enforcement measures to ensure corruption can be detected as early as possible and that suitable action is taken against the corrupt. Enforcement must take place at all levels (Botchwell et al, 2000). Proper enforcement requires co-operation from a wide variety of actors, including the juridical, police and government, and requires adequate resources.

2.8.2 Political will and commitment to combat corruption

Firstly, there needs to be a political will and strong commitment, not only by government, but by the entire society to eradicate corruption (Spector, 2012). Corruption must be seen as bad

and unacceptable. There needs to be a commitment to the prevention and combating of corruption at all levels of government and private organizations (Baliamis and Mavuso, 1999). The commitment begins with a CEO, a president of a country and the head of a specific department and this person must send a strong message (Baliamis and Mavuso, 1999). Political leaders must first and foremost set a good example themselves and lead the fight against corruption (Caiden et al, 2001).

Leaders must be open, honest and should always place public well-being and interest first and foremost (Boardman and Klum, 2001). No favouritism or double standards must be tolerated in the prosecution of corruption (Caiden et al, 2001). There must be an end to all dirty tricks and the creation of a society with a good ethos, where politicians and government bureaucrats are not only fair and honest, but also take a dim view of corruption (Caiden et al, 2001). In order to effectively combat corruption there thus needs to be a strong political will, both within government and in the private sector/civil society who are willing to commit themselves in the fight against it (Spector, 2012).

2.8.3 Effective legislation

One of the most effective ways to combat corruption is through effective legislation (Grobler, 1999). This is to ensure that people get punished and that corruption is taken seriously and seen as a crime. Effective government policy can control the risks and benefits of corruption (UNDP, 1997). Domestic policy can increase the benefits of being honest as well as increase the probability of detection and lead to effective enforcement (UNDP, 1997). Effective legislation essentially lays the foundations in the combating of corruption and is thus the blue print for anti-corruption strategies. Such legislation must clearly define corruption and set out appropriate powers of authorities engaged in combating it, and also the actions that should be taken against the perpetrator.

2.8.4 Creation of a code of ethics

South Africa has numerous codes of conduct for the various public functionaries in the country (Hilliard and Wissink, 2001). Codes of conduct are useless in reality if not enforced (Hilliard and Wissink, 2001). Violating codes of conduct at any level must be dealt with appropriately. An official code of ethics must be drawn up and enforced at all levels of government and business. This must be as a matter of professional pride and personal self-discipline (Caiden et al, 2001). If the code of ethics is broken and this is proven, dismissal

must take place (Grobler, 1999). Being ethical refers to adhering to moral values and subscribing to a set of ethical standards (Balía and Sangweni, 1999b). Ethical practices that are important to combating corruption include good governance, honesty and integrity, openness and transparency, accountability, promotion of justice and fairness (Balía and Sangweni, 1999b).

2.8.5 Education

Education is identified as another key factor in combating corruption. This should target two key actors. Firstly, all government employees must be educated about corruption and what is and what is not acceptable in public office. Thus if anyone is guilty of corruption, then there can be no excuses about being ignorant. Secondly, overall education standards must be improved. This should occur in schools, colleges and universities. Education can help improve universal values, create high standards of efficiency and a more informed citizenry. This can help to hold government more accountable (Morris, 2006).

2.8.6 Reform civil service

This is a strategy supported by many including international organizations like the World Bank and UN. This includes creating better working conditions as well as increasing pay, which can lessen the need for public servants to find alternative sources of income (Cockroft, 2012).

2.8.7 Whistle blowing and reporting of corruption

Whistle blowing should not be frowned on and people should be encouraged to come forward (Caiden et al, 2001). The creation of an open and fair society goes a long way in the combating of corruption. Corruption usually goes undetected for long periods with the main reason being many are afraid to report misdeeds because of reprisals. Individuals in the past have been intimidated, fired and even killed for reporting corruption. Hence, there must be measures in place to deal with the anonymous reporting of corruption and the protection of whistle-blowers (Caiden et al, 2001).

2.8.8 Target key areas of corruption

Some areas of governance, some departments and some people are more prone to corruption than others. This is usually because some exert more power than others or because their decisions carry greater importance (Caiden et al, 2001). Thus these areas that are more likely

to be prone to corruption, must be identified and specific remedial action plans must target them.

Conflicts of interest must be eliminated and plans to avoid it put in place (Ackerman, 1999). Public officials must be forbidden from decision-making in which they have vested interests. Acceptance of gifts must be regulated and public officials must disclose their assets (Ackerman, 1999). There should be tighter controls and checks and balances when decisions relating to expenditure of public funds are made. There should also be oversight committees to review such decisions when necessary.

Procurement reform is of vital importance as it is one of the main areas vulnerable to corruption. Bribes not only determine who gets the public contract, but also the size and specifications of government purchases (Ackerman, 1999). Anti-corruption measures should not only target corruption, but at the same time improve the efficiency of decision making by government (Ackerman, 1999). The issue is that there has to be a trade-off between avoiding corruption and the flexibility to make decisions. This as critics of elaborate procurement codes, argue that it results in excessive rigidity and too much red tape that can stall projects (Ackerman, 1999).

2.8.9 Political reforms

There are a number of reforms that can help in the fight against corruption. Firstly, there must be an opening up of administrative and political systems to greater public scrutiny (Botchwey et al, 2000). Secondly, there must be a promotion of an open, free society with an unfettered press, where democracy thrives and people are not scared to come forward and expose corruption (Botchwey et al, 2000). In democratic societies people's rights and freedoms are respected and upheld, and the corrupt are voted out. Democratic societies on a whole have lower levels of corruption. There must also be a promotion of greater political competition as well as economic growth and the creation of jobs (Brunette, 2003). Lastly, there must be a promotion of independence of the organs of state. Hence, eliminating corruption should not be considered as an end in itself, but part of a bigger process in promoting democracy and good governance (Klitgaard et al, 2000).

2.8.10 Detection methods

Proper procedures must be put in place to detect corruption as early as possible. Inspecting, monitoring and testing must occur. Monitoring programmes must be adequately resourced

and staffed (Balía and Mavuso, 1999). Detection is important as no society is likely to totally eradicate corruption. Thus adequate detection is important to ensure that when corruption does occur it is discovered as early as possible and action occurs. Detection methods must furthermore identify underlying causes of corruption as often responses to corrupt misdeeds merely focus on treating the symptoms of the problem (Spector, 2012). This can help in devising strategies to effectively combat corruption.

There must be strict staff selection when hiring in a business to ensure people that are hired are trustworthy (Grobler, 1999). This can be done by using past records, tests and predictors of honesty (Klitgaard et al, 2000). Recruitment must never be rushed and a full background of the person must be conducted especially for staff dealing in finance (Grobler, 1999).

2.8.11 Taking strict action

After corruption is detected and identified, action must follow. According to Omar (1999) the strictest action must take place so that the message goes out that under no circumstance, regardless of whether the corrupt act is small or big, will it be tolerated. Multiple agencies must work together in order to build a strong legal case to ensure conviction. Too often agencies do not work together and actually work against one another (Klitgaard et al, 2000). Corruption must also be seen as a crime and not just a civil offence (UNDP, 1997).

Individuals engage in corruption when they know they would not get caught or punished (Klitgaard et al, 2000). Thus, action must be taken against all forms of corruption and there must be a deep fear of the consequences of engaging in such activities (Lawal, 2007). There must be a blacklisting of all companies that are involved in corruption and they must be banned from doing business with government (Balía and Sangweni, 1999b).

There should be legal reform and a promotion of the independence of the judiciary. There should be sufficient resources for the investigation and the prosecution of corruption cases (Botchwey et al, 2000). Lastly, the rehabilitation and readmission into society of the convicted is also important to ensure that they do not commit further crimes (Grobler, 1999).

2.8.12 Civil society and the fight against corruption

Corruption occurs in all sectors of society and thus its social costs are borne by all citizens, rich or poor, black or white. The fight against corruption is therefore every citizen's personal responsibility and there must be a development of a zero tolerance to any corrupt acts (Balía

and Sangweni, 1999a). The key players in the combating of corruption are the various civil society organisations and the media (Caiden et al, 2001). It is clear from the Arab Spring that citizens are more able and willing to take action against their government and demand reform (Vogal, 2012). Beyerle (2014) argues that the best way to combat corruption is through a mobilized nonviolent campaign or movement targeting the corrupt and the state.

Education starts at home and is reinforced at school and by mass media and television (Caiden et al, 2001). Corruption is not just confined to government officials only, this is because the public and private sector are involved too (Caiden et al, 2001). Many people who complain about corruption, end up engaging in corrupt acts themselves. This could be through the bribing of police or to obtain ones drivers. Therefore, civil society in South Africa has an obligation to combat corruption. It should be interlinked with initiatives from a variety of other social issues like racism, gender discrimination, democracy, consumer issues, environmental issues, HIV/AIDS and so on (van der Merwe, 2001).

Civil society organisation play a critical role in exposing and combating of corruption. These organisations can identify the issue of corruption as a very important area for social activism. Citizens must move away from being just victims, to becoming a powerful force that transforms societies and governments (Beyerle, 2014). Civil society must play a watchdog role in combating and monitoring corruption (van der Merwe, 2001). Each citizen has an obligation to monitor and expose corruption as it is encountered.

Civil society should also come up with policy interventions and be an important actor in policy formation. The development and promotion of best practices is important. Civil society should also participate in programmes that increase public awareness around the issue of corruption (van der Merwe, 2001). Different groups can participate in public awareness through the use of adverts, stickers, leaflets, posters, reports in the media and publications (van der Merwe, 2001). Community organizations are the best groups to implement grassroots activism in the fight against corruption.

Another important role civil society can play is by providing support to victims of corruption and individuals that expose it (van der Merwe, 2001). These services include providing a place of safety for victims as well as psychological counselling (van der Merwe, 2001). Civil society in the education of the general public. This includes human rights education, civil education, democracy education, good governance and ethics training.

The advent of the internet, YouTube and social media applications like Facebook and Twitter add to the tools at the disposal of civil society (Vogal, 2012). As technology continues to expand and governments lose more control over information dissemination, it is important for civil society to take full advantage of this to combat corruption (Vogal, 2012).

In conclusion it is clear that there is a multitude of different proposals to try to reduce corruption. However, corruption will not be solved overnight due to a few reforms. Furthermore corruption is not a problem that can be combated in isolation from other problems. A criminal law approach that just searches for bad apples and punishes them will not be sufficient when it comes to corruption (UNDP, 1997).

2.9 Conclusion

Corruption is a secretive activity undertaken by a few who take advantage of their entrusted position and power for their own selfish needs at the expense of greater society (Spector, 2012). It is a multifaceted problem and can take many different forms. Corruption has a vast variety of causes and solutions and is a problem that is inherent in all countries, rich or poor. It ultimately impacts on the most vulnerable groups the hardest, and thus there must be a shift to viewing corruption as a human rights abuse (UN, 2013). Corruption is unlikely to be eradicated from any society completely, but this does not mean one should ignore it.

While corruption research has grown in the last 20 years, there are still gaps especially around methodological approaches to study it (Cockcroft, 2012). The aim of this chapter has been to explore the research on corruption that has been conducted, and to provide a comprehensive review of this. Researching corruption is no easy task, but it is an issue that has too greater consequences to be ignored.

CHAPTER THREE

CORRUPTION IN SOUTH AFRICA

3.1 Introduction

Corruption is a major problem in South Africa and poses one of the biggest obstacles to the development of democracy and its constitutional values (CASAC, 2011; Pillay, 2001). Corruption permeates the different spheres and departments of government as well as the private sector. Billions are lost to corruption every year, with the consequences impacting on the poorest in society. However, one must understand corruption is not a new problem in South Africa. Corruption flourished during the apartheid era, with much of the foundation that the apartheid state was based on, was ethically and morally corrupt (Hyslop, 2005). Since 1994 corruption has become even more entrenched into the everyday workings of society (Van Der Merwe, 2001). The difference between the apartheid and post-apartheid eras is that in the latter period more opportunities were created for the detection, exposing and the prosecution of corrupt offences (Hyslop, 2005).

Not a week goes by without some mention of corruption. The media is littered with gross examples of government misappropriation and yet it seems little is being done to combat it. South Africans are increasingly becoming immune to corruption. The problem with corruption is that it affects all facets of South African society and is increasingly becoming the norm. From bribing the police, to obtaining a driver's license, from government contracts to accessing basic human rights such as housing, water, education, health care and food. A culture of corruption has overtaken the country (CASAC, 2011).

Many politicians see themselves as being above the law. There is a deep stigma around whistle blowing and the investigation of corruption (Razzano, 2014). Many people in government feel powerless to act as many who have reported or investigated corruption have been victimized, like Thuli Madonsela. Many academics have shunned the topic, because of the consequences that it may have on their future careers (CASAC, 2011). However, corruption can have serious economic, political, environmental and social consequences, especially on the poor (UN, 2013).

This chapter explores the causes and impacts of corruption in the South African society. The chapter is divided into two sections. The first section explores corruption in South Africa in

terms of the causes, legislation, civil society responses, and critical reflection on the combating of corruption. The second section focuses specifically on corruption in the housing sector and its differentiation. South Africa is currently experiencing a housing crisis due to the vast backlog in individuals requiring housing spurred on by population growth and a rapid urbanization (SERI, 2013). Local governments have not been able to meet these growing demands, with the consequence being the mushrooming of informal settlements on the outskirts of cities (Cross, 2006). This housing crisis is compounded by widespread corruption.

3.2 Causes of corruption in South Africa

What makes the situation unique in South Africa is the terrible historical legacy of apartheid. One must refer to the past in order to contextualize the present corruption problem (Baqwa, 1999). No event or problem in contemporary South Africa can be explained in isolation from the past. For the last 300 years South Africa has experienced intense colonialization and racial discrimination that was intensified with the introduction of apartheid in 1948 by the NP government (Hilliard and Wissink, 2001). Black Africans were marginalized in society and treated as third class citizens and were denied their socio-economic and political rights. When apartheid ended in 1994 the ANC government inherited a deeply divided South Africa, with high crime rates as well as the triple challenges of extreme poverty, very high unemployment levels and the dubious title of being the most unequal society in the world (Hilliard and Wissink, 2001). One of the prime causes of corruption is economic deprivation and joblessness that is endemic in our society. The ANC government has not been able to stimulate sustained job growth and this leads to opportunities for corruption (Hilliard and Wissink, 2001).

Since 1994 the new South African government has tried its best to meet the challenges that South Africa is facing. While South Africa has been making progress in a number of areas it is nearly impossible to solve the problems that have accumulated over 300 years of oppression in the two decades since attaining democracy (CASAC, 2011). This has led to resentment, despair and lack of trust by the vast majority of the population that are generally not reaping the benefits of the post-apartheid era (Hilliard and Wissink, 2001). Currently a small black elite is benefiting from the new opportunities while the majority are still largely disadvantaged (Hilliard and Wissink, 2001; CASAC, 2011). The struggle for democracy was particularly violent, and this violence and lawlessness has continued to thrive in post-

apartheid South Africa, where in many cases people have little respect for the law and legal processes (Hilliard and Wissink, 2001). This lack of respect for the law leads to corruption.

Under apartheid, social morality and the values of right and wrong, and good and evil were determined by the unjust system (Baqwa, 1999). The new South Africa has battled to reach consensus on what constitutes right and wrong behavior, and ethical and unethical conduct (Hilliard and Wissink, 2001). At the micro-level the role of the family as an incubator to nurture moral and ethical values in society is crumbling (Hilliard and Wissink, 2001). The family defiantly took a hit during apartheid, but instead of getting stronger is continuing to decline. Respect for authority is declining and the lack of discipline is spreading from the family to the schools and to everyday life (Hilliard and Wissink, 2001). Corruption is part of the social fabric of South African society and people are becoming accustomed to it as a part everyday society (Caiden et al, 2001). All these factors have resulted in a society deeply entrenched and impacted by corruption, with little sign of relief. What is clear is that corruption in South Africa has its roots in the past and it is not an easy problem to tackle. However, it must not be treated in isolation from other problems (Spector, 2012). However, there have been legislative attempts to address corrupt practices.

3.3 South African Legislation on corruption

This section will explore some of the legislation in South Africa post 1994, as well as some of the international treaties endorsed to combat corruption. There are a number of international conventions and treaties that South Africa has signed that pertain to corruption (Corruption Watch, nd). This confirms South Africa's commitment to try combat corruption. The four main international and regional treaties endorsed include the following (Corruption Watch, nd):

- The SADC Protocol against Corruption – 2001;
- The UN Convention against Transnational Organized Crime and Corruption – 2005;
- The AU Convention on the Prevention and Combating of Corruption – 2005; and
- The OECD Anti-bribery Convention – 2007.

All four treaties make it mandatory for the South African government to put in place legislation to tackle the problem of corruption (Corruption Watch, nd). The UN Convention against Transnational Organized Crime and Corruption was ratified in 2004 and came into effect in 2005. Some key features of the convention include the preventing of corruption, the

criminalising of corruption, the recovery of assets, and lastly helping other countries in combating corruption. The OECD Anti-bribery Convention came into effect in 2007 (Corruption Watch, nd). While South Africa is not an OECD member, it has a working relationship with the Organization and has thus adopted the Convention. The Convention effectively establishes standards to criminalize foreign bribery of public officials and international companies. The AU Convention on the Prevention and Combating of Corruption came into effect in 2005 (Corruption Watch, nd). This is very similar to the UN Convention, with a key feature requiring the establishment and strengthening of independent anti-corruption agencies. Lastly, there is the SADC Protocol against Corruption that recognizes the need for political will and leadership in the fight against the scourge (Corruption Watch, nd).

In addition to endorsing international and regional conventions to combat corruption, numerous domestic legislation have been adopted to bring the country in line with its international obligations. The Prevention and Combating of Corrupt Activities Act (PRECCA) is the main legislation in the fight against corruption. The purpose of the legislation was to (Corruption Watch, nd):

- Strengthen measures in both the prevention and combating of corruption;
- Establish corruption as a crime;
- Deal with investigations into corruption;
- Establish a register of individuals involved in corruption to help prevent them from undertaking business with government in the future;
- Requiring the reporting of corruption; and
- Help prevent individuals from using corruption to influence.

PRECCA tackles gratification and procurement. It makes it a criminal offence for both public and private officials to accept gratification to influence a tender. It furthermore provides for extraterritorial jurisdiction if an act of corruption is committed outside the borders of South Africa. In Section 26 of the Act it provides penalties for committing corrupt offences. The guilty individual can be sentenced for up to 18 years in prison in a regional magistrate's court (Corruption Watch, nd).

Other domestic legislation involved in the combating of corruption are the following:

- The Criminal Procedure Act - 1977;
- The Public Service Act - 1994;
- The Constitution - 1996;
- The Competition Act - 1998;
- The Executive Members Ethics Act - 1998;
- The Prevention of Organized Crime Act - 1998;
- The Witness Protection Act – 1998;
- The Public Finance Management Act and Regulations - 1999;
- The Promotion of Access to Information Act - 2000;
- The Promotion of Administrative Justice Act - 2000;
- The Protected Disclosures Act - 2000;
- The Municipal Finance Management Act and Regulations - 2003; and
- The Companies Act and Regulations – 2008.

3.4 Corruption combating agencies

The National Development Plan refers to a multi-agency anti-corruption system in South Africa for the combating of corruption (Corruption Watch, 2014b). There are currently 12 public sector agencies that have some legal or policy role in preventing and combating corruption in the country. The first is the South African Police Service (SAPS) Commercial Crime Unit which investigates all commercial crime, including corruption. The SAPS Anti-Corruption Unit was disbanded and then reintroduced in 2013. The HAWKS, has the directive of investigating priority including corruption. The National Prosecuting Authority (NPA) institutes and conducts various criminal proceedings on behalf of the state. It has its own AFU which recovers the proceeds of corruption (Corruption Watch, 2014b). The AG conducts forensic auditing and compiles reports on public accounts, financial statements and financial management. The PP investigates and makes recommendations to the state department on corruption (Corruption Watch, 2014b). The Public Service Commission investigates and makes recommendations on public services systems, policies, controls and practices. The Independent Complaints Directive is concerned with corruption in the police service (Corruption Watch, 2014b). The SIU investigates serious malpractices and maladministration in state institutions. It investigates all matters which may seriously harm the state. The Unit can also recover and protect public assets (Corruption Watch, 2014b). The

South African Revenue Service investigates tax corruption. Lastly, the National Intelligence Agency provides support to investigating agencies regarding national security (Batty, 2001).

3.5 Civil society and corruption

Both locally and internationally civil societies have become major actors in the combating of corruption (Corruption Watch, 2014a). While there are numerous civil societies that have an interest in corruption, only two will be elaborated on because of space constraints. The first organization is Transparency International which opened its offices in South Africa on the 25th of June 1997. Its aim is to monitor corruption and help assist government and civil society in combating it. Its functions include public awareness, networking, training, education and best practices (Balía and Sangweni, 1999b).

Corruption Watch was formed in January 2012 as a non-profit organization in South Africa, with the aim to help combat corruption as well as hold leaders accountable for their actions. Corruption Watch has four key functions that include communication, investigation, research and mobilization. It provides a platform for the public and government officials to report corruption. The communication platform includes sms, telephone, social media, post or email. Corruption Watch also undertakes investigations into corruption in key areas like health care and education. Corruption Watch undertakes research in corruption trends and produces numerous articles on the subject. It aims to mobilize the public in the fight against corruption. Two important campaigns Corruption Watch has initiated include the combating of corruption in SAPS and the educational system (Corruption Watch, 2015).

3.6 Critical reflection on the combating of corruption in South Africa

In theory South Africa has a myriad of corruption fighting agencies and strong legislation to combat this curse (Rangata, 2008). This suggests that there is a strong political will to combating corruption and a realization by government of its devastating effects on society. However, in reality government's anti-corruption campaign has not been effective and South Africa has high levels of venality. The problem lies in the lack of efficient implementation and enforcement (Corruption Watch, 2014g). Thus while South Africa has world class corruption fighting bodies, implementation and enforcement are lacking, and there is often insufficient coordination between the various organizations (Rangata, 2008).

Furthermore, in numerous cases the investigation of corruption becomes highly politicized (Corruption Watch, 2013b). Many senior officials and politicians are protected by other

officials, while some are subject to ‘witch hunts’ on the basis of spurious allegations (Corruption Watch, 2013b). Prosecution is further hampered by red tape, the difficulty in collecting evidence, inadequate funding and the lack of political will. Corruption cases are furthermore costing government millions every year and, when calculating the cost of corruption, this must be factored into the amount lost.

Combating corruption in South Africa requires a holistic approach as it can take many forms and permeates through all the different levels of government and society (Rangata, 2008). It must begin with the President and high level government officials. However, the President himself has been dogged by scandals that include the arms deal saga, the Gupta deals, the R264-million presidential housing upgrade in Nkandla and the appointment of officials with low ethical standards into key positions. However, it is not just government that is required to combat corruption, but the whole of society. Each and every South African has a moral duty to report and combat corruption. In terms of public sector projects, an area of concern is procurement tenders, which have been inevitably been allocated to political cronies who submit inflated budgets.

3.7 Procurement reform

According to Corruption Watch (2014c) procurement is both political and opaque in South Africa. The procurement reform started as early as 1995 where government realized there was a need to reform the process. A Green Paper on public sector procurement reform was published in 1997. It was recognized that government could use the process to achieve BEE, local economic development, skills transfer and job creation. In 2001 the South African Cabinet approved further methods to reform the procurement process based on the principles of value for money, open and effective competition, ethics and fair dealings and accountability (Corruption Watch, 2014c).

In South Africa the procurement process is particularly vulnerable to corruption, through bribing, awarding of contracts to friends and family, the highest bidder winning, and by submitting multiple tenders with one being significantly lower. Corruption Watch (2012) found that most corruption occurred at the local level in small towns or municipalities, where there was far less oversight. The dominant sector experiencing corruption was in the construction division. Furthermore, in 2009 over 2000 government officials had engaged in business transactions with the state, and nationally this was worth R600 million (Corruption Watch, 2013c). Furthermore, 74 percent of departments did not undertake fair and transparent

procurement processes (Corruption Watch, 2012b). This means the procurement process is compromised, and this lowers the quality and quantity of public services for the poor (Corruption Watch, 2014e).

Corruption Watch (2014f) recommends a ‘cooling off’ period for public officials who leave government and then want to do business with the state. This cooling off period will prevent officials from directly entering the private sector, especially for companies that have been involved in submitting tenders for government projects. This is because a number of companies who receive tenders reward former government officials with lucrative employment opportunities. This will also help protect state information (Corruption Watch, 2014f).

Section 36 of Supply Chain Policy must be re-examined. This allows for the bypassing of normal tender processes in case of emergencies. However, what constitutes an emergency is vague and leaves the tender process open for abuse. Particularly in the eThekweni Municipality and Kwazulu-Natal, Section 36 has been used on numerous occasions to bypass normal tender processes (Rantanga, 2008).

In an effort to stem out corruption, the National Treasury formulated a list of companies and individuals who have been convicted of corruption related to state tenders. A court has to make a special order and then that individual is placed on the National Treasury Tender Defaulter Register (Corruption Watch, 2014g). This company or individual may not do business with government for a certain period. However, there are a number of problems. Firstly, there is major difficulty in the conviction of corrupt offenders and in many instances there is political meddling (Corruption Watch, 2014g). Secondly, many litigants and courts are not aware of this register. Lastly, many of the corrupt still do business with government (Corruption Watch, 2014g). It can be as easy as registering a different company in a different name, with a new family member running it. The different types of corruption were very evident in the provision of low cost housing, the theme of this study.

3.8 Corruption in the housing sector

A sector that has been riddled with corruption in South Africa is low cost housing provision (Ajayl, 2012). Corruption is taking place in a variety of different ways in low cost housing with the most predominant being through abuse of procurement processes. Since 1994 over three million low cost houses have been built for people across the country (SERI, 2013).

While this is a laudable achievement, corruption is undermining low cost housing provision, especially in terms of quality. Many of the houses built are in poor condition and require billions of Rands to fix. Nationally there is a backlog of an estimated 2,1 million housing units, with 1,2 million people living in informal settlements across the country (Financial and Fiscal Commission, 2013). Together with a lack of communication between government and the poor, this has resulted in much political unrest and frustration at the housing process. The following section will explore how corruption is occurring in the housing processes in South Africa and the consequences.

3.8.1 What is low cost housing?

Low cost housing can be generally referred to as accommodation that is affordable for poor people. The South African government defines low cost housing for persons who earn below R3500 a month, while social housing refers to housing for individuals falling between the low to medium income group. In this study, low cost housing will refer to families and individuals whose income is below R7500 a month (Le Roux, 2009).

3.8.2 The importance of housing

Housing is essential to poverty alleviation. According to Hirsch (2005), providing a subsidized house to poor families is key to antipoverty strategies. It acts as an asset base, whereby it can result in further accumulation through self-investment by the occupant over time. It therefore acts as an important platform for the poor to empower themselves (Cross, 2006). It can help the poor to escape poverty and become more productive members of society, thus decreasing the amount of people on welfare (Cross, 2006).

It also allows access to other essential services for development including power and water. Power allows for cooking food through electricity or gas which results in better nutrition. Furthermore, access to safe drinking water results in saving time collecting water and improved health (Cross, 2006). Thus access to housing has become recognized as a basic human right (Le Roux, 2011).

3.8.3 Housing policy in South Africa

South Africa's housing strategy is very complex with a myriad of laws, policies, programs and subsidies designed to address the critical housing shortages in the country (SERI, 2013). According Ajayl (2012) South Africa's housing strategy is twofold. Firstly, it aims to house

the poor through subsidized dwellings. Secondly, it aims to create and foster the necessary environment conducive for further economic growth. For example, using the house for further economic activities largely in the informal sector.

Since apartheid there have been many policies put in place to address the housing shortage in South Africa, but the focus here will be on two that can be considered the most important (Corruption Watch, 2013c). Firstly, Section 26 of the South African Constitution provides the basis for housing in the country (Corruption Watch, 2013c). The Constitution's aim is to help address the vast socio-economic cleavages in the country and widespread inequality. Section 26 of the Constitution identifies basic needs, including the right to access adequate housing. This is important as it creates a compulsory mandate and requirement for government to use legislative measures and resources to address the housing challenge in the country. It furthermore states that no one may be evicted unless through a court order (Corruption Watch, 2013c). Thus, since 1994 the South African government has tried to meet its constitutional obligation by implementing various policies on housing with the most important being Breaking New Ground (BNG).

South Africa's guiding framework for housing provision is BNG, released in 2004. This is South Africa's plan of action for the elimination of informal housing in a sustainable manner (Cross, 2006). It firstly recognizes previous challenges that emerged in the Housing Act of 1997 and puts in place measures to address this (Thwala, 2008). It aims to scale up housing through quality and location by numerous programmes and projects across the country (Aayi, 2005). There was a change in policy from being supply centred, to a more demand centered approach, thus recognizing that a one size fits all policy does not work. There was also a recognition that human settlements' projects must be sustainable (Corruption Watch, 2013c).

There are primarily three delivery types that were utilized by government in the provision of low cost housing (Department of Human Settlements, 2013). The first is formal houses built by a contractor and paid by a housing department or unit. Houses are then distributed often through some sort of housing waiting list (Department of Human Settlements, 2013). The second is the people's housing process. This is a new approach that involves direct ownership and participation of residents in the housing process through a bottom-up approach, and which includes the community in all stages of development. The third is institutional housing. This focuses on rental, or rent to buy options. (Department of Human Settlements, 2013).

3.8.4 South Africa's housing crisis

Since 1994 South Africa has made incredible efforts to try reduce the housing shortages in the country (Ajayl, 2012). According to Cross (2006) no African country has even come close to making such a commitment to meet the needs of the citizens than South Africa. This to redress the socio-economic and historical injustices of the past that resulted in a substantial housing backlog (SERI, 2013). However, even though this is a very good achievement, the country still faces a housing crisis (Ajayl, 2012; SERI, 2013). It is important to understand that the housing crisis is not a localized one, but rather a global crisis whereby most countries including developed nations are experiencing (Thwala, 2005). The main causes of this housing crisis is the rapid population growth and the increasing pace of urbanization that occurred after apartheid. This has resulted in informal settlements mushrooming on the edge of the metropolitan cities all around South Africa (Cross, 2006). Together with the lack of resources, poor workmanship across numerous projects and endemic levels of corruption, this has all created a major problem in the delivery of housing (Goebel, 2007).

Corruption poses a major obstacle to housing the poor and addressing the critical shortage in South Africa. Corruption occurs in a variety of different ways and is a problem in all three spheres of government (Cross, 2006). The by-product has been poor workmanship endemic in multiple projects across the country. Due to this, housing delivery has become highly politicized with tension, violence, protests and mistrust in the system (SERI, 2013). SERI (2013) also found that while corruption levels are high, it is often perceived to be much higher than it is. This is due to the confusion and clumsiness in the system. This lack of transparency is causing major frustration in the low cost housing process (Corruption Watch, 2013e).

Corruption occurs mostly in procurement processes, where tender rules and regulations are frequently broken and flouted (SERI, 2013). Tenders are often awarded to friends and family, with a number of Human Settlement officials doing business with the Department themselves. The tender system was ostensibly designed to help in the redistribution of resources and address historical inequalities of the past and yet it has become fraught with corruption (Ajayl, 2012).

After the abandonment of the RDP policy in 1996 and adoption of the GEAR macro-economic strategy, there was a shift to include the private sector in procurement in helping to address the housing shortages and socio-economic challenges in the country (Goebel, 2007).

Many argue that the needs of the poor were sacrificed in the interests of capital. There was a shift from focusing on the needs of the poor towards focusing on cities becoming more globally competitive, with mega projects being favoured (Cross, 2006). This is deepening marginalization and poverty in South Africa (Beall et al 2002).

The private sector is seen as a more efficient and effective way to meet housing needs. Emphasis has been placed on public-private partnerships where tenders were awarded to private sector firms to undertake the construction and consultancy work. Instead of taking pressure off government and being a source of efficiency, the process has many challenges, specifically corruption. Tender processes and rules were continuously broken and flaunted, with widespread corruption throughout the system (SERI, 2013). There has been a 'scramble' by private entities using any means possible to benefit from large scale housing projects at the expense of the poor. This has resulted in the rise of 'tenderpreneurs' and a small elite amassing huge fortunes, while housing projects are failing and poor workmanship all too common. While three million homes have been built, a big consequence of corruption has been poor workmanship across many low cost housing developments in the country (SERI, 2013). Many low cost homes are of poor quality and many are rapidly deteriorating (Goebel, 2007). Estimates that billions are needed to rectify past mistakes. Thus while 3 million low cost houses have been built, they are not up to standard. Many of these houses have to be either rebuilt or repaired. According to Sexwale, 10 percent of his annual budget was lost to rebuilding shoddy workmanship across South Africa (Corruption Watch, 2013c).

In 2013, 15 major construction firms in South Africa were forced to pay fines totalling over R1bn for over 300 instances of bid rigging regarding world cup stadia and other government contracts. This included five of the biggest construction companies in South Africa. Therefore even the top construction corporations have been implicated in tender misdeeds. The rampant tender fraud in South Africa takes place through bribes, contracts to friends, work colleagues, fraudulently sign offs and the falsifying of documents. Public-private partnerships create an abundance of opportunities for profiteering at the public's expense (Bahre, 2005). To combat the problem it is mandatory for all construction companies to be registered according to the Construction Industry Development Act of 2000 (Corruption Watch, 2014g). This also grades a company on what work they are able to undertake in terms of government contracts. However, many construction companies are not on the list and are still receiving tenders.

Two other problems occurring due to the corruption in the procurement process are excessive delays in projects, and the escalation of costs. Tenders are not the only area where corruption is widespread. Other areas where corruption is occurring include the housing subsidy system, housing waiting lists, bribing of housing inspectors, inflating of purchases and BEE fronting. About 1570 officials were arrested and 1189 convicted in connection with housing subsidy fraud (Corruption Watch, 2013c). This is where officials obtain low cost housing subsidies illegally and fraudulently for personal use or for friends and families. Thus subsidies that are meant to help house the poor are being misappropriated by government officials. Fake documents are used and thus possible corruption in the Department of Home Affairs could be facilitating fraud in low cost housing.

The housing waiting list system is another very contentious issue in South Africa (SERI, 2013). The idea behind the waiting list system is that it is a rational process that works in two ways (SERI, 2013). One is a first come, first serve basis. Secondly, in some lists other factors are incorporated like age, family size and special needs. This to prioritize those in need of a house. However, in reality the housing list system is plagued by problems and corruption, which include manipulation of lists; bribery; jumping the queue; allocation jumbles; friends, family and government officials being placed higher on the list; individuals that do not qualify being placed on the list; being placed on the list for voting or supporting a candidate; or the housing list not existing at all (SERI, 2013). Furthermore, many have been waiting for years to gain housing, which only increases the perception of government incompetence and corruption in the low cost housing process (Corruption Watch, 2014a).

Housing allocation in South Africa is thus more about access to resources and power than individual needs (SERI, 2013). In some projects councilors and traditional chiefs are becoming part of the housing system, in an apparent attempt to bring the decision making process closer to the people. While this is largely welcomed, the lack of oversight has resulted in the perpetuation of corruption by councilors. Many recipients are illegally renting or selling low cost homes and moving back to informal settlements. This is due to the lack of economic opportunities in the area where the house was built. This according to Bradlow (2011) is only reinforcing the spatial legacy of apartheid on the urban landscape, with housing projects being initiated on the outskirts of cities far away from any real economic opportunities.

An issue compounding the problem according to the SIU (2007) is a very poor filing system, with missing or untraceable records. This makes tracking corruption or officials extremely difficult. Site numbers of houses in the field are also wrong or missing which adds confusion to the process. There is much confusion in the housing process and a lack of communication between government and the people. This lack of confidence is clearly evident in statistics from the PP. The PP in 2011/2012 alone received 2000 complaints relating to low cost housing, which amounted to 10 percent of total complaints received for that year (Corruption Watch, 2013c). While there is widespread corruption in the system, the lack of communication is compounding the problem. Whenever something goes wrong or a person does not obtain a house, it is immediately attributed to corruption. Therefore corruption is thus used as a 'catch all' phrase to explain every problem in the housing process. When often corruption is not involved.

Corruption has not only resulted in much distrust, but protest, violence and even xenophobia. During the xenophobia attacks of 2008 that left 62 dead, it was as much about frustration with service delivery. One of the issues noted was low cost housing. Violence and protest has become a common occurrence due to corruption in the housing system (Bradlow, 2011). People are frustrated with the process and see violence and protest as the only means by which their voice can be heard in a complicated delivery system riddled with problems. Land invasions are further common, with half built housing projects being invaded by the homeless who view this action as the only way to gain access to a dwelling (Thwala, 2006). This is only making the process of providing housing by government even more complex, which is further compounded by the heavy handed tactics by the police. With corruption becoming even more entrenched in the system, violence is only going to become even more common.

3.8 Conclusion

What is common throughout the literature is corruption is a symptom of something gone wrong in a society. In the case of South Africa it is an issue that has its roots in apartheid and colonial times which resulted in decades of racial oppression and discrimination. While South Africa has come a long way since apartheid, and has made great strides in the combating of many problems, the country has still some way to go (Balía and Sangweni, 1999a).

Corruption is working against South Africa's effort to fight poverty, to provide housing, water, education, health care and many more services to the people. Corruption in South Africa is a major obstacle to fighting poverty and inequality in the country. The post-

apartheid governments of South Africa have not been able to combat corruption and they themselves have been caught in the corruption trap. Corruption today is thus entrenched in all levels and spheres of both government and the private sector and will be a difficult issue to combat in South Africa. One of the sectors impacted by corruption is in the provision of low cost housing and this is where the study is based.

CHAPTER FOUR

DATA ANALYSIS

4.1 Introduction

This Chapter is divided into two parts and contains the data analysis for the research. The first part contains data on corruption in the Province of KwaZulu-Natal. Housing projects examined include those initiated by the KwaZulu-Natal Human Settlement's Department and by the EMM Housing Unit. While the KwaZulu-Natal Human Settlement's Department is the ultimate authority in the Province regarding low cost housing, there has been a devolving of administrative responsibilities to the local spheres of government, to bring projects closer to the people. Therefore the EMM Housing Unit has become a substantial provider of low cost housing in the eThekweni Municipality.

The second part of Chapter Four focuses on the case study of Phoenix. The Phoenix low cost housing complexes were a development initiated by the EMM Housing Unit to address the housing shortages in the Township. However, like in many projects across the Province, problems such as possible corruption, poor workmanship and human rights abuses emerged.

4.2 Corruption in the KwaZulu-Natal Human Settlement's Department

The sector most adversely affected by corruption in South Africa is housing and this is no different in KwaZulu-Natal. Housing challenges in KwaZulu-Natal are intensified because the Province not only has one of the largest populations in South Africa, but a significant proportion are homeless and living in informal settlements (SERI, 2013). This is worsened by the widespread corruption in the both the KwaZulu-Natal Human Settlement's Department and the EMM Housing Unit. This has hampered efforts to deliver habitable houses to the people and helped to entrench the cycle of poverty endemic in the Province.

The following section examines corruption trends in KwaZulu-Natal with specific reference to: improper asset management and record keeping; the awarding of tenders and procurement; poor workmanship; bribing of housing inspectors; accessing low cost houses and waiting lists; housing subsidy scams; purchasing at inflated prices and other types of fraud; BEE fronting; environmental issues; and violence. One must note that some of these issues are not directly linked to corruption, but can lead to it. Furthermore, many of the themes are not mutually exclusive and are interrelated, as in many instances multiple forms

of corruption can occur in one housing project. The first theme that will be explored is improper asset management and record keeping.

4.2.1 Improper asset management and record keeping

A problem constantly noted in the AG Reports regarding housing in the Province was improper asset management and record keeping (1997/1998, 1998/1999, 1999/2000, 2003/2004 and 2005/2006). In many cases record keeping was often incorrect or even non-existent. One must note this is not corruption in the strictest sense, but more maladministration. Record keeping and proper accounting are vital to ensure assets and money are not misused or stolen. However, when there is no record keeping this opens the path for corruption. Furthermore, incorrect record keeping and accounting prevent external groups like the AG and SIU from investigating corruption. Thus without proper accounting procedures the true nature of corruption cannot be known.

The AG (1997/1998, 1998/1999, 1999/2000, 2003/2004 and 2005/2006) found that the KwaZulu-Natal Department of Human Settlements constantly provided information on government assets that was often incorrect or even at times non-existent. The location of assets, the date of purchase, the price of purchase and unique identification numbers were often not recorded or wrong. Due to this weakness, physical verification procedures often could not be performed and thus the auditors could not accurately confirm the existence and completeness of assets listed in the Department register. This allowed for the private abuse of public assets, a form of corruption.

It was constantly shown that proper accountancy practices would have helped to prevent corruption, fraud and the abuse of public funds. It would have also prevented the numerous reports that have been commissioned to investigate corruption due to the lack of data. This lack of data included procurement, which is the next section.

4.2.2 Awarding of tenders and tender irregularities

Procurement and tender processes was the major area in low cost housing where corruption was occurring. Tender processes and rules were constantly flouted and infringements ranged from small to large, multimillion Rand contracts (AG, 2011). The KwaZulu-Natal Human Settlement's Department has been adversely affected by irregularities in the awarding of tenders and is one of the main reasons why poor workmanship is such a common occurrence across the province.

The AG Reports (2003/2004, 2010/2011 and 2012/2013) constantly noted that the KwaZulu-Natal Human Settlement's Department did not follow proper tender procedures, which left the system open to abuse. Tender rules and processes were broken and not adhered to on numerous occasions. While on many instances the infringements were minor, there were other instances where major corruption was occurring. Tenders between R10 000 and R500 000 were procured without inviting or receiving at least three price quotes as per government regulations (AG, 2011). Tenders over the value of R500 000 were on many instances also not procured through a competitive bidding process (AG, 2011). This meant the tender processes in the KwaZulu-Natal Human Settlement's Department was neither fair, transparent nor competitive, and left the process critically vulnerable to corruption. In 2012/2013 R10 842 000 in the KwaZulu-Natal Human Settlement's Department was considered irregular expenditure due to proper tender processes not being followed. In 2010/2011 R381 511 000 was considered irregular due to the non-compliance with supply chain management processes (SCM).

Tenders in the Province of KwaZulu-Natal were often awarded to family and friends of officials. This in itself is not corruption if it follows normal procedures. However, it was constantly noted in the AG Reports (2003/2004, 2010/2011 and 2012/2013) that these relationships were not declared and that people who worked for housing agencies had their own companies obtaining tenders without any declaration of conflict of interest. Usually a spouse would be in charge of the company to help avoid suspicion. Furthermore, contracts were often awarded to political party members. Therefore nepotism and cronyism was a common occurrence.

An example of tender processes not being followed is the Vulindlela Housing Project (VDA) on the outskirts of Pietermaritzburg. The VDA is one of South Africa's biggest housing projects and is set to cost over R2 billion to build an estimated 25000 houses (West, 2011). However, from the onset of the project there have been allegations of corruption in the tender processes.

The contract for building the low cost houses was awarded to VDA (BESG, 2012). VDA is a local community Section 21 company whose directors are five amakosi, an induna and an advocate from the area (BESG, 2012). The problem arose because normal tender procedures were not followed as it was part of the EPHP (BESG, 2012). This is a new type of development the Department is promoting where communities are supposed to be in charge

of their own housing project (West, 2011). The policy gives the community full responsibility for the low cost housing project and complete involvement in decision making processes. The role of the Department is to monitor, advice and ensure accountability.

However, concerns were soon raised. This is because the VDA awarded the entire project to Dezzo Projects (Naidoo, 2011a). Immediately questions were raised how a project worth over R2 billion could be awarded to one private developer (Naidoo, 2011a). This was unprecedented in the Department's history and went against its strict tender regulations. Numerous organizations and parties soon had they own complaints about the project. These include the Democratic Alliance (DA), community members and a local NGO and The Built Environment Support Group (BESG).

The DA handed a 400 page dossier, both to the SIU and the PP in the Province (Naidoo, 2011b). According to the DA spokesman for housing matters, George Mari, the numerous irregularities in the project included the following:

- I. Former Human Settlement MEC Maggie Govender misled the KwaZulu-Natal legislature by claiming that the project was in its pre-feasibility stage in her budget speech in April 2011, when agreements had already been signed between the Department and VDA on March 8th and 29th 2011 (Naidoo, 2011b).
- II. Human Settlements Department allegedly boycotted a meeting arranged by the Msunduzi Municipality to undertake its own housing projects for Vulindlela. The Department instead allegedly pressured the Municipality to cancel its own tenders and support the VDA initiative.
- III. The Department advertised for proposals in December 2010 when construction companies were on vacation. Nevertheless, many worked through the holidays to submit proposals. However, in January 2011 the Department cancelled the call for proposals (Naidoo, 2011b).
- IV. A second tender was advertised for the project by the Provincial Department of Human Settlements in February 2011. Over 40 tender bidders went to a meeting, but no officials from the KwaZulu-Natal Human Settlement's Department attended (Naidoo, 2011b).

- V. Lastly, the VDA was just a ploy to subvert proper tender procedures and award politically connected Dezzo Projects the entire tender (Naidoo, 2011b). Corruption is thus evident in the SCM processes.

The BESG also listed a number of flaws in the project (Mbanjwa, 2011b):

- I. Firstly, there was an artificial increase in the size of the community from 2 000 to 25 000. This puts pressure on the builder to construct the houses (Mbanjwa, 2011b). According to the BESG some of the homes were built inside a flood line.
- II. Secondly, BESG argued that Dezzo Projects is a politically well-connected contractor (Mbanjwa, 2011b). The BESG works closely with community organizations in the Vulindlela area. However, community members that should be driving the project were not aware of what the project entailed (Mbanjwa, 2011b). Politically connected members in Dezzo Projects include Mpho Scott a former ANC parliamentary member; Siphon Gcabashe, the former provincial secretary and Senzo Mfayelo, a former Inkatha Freedom Party (IFP) parliamentary member. Anton Vorster the CEO of Dezzo Projects confirmed that the above officials were shareholders of the company (Jansen,2011)
- III. Thirdly, BESG director, Cameron Brisbane, who was part of the original reference group that drafted the EPHP policy, claimed that the VDA contract is a major breach of this policy.
- IV. Lastly, the amakosi who had always pleaded poverty suddenly drove a brand new twin cab just over a month after the contract was awarded. It was also alleged that the amakosi and the directors of VDA were receiving salaries of R20 000 per month. This was in contravention of the Companies Act as the VDA was a non-profit company.

On the 14th of July 2011 work began in Vulindlela to build the low cost houses (West, 2011). In November 2011 the PP agreed to investigate the project (Naidoo, 2011c). On the 30th of August 2012 workers downed tools at the Kwagezubuso site and complained about lack of transparency in the project (Ngobese, 2012). Since being employed the workers have not received contracts or payslips. At the start of the project in 2011 security guards earned R2000 and now they earned only R800 a month in 2012 (Ngobese, 2012). The workers wanted to introduce labour unions, but the VDA did not recognize them.

There are also complaints that the project was not benefiting local residents (Ngobese, 2012). The community raised issues on access to the houses, especially why houses were being prioritized for the rich in the area while poor residents were still waiting for dwellings promised to them (Naidoo, 2012). A KwaZulu-Natal Human Settlements Department representative, Petros Mkize, said the problem lay with the people who did the initial assessment (Naidoo, 2012). The team took short cuts and did not visit all the homesteads (Naidoo, 2012). The poor were not prioritized and there was no proper housing waiting list.

Tender irregularities were also mentioned in the Manase Report. In the AG Report of 2009/2010 for the eThekweni Municipality, many concerns were raised, including that of irregular expenditure. The AG (2009/2010) noted that irregular expenditure amounted to R532 576 000 million in the Municipality. This was incurred mostly in the awarding of tenders and contracts that subsequently contravened the municipal SCM regulations. This led to the investigation by the Manase team. The Manase team found that the Municipality had incurred irregular expenditure amounting to over R2 billion over three years from 2009 to 2011 (Manase Report, 2012). The Manase team further reported that;

“Of the R532 million in irregular expenditure referred to by the Auditor General for the financial year of 2010/2011, R428 million related to the EMM’s Housing Unit” (Manase Report, 2012:84).

Therefore most of eThekweni’s irregular expenditure occurred in one unit alone. The Manase team further concluded that while irregular expenditure was very high, little action took place. The non-compliance by the EMM’s Housing Unit was with SCM policy and deviations from procurement procedures. These contraventions of SCM policy were not reported to the Council. According to the Manase (2012) team, there was non-compliance with Section 105(1) (b) and (c) of the Municipal Finance Management Act (MFMA). This was in terms of the requirement that officials must ensure financial resources are utilized effectively, efficiently and economically, as well as transparently to help prevent irregular expenditure (Manase Report, 2012). The Manase Report (2012) also found the following;

“The investigating team was not provided any compelling evidence of disciplinary procedures having been taken against anyone involved in the irregular expenditure in the Unit or officials responsible for its regularization” (Manase Report, 2012:84).

There was thus no compelling evidence of disciplinary procedures taken in the Municipality’s Housing Unit. Numerous documents were unsigned, undated, incomplete and did not have

the required authorizations. These deviations in the documents renders them useless and inadequate. The Bid Adjudication Committee (BAC) failed to apply their minds with regards to the irregular expenditure and by not condemning the Housing Unit. The former municipal manager contravened Section 32(4) of the MFMA by failing to report irregular expenditure to the mayor, the MEC of Co-operative Governance and the AG (Manase Report, 2012). The Manase Report (2012) argued officials had come up with numerous excuses for not following proper procedures. Table 4.1 contains the tender rules not followed and the amounts implicated.

Table 4.1: Irregular expenditure in the EMM Housing Unit relating to tender issues

Irregular expenditure items	Amount (2009/2010) Rands in millions
1) Quotations obtained, but approval from the BAC and city manager not obtained	91,8
2) Competitive bidding processes not followed for amounts over R20 000	156,7
3) Competitive bidding processes not followed for appointment of consultants	2,8
4) Consultants appointed in terms of out-dated delegated authority	18,9
5) Variation orders for additional work on projects , not approved by BAC or city manager	155,5
6) The required three quotes not obtained	0,96
7) Preference points not obtained	0,21
8) No tax clearance certificate obtained	1,7
Total	428,67

Source: Manase Report (2012: 242)

Some of the issues picked up in the Manse Report (2012) are noted in Table 4.2

Table 4.2: Different types of tender violations in the EMM Unit

Tender Issue	Violation
Payment vouchers	<ul style="list-style-type: none"> • Payment vouchers were not signed as authorized for payment • Dates authorized for payment were after the date of approval for payment
Variation orders	<ul style="list-style-type: none"> • Not signed by the housing head • Orders addressed directly to subcontractors and not the appointed contractor • Authorized signatures not dated when signed • Orders issued without a reference number
Letters of awards/ acceptance of quotation	<ul style="list-style-type: none"> • Contractors letter of appointment not dated when awarded to contractor • There was a difference in values in the letter of appointment and the actual contract • Letters of appointment awarded to contractor prior to completion of the Quotation Evaluation Report • Letters of appointment awarded to

	<p>contractor prior to receipt of contractors quotation</p> <ul style="list-style-type: none"> • Letters of award not signed as accepted by the contractor • Letters of appointment awarded to contractor before the contractors tender document even been completed • Values reflected in the letter of appointment exceeding the value of the contractors quotation/tender value • Letters of Acceptance of Quotation by the Municipality dated prior to the tender request date
Tender documents	<ul style="list-style-type: none"> • Copies of tender document not completed fully when submitted • Tender documents had evidence of unsigned alterations and there was an indication of the use of correcting fluid • There were handwritten unsigned alterations and changes to tender closing dates • Tender documents completed after the advertised tender closing dates • Acceptance of undated tender application documents
Memorandum of understanding	<ul style="list-style-type: none"> • Documents not dated when signed by the housing head • Documents not dated when signed by

	the consultant
Reports by head: housing and BAC	<ul style="list-style-type: none"> • Reports were written after the award of the tender

Source: Manase Report (2012: 85-87).

The Manase Report (2012) recommended a number of measures to be undertaken. Comprehensive forensic investigations were required into each one of the contracts identified as irregular. This will help identify the officials found contravening SCM policy and MFMA, and expose corruption. The Municipality must also put in place effective controls to prevent unauthorized, irregular and wasteful expenditure. The Report furthermore recommended disciplinary action against the Deputy City Manager: Treasury, Krishna Kumar, and Housing Head Cogi Pather for irregular expenditure. The Municipality must in terms of Section 32(2) recover irregular expenditure (Manase Report, 2012).

Throughout the Manase Report (2012) it was recommended that action be taken against the Housing Head Cogi Pather. This due to the lack of oversight over tender procedures and irregularities in numerous housing projects including Hammonds Farm Development, Burbreeze Housing Development, Chatsworth Development and Umlazi B10 Project. However, Cogi Pather resigned and thus no further action was taken against him. Many officials figured in the Manase Report subsequently resigned and there appeared to be a pattern at local, provincial and national government levels, that officials implicated in corruption and maladministration resign, hence no penalties and more significantly there is very little success in trying to recover public funds.

Some examples of tender irregularities in the Manase Report (2012) will be explored. In a project in Stedone a contract was awarded for R3 million. It ended up with 35 variation orders costing R9 million. The tender for Stedone was dated 12 of December 2003, but did not start till March 2005. Completion dates were continually extended from the 7th of January 2006 to the 10th of August 2010 and reflected on variation 30 in a government document (Manase Report, 2012). This was a common theme through KwaZulu-Natal, whereby projects experience excessive delays.

The Manase team drew data from another report commissioned to investigate irregularities in the Municipality, The Ngubane & Co Report dated the 18th of August 2010 (Manase Report, 2012). The projects implicated in tender irregularities were presented in the Manase Report.

One such project was the Chatsworth Housing Rehabilitation Project in Crossmor. The contract was worth R6 259 234 and was irregularly awarded to Doctor Khumalo Construction. A document was given to the BAC by the Housing Unit on the 8th of February 2007 and contained numerous misrepresentations with regards to the tender procurement procedures. The document was signed by the Head and Deputy of Housing as well as Deputy Head of SCM. The BSC and BEC did not meet to approve the bid specifications and thus evaluate the tender. SCM policy requires the above committees to meet. Furthermore, the award to the company was above their CIDB grading. Their grading was 4GB P.E. and thus was only for contracts up to R3 million. The Manase team found that the 'housing management misrepresented the facts, stating that proper supply chain management policy were followed' (Manase report, 2012:93).

The Manase Report recommended that disciplinary action be taken against Head of Housing Cogi Pather, Deputy Head Mr Yanus Sacoor and Deputy Head of Supply Chain Management Mr Andre Petersen (Manase Report, 2012).

The Crossmor Development was part of a larger project in Chatsworth. The project was broken into six separate contracts worth a total of R16,9 million. This split was due to the CIDB grading of Dr Khumalo. The award of the tender was irregular, and the split was to suit the CIDB grading of the company that had a cap of R3 million. According to the Manase team's findings, due to the nature of the transaction, investigations must continue. There must be a subpoena of third party individuals, as well as the necessary documents in order to identify corruption in the transaction (Manase Report, 2012).

According to the Manase team, the eThekweni Municipality ignored the contents of the Ngubane Report (Manase Report, 2012). The Report contained numerous cases of irregularities in Chatsworth as well as a serious instance of corruption in the Mariannhill Rehabilitation Project in low cost housing. If further investigations had taken place with regards to the Chatsworth Project, this could have led to the exposure of corruption. It was unclear if any further investigations had taken place as per the recommendations of the Ngubane Report. According to the Manase team the former municipal manager contravened

Section 34 of the Prevention and Combating of Corrupt Activities Act. The Manase team argued that:

It would appear the city manager failed and/or neglected, for a period between 2009 and 2011, in his capacity as municipal manager, to report prima facie evidence and/or information in his possession in the form of a forensic report drafted by Ngubane and Co during February 2009 in relation to the fraudulent and corrupt activities within the EMM Housing Unit to SAPS (Manase Report, 2012: 93).

Furthermore, the former municipal manager, Mike Sutcliffe contravened Section 32 (4) of the MFMA. This by not reporting irregular expenditure to the MEC of Co-Operative Governance, the mayor and the AG. The former municipal manager only reported the matter two years later to the Manase team. This resulted in the Municipality losing R1,1 million due to corruption. The Manase team concluded that action must be taken against the corrupt and there must be a recovery of all irregular expenditure (Manase Report, 2012).

Sutcliffe responded to the Manase Report on the 25th of July 2013. Some of the responses relating to housing will be briefly explored. Firstly, with regards to the irregular expenditure, there was an attempt to regularize it. This process was based on legal advice and was approved by the National Treasury. The Manase Report (2012) argued that disciplinary action must be taken against Cogi Pather after he has been supplied with the Report. However, he was not supplied with the Report. With regards to the Mariannridge Development, he argued the Municipality had actually not lost R1,1 million. Again he was asked to respond and yet was not given the Report. For other housing projects where there was possible irregularities, Sutcliffe said Pather was happy to answer any questions in response to the report. Lastly, Sutcliffe concluded that nearly all the sections in the Manase Report had been dealt already by the AG (Sutcliffe, 2013).

The final example of tender irregularities in the Manase Report (2012) was the Westrich Housing Rehabilitation Project, which comprised two phases. Prior to the development, demolition of existing dwellings was required. The contract cost R9,7 million, R6 million and R9 million, respectively. The project was a Section 36 or emergency contract. The Manase team found no evidence of why it was a Section 36 contract (Manase Report, 2012). No adequate explanation was given to the team. Section 36 contracts were becoming increasingly common in the eThekweni Municipality and were used as a means to subvert normal tender procedures. Furthermore, three contractors were given appointment letters before the tender

document forms and other appropriate documents by the developer were submitted. Two of these companies did not issue proper tax invoices as required by law (Manase Report, 2012).

What is clear tender rules were often flouted in KwaZulu-Natal, both provincially and at local levels and this can lead to corruption. This section provided a few examples of corruption in procurement with reference to low cost housing. While exploring the other themes, tender issues recur, especially with regards to poor workmanship. Procurement irregularities led to poor workmanship which will be explored in the next section.

4.2.3 Poor workmanship

Excluding procurement irregularities, the major issue relating to corruption in low cost housing was undoubtedly poor workmanship. Poor workmanship was an issue that constantly arose in the media, reports by the SIU, AG, PP and in the Manase Report. The problem with poor workmanship is funds that were meant for the building of new houses are instead diverted for the rebuilding or repairing newly built dwellings. Ultimately this means that there is less resources for the poor. Many low cost houses were in such bad condition that they cannot even be repaired and had to be demolished.

In 2009 the KwaZulu-Natal Human Settlements Department found that 9181 low cost houses needed to be repaired or rebuilt in nine housing projects across the Province, costing over R561 million (Mbanjwa, 2009). However, the Department admitted the problem was much larger as not all the houses were inspected, and that a possible 31 200 dwellings in 50 projects might have to be rebuilt or repaired (Mbanjwa, 2009). Thus MEC Maggie Govender indicated that the figure for repairing and rebuilding shoddy workmanship could be over R1 billion (Mbanjwa, 2009). In 2010 over 2158 low cost houses were rectified and 3490 rebuilt (Mbanjwa, 2010). According to the KwaZulu-Natal Human Settlements Department, 40 374 low cost houses across 49 projects were said to be structurally defective in 2010 (Harrilall, 2010). In 2011, the KwaZulu-Natal Department again confirmed that over R1 billion may be needed to fix shoddy workmanship across the province (Mbanjwa, 2011a). Some cases of shoddy construction in the province will now be discussed.

More than 400 shoddily built low cost houses will have to be rebuilt in Underberg (Mbonambi, 2011). Ntokozweni Developers were tasked to build 400 houses at R21,6 million in Stepmore and 800 houses in Maguzwane for R43,6 million (Mbonambi, 2011). The projects were approved in 2002, but construction only began in 2005. Costs were allegedly

inflated across the projects from R43 million to R66 million (Mbonambi, 2011). After reports of poor workmanship, three independent engineering companies were commissioned to inspect the houses.

Investigations found that there were cracks in the walls and roof sheeting was not properly laid out, letting in dust and rain. As a result of strong winds the roofs had lifted off some houses (Mbonambi, 2011). Civil engineer Jeffrey Machai said the houses posed severe health and safety hazards to the residents of Underberg (Mbonambi, 2011). The MEC Maggie Govender argued that the project showed gross negligence and non-compliance with Department building regulations. Ntokozweni Developers has since been deregistered and blacklisted (Mbonambi, 2011). Concerns by the municipal inspector were raised, but at the time were not heeded (Mbonambi, 2011). The NHBRC argued the materials utilized for the projects were substandard. It was estimated R28.3 million is needed to rectify flaws in 493 homes (Mbonambi, 2011). A compliant was lodged against the engineering company that approved the work (Mbonambi, 2011). Shoddy workmanship was thus passed that led to a substantial loss.

Another example of poor workmanship is the Imbali Housing Project in Pietermaritzburg. The government initiated this project after it was determined that the current houses in which the community were living in, were unsafe and unfit for human habitation (Ngobese, 2011). Government stepped in and moved 50 families into temporary shelter while it built new homes. Two years later and the houses are only half built with many of them being of poor quality and having no roofs (Ngobese, 2011). The temporary accommodation that the residents were moved too were too small and many families found alternative accommodation (Ngobese, 2011). Some of the houses built are now illegally occupied. Some families have already moved in and had to pay bribes to obtain doors, toilets and glass. The community laid complaints against two councillors who were allegedly illegally selling the incomplete structures (Ngobese, 2011).

A further housing project burdened with poor workmanship is in Wembezi A Section in Estcourt (Ndaliso, 2010). The project began between 2000 and 2001 and cost R17 million to build 504 houses, at a cost of about R32 000 a unit. The first contractor was taken off the job as he was not from the area. The second contractor was taken off due to lack of progress. Spor Developers was finally appointed. However, Spor Developers was not registered with NHBRC, as at the time as it was not a requirement. Standards across the project were poor.

Many houses were poorly built with defects from the foundations to the roofs. In many cases plastic piping in toilets and showers led to water seeping through the walls (Ndaliso, 2010).

There were also many examples in Durban of poor workmanship. Houses in Briardene will have to be torn down at a cost of R12 million or refurbished at a cost of R4 million. Many houses had been occupied illegally, some even by foreign nationals. There have been shacks built around the low cost houses and have formed their own community and thus it will be nearly impossible to get to the houses and rebuild them (Louw, 2010).

Poor workmanship also resulted in injury and death due to collapsing structures. In Umlazi J Section a poorly constructed RDP house collapsed and toppled into a neighbour's house killing a man in his sleep (Miya, 2011). The single father died on the scene and had three children between 9-16 years who were dependent on him after their mother had died. Other houses in the area were also in poor condition with one having been swept away during a heavy downpour (Miya, 2011).

Lastly, one of the biggest cases involving corruption in Durban was with the Mpisane's and their company Zikhulise Cleaning, Maintenance and Transport. Both husband and wife Sbu and Shauwn Mpisane have been dogged with controversy over the years, with Shauwn being implicated in corruption, tax evasion and shoddy workmanship. She was dubbed by the media as Durban's tender queen, with reference to the vast amount of tenders she was awarded by government. She won numerous contracts to build low cost housing across the Province. However, in numerous projects problems such as corruption and poor workmanship emerged.

The Mpisane's first made headlines after Zikhulise Cleaning, Maintenance and Transport was awarded a R300 million tender to build low cost homes in Umlazi (Barbeau, 2010). The contract was to build 4500 homes on three separate sites. However, shoddy workmanship was exposed in the project and overall delivery results were poor. The housing saga started in January 2010 when a local newspaper, *The Mercury*, exposed shoddy and even dangerous workmanship in houses in Umlazi built by Shauwn Mpisane's company (Comins, 2010). Residents had long been complaining about the state of incomplete housing development and had concerns about their safety due to steep embankments behind their dwellings (Comins, 2010). Water from a school field would pour down the partly collapsed embankment and into their homes. The water often went through the walls and would flood the houses.

A local resident Fundanu Gcabashe, said they would often have to use a bucket to get the water out (Comins, 2010). The engineer who helped expose the problems with the newspaper, Mike Staphorst, said the whole embankment was going to collapse. Furthermore, the portable toilets on site were a health risk as they were only cleaned once every three weeks (Comins, 2010). The toilets were set up as some residents did not have any proper sanitation or running water in their homes (Comins, 2010). The houses not only posed a danger to residents but also to the school children who attended classes on the hill above the homes (Kirk 2010). Some of the houses were built on sites which were cut out of a mountain and were propped up through old car and truck tyres. These plots began to collapse (Kirk 2010).

The NHBRC was thus called in to undertake in an investigation into the quality of the houses and concluded that all houses inspected needed to be repaired (Goldstone 2010). Just on 30 percent of the homes needed major intervention with structural problems, while 70 percent needed minor alterations (Da Costa, 2010). The NHBRC report indicated poor workmanship and a lack of qualified supervision in the construction (Goldstone 2010). However, the NHBRC found that the structural problems were not as serious as initially anticipated.

A few days after the NHBRC Report, Shauwn Mpisane came out in defence of the project. She argued it was unethical for the MEC - who made the initial announcement - to report the findings by the NHBRC (*Sunday Tribune*, 2010). She claimed not all the houses were inspected. She argued the 30 percent of the houses that needed major intervention were not her responsibility, but that of the eThekweni Municipality (*Sunday Tribune*, 2010). This was in terms of the infrastructure the local authority needed to support the project. Also, she was not responsible for the size and planning. She was bound to the designs by government (*Sunday Tribune*, 2010).

However, this was not the only scandal associated with the Mpisane's. Shawn Mpisane's company was implicated with poor workmanship in low cost housing in Lamontville (Karrim, 2011). The contract was worth R10,4 million. Two homes had to be demolished. The Mpisane's were involved in a further case involving fraud and bribery that will be discussed under the section of fraud.

An issue related to poor workmanship is that of the poor or non-existent services provided in low cost housing areas. Thus while people have a low cost house they cannot benefit fully due to the lack of service delivery. In Umkomaas, south of Durban, residents had to hire

toilets. There was a fight between a contractor and a toilet company that led to toilets not being installed and residents suffering. The lack of services in low cost housing was often due to corruption and the misappropriation of funds.

Another example is of the Umtshezi Housing Project near Estcourt where money meant to upgrade an old hostel went missing (Memela, 2012). The project began in 2006 and by January 2012 little had been completed and there was no trace of the money or how it had been spent (Memela, 2012). The only construction that did take place was a sign indicating that the hostel was under construction. The hostel was meant for an upgrade due the fact it was uninhabitable. The hostel constantly stunk of raw sewage due to burst pipes that flowed onto the road just outside. Residents had to use refuse bags as toilets. According to reports in total R16 million was missing and there was no record of what happened to the money (Memela, 2012).

It is clear that poor workmanship was a common occurrence throughout the Province of KwaZulu-Natal and was costing government nearly a billion rand to rectify. However, the biggest losers in this situation are the poor and the homeless people who are condemned to live unsafe and hazardous conditions.

4.2.4 Bribing of housing inspectors and engineers

A major issue related to poor workmanship is shoddy work passed by housing inspectors and possibly even the NHBRC. The NHBRC is an independent organization that passes construction work as being safe for use and occupation. However, it must be noted while there were instances where the NHBRC has been negligent, there were a vast amount of cases where it exposed shoddy work. Every low cost house has to be inspected and passed in terms of a set of minimum standards before it can be occupied. However, an alarming trend is that much shoddy work has been passed, and it was very expensive to rectify the problems (Mbanjwa, 2009).

In 2009 the MEC Maggie Govender, as part of her larger plan to help remedy the problem of shoddy workmanship made a commitment to bring contractors, inspectors and engineers to book. The SIU, as part of the investigation into corruption in low cost housing, included possible bribery by construction companies of NHBRC inspectors to pass poor workmanship (Mbanjwa, 2009). These inspectors were subject to investigation by the SIU (Mbanjwa,

2009). Govender admitted that strengthening the quality of monitoring was what was needed to solve poor workmanship.

4.2.5 Housing waiting lists in KwaZulu-Natal

Another issue that emerged with regards to corruption was accessing dwellings and housing waiting lists. Low cost housing waiting lists arose due to the large number of people without accommodation (SERI, 2013). The aim was to capture and store all individuals seeking a low cost house and to rank their socio-economic status. This is to ensure that the process is fair and to determine how many people required housing. However, the large back log in the housing supply process opened up the system to corruption (SERI, 2013). Individuals who did not qualify for low cost housing appear on the list and were obtaining housing. Bribery is common practice to move up the list, and women were often forced to preform sexual favours to obtain houses (SERI, 2013). Some of these issues in the KwaZulu-Natal context will be discussed.

A major investigation by the PP into low cost housing identified housing waiting lists as an area of concern in KwaZulu-Natal. Firstly, the PP (2012) raised concerns around the role of councillors in deciding who qualifies to obtain a house. This was after concerns were raised in the allocating process in the Hambanathi Township in Pietermaritzburg and areas surrounding Tongaat, north of Durban. Other concerns included who qualified for a low cost house, the issue of disappearing waiting lists and concerns of people jumping queues (PP, 2012). The issues come to light after the PP visited KwaZulu-Natal as part of a larger investigation into corruption in low cost housing.

There have also been allegations by the *Sunday Times* newspaper that the low cost housing waiting list in Durban did not exist (Attwood and Khosa, 2012). This meant that 400 000 people living in squatter settlements in and around Durban have little hope of obtaining a low cost house (Attwood and Khosa, 2012). This had major ramifications seeing that people in informal settlements believe they will be allocated formal dwellings because they put their names down on a housing list (Attwood and Khosa, 2012)

The Mayor of eThekweni said there never was a low cost housing list, a claim which the DA said was a lie (Attwood and Khosa, 2012). Sbu Zikode president of ABM said the housing allocation process was politicized. He claimed that the city was allocating houses according to political alliances. There were teachers and police officers who have been allocated low

cost houses which essentially privatizes the process (Attwood and Khosa, 2012). Zikode said there was no transparency in the process and questioned how the city monitored fraud when there is no housing list and no allocation strategy (Attwood and Khosa, 2012). According to SERI (2013) KwaZulu-Natal did not have a provincial housing waiting list, but rather each project had its own list and allocation process.

Another issue regarding housing waiting lists was that individuals had to pay bribes to obtain a house. The improper sale of low cost houses was mentioned in the 2009/2010 AG Report. In a housing project in Umhlathuze located in northern Zululand, one had to pay a bribe to access a low cost home. This included money, a Johnny Walker red label and some beer (Ramsamy, 2011).

Lastly, the Manase Report (2012) uncovered possible illegal renting and sale of low cost housing in the eThekweni Municipality (Table 4.3). It received numerous cases of possible corruption in the allocation and selling of low cost houses through the Presidential Hotline, where one can anonymously report incidents of corruption. The people implicated included municipal councilors, ward committee members, and politicians. The information was handed to the SIU. This was because the SIU under a presidential proclamation was investigating all matters related to corruption involving low cost housing.

Table 4.3: Illegal Renting and Sale of Low Cost Housing – eThekweni Municipality

Case number/ Presidential hotline reference number	Suspect	Location	Additional information
1/ INC 1853028	Cllr Bhekhisisa Mngadi	n/a	The Cllr was allegedly selling low cost houses for R20000 each. Money would be paid directly into his own private bank account. It is alleged one female had to perform sexual acts as she could not afford the full amount.

2/ INC 3195906	Cllr Khwela	n/a	The Cllr sells low cost houses for R1 000 each
3/ INC 2726636	Mr Denku - Department of Housing official	Bester - Inanda	Is alleged one would pay R2 000 for Mr Denku to process the housing application
4/ INC 2875791	Cllr Thulani Khunju	Ward 57 - Ohlange	Low cost houses been sold at R3 000 each
5/ INC 2894086	Cllr Mzimunye Ngiba	Ward 31	Low cost houses sold for between R5 000 to R10 000
6/ INC 1883561	Cllr Qinibandla Nkodla	Bagulusi Municipality	Money must be paid to obtain low cost houses
7/ INC 1908646	Council members	Ward 24 – Chesterville	Money must be paid to obtain low cost houses
8/ INC 1878053	Cllr Dumisani Mabizela	Section D Lindelani ward 46 – phase 4	Low cost houses sold for between R5 000 to R10 000
9/ INC 1871917	Zanele Dlamini, Tumsile Gili and Cllr Bekisisa Mngadi	Ward 13	Dlamini and Gili selling low cost housing for R10 000, while the Cllr selling houses for R20 000
10/ INC 1864591	Cllr Bella Jacobs	n/a	Caller alleges the Cllr wants her low cost house
11/ INC 2894086	Cllr Mzimunye Ngiba	Ward 31	Low cost houses sold for between R5000 to R10 000
12/ INC 2875791	Ward committee 57	Ward 57	Ward committee selling houses for R30 000
13/ INC	Doris Dzanibe	N/a	Selling low cost houses in

2628750				Pinetown between R5 000 and R10 000
14/ unknown	Cllr Sipiwe Ncwane		Ward 64	There were 30 houses built in each of the wards in Inanda and the Cllr was in charge of allocating these homes. Only 7 of these houses went to the intended applicants, with the rest been rented and money obtained by the Cllr and Councilor committee members
15/ INC 1952094	Cllr Bekisisa Mngadi		Ward 30	Selling houses at R15 000 each
16/ INC 3154943	Cllr Bekisisa Mngadi		Unknown	Selling low cost houses
17/ INC 2333377	Cllr Prince Ntanzi		Ward 91	Selling low cost houses for R5 000

Source: Manase Report (2012: 435-437)

Table 4.3 indicates a large number of cases of individuals having to pay bribes to obtain houses. A common trend was the high number of ward councilors abusing the system and selling low cost houses. Another disturbing issue was females on the waiting list are being forced to preform sexual acts on male officials in order to obtain a home. This in a country with shocking levels of women/child abuse and HIV/AIDS. What was clear was corruption was endemic in the housing waiting list and the allocation process.

4.2.6 Housing subsidy scams

The longest investigation into corruption in the Department of Human Settlements was in connection with corruption in housing subsidies. This was a major issue identified over numerous years and resulted in several investigations, dismissals and arrests. Corruption with regards to housing subsidies was identified by the KwaZulu-Natal Province as early as 1998,

and yet 16 years later the problem persists. Housing subsidy scams have been mentioned in numerous SIU reports as well as in AG Reports (1998/1999, 2003/2004, 2004/2005, 2005/2005, 2009/2010, 2010/2011 and 2012/2013).

The earliest example of corruption in housing subsidies occurred in 1998 (AG, 1999). The SIU was part of a major investigation into the KwaZulu-Natal Housing Department conveyancing attorneys entrusted with the control of the housing subsidy funds (SIU, 2004). The investigation was approved in terms of Proclamation 74 of 1998 and established on the 28th of July 1998 (AG, 1999). Other investigators included SAPS Commercial Branch and The Director of Public Prosecutions. The investigation helped reveal vast irregularities in the housing subsidy programme (AG, 1999). Over the course of the investigation the SIU (2006) identified a 1000 fictitious applications and transfers of property valued over R15 million in the Housing Department. One attorney was charged with 142 counts of fraud and theft, and had defrauded the Department of R10 million. Only R604 750 was recovered (SIU, 2006). In 1999 the consulting auditors with the help of the SIU drew up a data base of all financial transactions that took place between the Department and the conveyancing attorneys to check for irregularities. Certain firms of attorneys were targeted, due to the information received by the SAPS commercial branches. The firms included D T R Mfeka and Partners, T Mvelase and Company, Mlaba Makhaya Incorporated, and Makhaya Tsautse and Mvambo. The investigation was divided into four phases, with each concentrating on a firm of attorneys. Table 4.4 presents a breakdown of each investigation (AG, 2006):

Table 4.4 Property Transfer and Housing Subsidy Scams

i) T R Mfeka and Partners	It was alleged the company was engaged in fraudulent transactions involving the government housing subsidy scheme. R333 000 was recovered in May 2002 and the individuals faced criminal prosecution (AG, 2006).
ii) T Mvelase and Company	The SIU investigated 89 transactions between the Department and the attorneys. It was found that in 88 instances the transfer of properties were fabricated. This was through the aid of a syndicate who helped forge title deeds, application forms and deeds of sale. The investigation found that fraud was committed and R1 322 000 was misappropriated. Three individuals were arrested and are awaiting trial (AG, 2006).
iii) Mlaba Makhaya Incorporated	Over 1500 transactions were investigated for irregularities. R3,4 million was returned to the Department from the attorney's trust account. There were indicators that numerous transactions were fabricated. It is believed the same syndicate that worked with Mvelase, was working with Mlaba (AG, 2006).
iv) Makhaya Tsautse and Mvambo	The case involved the transfer of 264 properties. The investigation was continuing (AG, 2006).

Source: AG (2006)

In 2000 a new major issue emerged in housing subsidies. This coincided with the offering of the individual subsidy and involved providing fictitious information in order to obtain a housing subsidy. This resulted in one of the biggest investigations in the Department and exposed many officials who were abusing the housing subsidy scheme, at the expense of the

poorest members of society (AG Reports, 2003/2004, 2004/2005, 2005/2006, 2009/2010, 2010/2011 and 2012/2013). According to the Department's spokesman Harry Mchunu, the problem lay in the huge numbers of applications for the subsidies, which overwhelmed the Department and it was not possible to verify each and every application (Masemola, 2000). This left the housing subsidy system open to rampant abuse and corruption that cost the Department millions.

It was noted in the 2009/2010 Annual Report by the AG, that fraud and corruption in the housing subsidies programme estimated at R3,4 million had occurred. Similar to previous instances fictitious information would be provided to obtain a housing subsidy. Entire housing subsidies were paid to individuals who earn below R42 000 a year. The AG (2010) identified 314 suspect cases, with 239 involving government employees who were earning way above the annual amount and thus should not have qualified for a subsidy. These Provincial officials obtained housing subsidies fraudulently. It was further noted that possible collusion with Home Affairs was taking place as some officials had fake identity documents.

In the 2010/2011 Financial Year the AG (2011) noted that 223 officials were defrauding the housing subsidy system. This subsequently resulted in the registering of 54 dockets and concluded in 53 successful prosecutions. However, the court cases would cost the Department over half a million rand. In total 121 people were convicted of housing subsidy fraud in 2010. Even the deputy mayor of Howick was convicted and handed a three years suspended sentence (Magubane, 2011). Lastly, in the Financial Year 2012/2013 R3,5 million was recovered from employees due to housing subsidy fraud. In total R14 million of the Department's funds were recovered from 1567 officials in KwaZulu-Natal (Magubane, 2011).

4.2.7 Misappropriation of funds and other fraud

One of the biggest cases involving tender corruption was of Mdu Khosa, the once head of the KwaZulu-Natal Human Settlement's Department. The case involved the purchase of private properties at inflated prices that were intended for low cost housing (Teke, 2010a). Between 2003 and 2004 the KwaZulu-Natal Human Settlement's Department purchased a series of properties in Durban CBD (Madlala, 2005). In total 23 properties were purchased at inflated prices for over R72 million. Collectively, the properties were worth only R43,2 million. Some of the well-known properties bought include: West Point Lodge for R7 million when it was valued at R1,7 million, Four Seasons for R15 million when it was valued at only R3,5

million and the Palm Beach Hotel for R7 million when it was valued for R2 million (Teke, 2010a). The various properties prices were thus grossly inflated and immediately created controversy.

Two local Durban businessmen and MEC Mdu Khosa were soon identified in the scam and ended up being charged with theft and corruption. Khosa was charged with 23 counts of fraud and one of corruption. Khosa allegedly received R1, 9 million from an estate agent as a reward for paying government funds for inflated property prices (Madlala, 2005). The acquisition of the properties did not follow proper tender procedures. Khosa's luxury property in Cowies Hill, his car and insurance policies were seized by the National Director of Public Prosecutions.

In 2006, Khosa and an estate agent/businessman Jayandaren Pillay were ordered by the court to pay back R3 million. Both were convicted on one count of corruption totalling R800 0000. They were acquitted on the fraud charges. Both were sentenced to jail time (Baloyi, 2006).

Since the purchase of the properties, they have become white elephants with only one being used to house the poor (Teke, 2010a). Only Westpoint was ever used to house the poor and all the properties were managed up to 2011 by their original owners (Teke, 2010a). However, Westpoint was an appalling place to live in, and even when the Department took over, the property conditions did not improve. Essential services would often be cut-off (Teke, 2010a). No proper fire management was ever implemented and in 2011 two children died in a fire in the property (Teke, 2010a). Illegal activity like the selling of drugs and prostitution were also common at Westpoint (*Daily News*, 2012).

Another example of corruption and fraud was the Marriannridge Rehabilitation Project which was mentioned in the Manase Report (2012). The incident involved two eThekweni housing managers, Megan Naidoo and Devan Govender, together with their wives, who also worked in the Unit. The managers and their wives defrauded the EMM of R1,1 million. The officials colluded with companies including quantity surveyors and project managers. The individuals in question formed an entity Inyanga Trading 377 (Pty) Ltd, which supplied building materials for the project at inflated prices and thus EMM protocols were disregarded and manipulated. The Manase Report (2012) recommended criminal, disciplinary and civil actions.

Lastly, the fraud and tax evasion via the Mpisane's will be examined. In 2011, SARS and the Hawks raided the Mpisane's La Lucia mansion and in June Ms Mpisane turned herself over to the police (Karrim, 2011). She was granted R500 000 bail and was charged with tax evasion and fraud totalling R2,5 million. Mpisane is alleged to have inflated her VAT expenditure to fraudulently receive R4,7 million in refunds (Harper, 2014). In the raid SARS seized the couple's Rolls Royce and two Lamborghinis worth R16,5 million. In the media the Mpisane's were slated for their extravagant party lifestyle where they spent over R1 million on a birthday and wedding celebration in one weekend. Their parties were attended by the elite including President Zuma's nephew, convicted gangster Kenny Kunene and billionaire businessman Vivian Reddy (Karrim, 2011). The Mpisane's were charged with 118 counts of tax evasion fraud levelled against their company. She put the blame solely on her former accountant Kishal Reddy who has pleaded guilty and turned state witness (Karrim, 2011).

The tax fraud case moved on and Shawn Mpisane was charged with bribery. An informer tipped off the police that she was attempting to bribe a witness in her tax fraud case and she was forced to hand herself over to the police again (Nair 2012).

On the 6th of November 2012, the court case was on the verge of collapse as the prosecutor in the case was not ready to proceed ((Barbeau, 2014). Despite still facing fraud charges the Mpisane's were awarded a R74 million contract to revamp a KwaZulu-Natal hospital. Concern was raised over consistent bad workmanship in their low-cost housing projects across the Province of KwaZulu-Natal.

Despite the problems in the tax fraud case, Shauwn Mpisane was charged in a separate case for fraudulently securing government contracts worth R140 million using forged documents. The company was facing 119 counts of fraud. The AFU seized multiple vehicles (Braughton, 2013). In one week she appeared in three different courts, each time for a separate matter. The new charge was for providing false information to receive a positive construction rating for her company so she can earn more tenders from government. She earned R140 million with this grading (Horner, 2013). The Manase Report (2012) which was released in 2013, exposed how her Umlazi tender had no specified budget cap, which allowed costs to escalate to over R200 million from R78 million. Tender procedures were completely ignored.

During the court case it is revealed that the Mpisane's had been awarded R1,1 billion in government contracts in the past seven years despite facing corruption, fraud and criminal

charges. (Mthethwa, 2013). On the 15th January 2014 the state withdrew all fraud charges against Shauwn Mpisane. The case was for the forged documents to obtain a CIDB grading (Harper, 2014). She furthermore received back her assets that was attached by the AFU. One of the reasons for the case being withdrawn was that the forensic investigation not being completed on time (Harper, 2014). Both the auditor and the state prosecutor were removed from the case for alleged misconduct, which had jeopardised investigations against Shauwn Mpisane (Harper, 2014). On the 29th of January 2014 all charges against Shauwn Mpisane were dropped (SAPA, 2014a). Prosecutor Arno Rossouw told the Durban High Court that a decision was made by the National Director of Public Prosecution to stop the case. Over 100 charges were withdrawn. The bribery of the witnesses was also withdrawn (SAPA, 2014a).

The Municipality in May 2014 awarded another contract to Shauwn Mpisane's company worth R224 million to build houses in the Umlazi district (Barbeau, 2014a). Immediately there were allegations that normal tender processes were not followed. The eThekweni Municipality responded by saying that because of service delivery protests and threats of legal action they were forced to bypass normal procedures (Barbeau, 2014a). Due to slow delivery of houses previously, there were public protests and the Council was taken to court. Thus the tender was approved through the emergency tender process or Section 36. This route was severely criticised in the Manase Report (2012).

4.2.8 BEE fronting

A new corrupt practice that has emerged since 1994 is BEE fronting. Fronting is the practice whereby people of BEE status - usually African and preferably women - are used by others to obtain government contracts. These individuals are made head of companies and directors but played little to no role in any management.

A famous case in the Department of Housing and Public Works involving BEE fronting involved a Durban businessman Raj 'Teddy' Lakraj, who used his domestic worker and her daughter as a front to help obtain lucrative government contracts (Govender, 2011). His domestic worker was listed as the director of Dreamtech Trading 562 CC which traded as Siyasiza Builders which was a subsidiary of Quantum leap, which Teddy owned (Govender, 2011). The State alleges that the domestic worker was the 100 percent shareholder of the company and yet played no role in the day-to-day running of the company (Govender, 2011).

Lakraj is alleged to have secured over 3 000 contracts worth at least R87 million from government over several years (Nair, 2011). Furthermore, his companies have also been involved in many failed projects and corruption (Govender, 2011). He was charged with 147 counts of fraud and one of corruption. Since being arrested and released on bail there were further investigations into Lakraj's operations. On-site inspections by quantity surveyors indicated that Lakraj was awarded R2,5 million on projects he failed to deliver. He was also accused of cover quoting by using both his companies to apply for tenders, with one using a lower price than the other (Mdletshe, 2011). Since the investigation four state employees from the Department have been arrested, two of them being senior officials, for colluding with Lakraj.

4.2.9 Environment and corruption

Environmental concerns and regulations were also neglected in many low cost housing projects. The Department of Human Settlements noted that the legal compliance with EIA was a challenge. Often proper environmental assessment and feasibility studies were not conducted before commencing of building operations (Manase Report, 2012). This not only led to environmental degradation, but also an escalation in costs. This was due to the need for remediation and because environmental factors impacted negatively on construction. For example, in Hammonds Farm discussed in detail in part B, costs escalated by R200 million due to environmental factors that would have been considered if a proper feasibility study had been undertaken before construction had commenced.

4.2.10 Violence and corruption

One of the harsh realities of corruption in the housing sector in South Africa is that it often spurs mass protests and violence. South Africa is dubbed by some as the protest capital of the world. Between 2010 and 2013 the police reported that there were over 3 000 protests in this period. One of the main factors leading to the large number of protests is lack of service delivery, with housing on the top of the agenda. This is backed up by research undertaken by TNS (2012) who said:

Housing is of greatest concerns to poor people, with 36 percent of those living in informal dwellings putting this as their top need from their local authority, higher than any other need. This goes a long way to explain the potential for violence when it comes to the need to improve living conditions. With a 2.1 million backlog, the lack of housing was the most likely motivator for violent protest (Benjamin, 2012:1).

A classic example is Cato Manor/Crest on the edge of Durban CBD which has been subject to intense protest due to the lack of services and widespread corruption in the housing system. This has resulted in political killings, heavy handed tactics by the police, with little progress in meeting the needs of residents. Since the apartheid era Cato Manor/Cato Crest has been a space of intense political contestation and struggle (ABM, 2013).

According to ABM (2013) three individuals including a member who fought for housing in the area was assassinated. One of the persons killed was Nkululeko Gwala who led several protests against the Municipality's allocation of low cost houses (Mbanjwa, 2013). Protesters would often block roads by burning tyres and clashes with police were common. After several protests, the city held a meeting to try to diffuse the increasingly tense situation. The city manager and health MEC attended these meetings. At about 22h30 that night (26 June 2013), Gwala was shot 12 times in the back and killed (Mbanjwa, 2013).

Gwala fought against corruption in housing and argued that only ANC party members in the area received low cost houses and that the ward committee members had two to three houses of their own (Moore, 2013a; Patel, 2013). The councilor of the area was said to be renting out some of his low cost houses. Furthermore, Gwala was fighting the evictions of residents in the area from shacks that were built on municipal land. Gwala was a former ANC member who was collecting information on corruption before his death (Moore, 2013a). Before the killing he was aware that there would be an attempt on his life and was advised to leave the area (Mbanjwa, 2013). However, he reportedly said he would rather take a bullet than run away.

A month earlier another activist Theminkosi Qumbelo, also an outspoken critic of corruption in housing in the area, was killed. Since the killings the area has been the sight of continued violence and protest. The ABM argued that there was a hit list of all the critics of government in the area (Mbanjwa, 2013). During a protest in September 2013 a 17 year girl was shot and killed by the police (Mbanjwa, 2013). The police said they acted in self-defense after their car was surrounded and pelted with rocks (Nxumalo, 2013). The AMB denied that they resort to violence. (Nxumalo, 2013).

One must note the violence due to corruption is not an isolated event. Violence due to corruption was increasingly becoming common in the country. This was by protests, heavy handed police action and even killings. With corruption levels becoming even more

entrenched it seemed that violence was only going to become more common in settlements' around South Africa.

4.2.11 Conclusion

This section identified key themes relating to corruption in low cost housing in KwaZulu-Natal. These included improper asset management and record keeping, the awarding of tenders and procurement, poor workmanship, bribery of housing inspectors, accessing low cost houses and waiting lists, housing subsidy scams, purchasing private property at inflated prices and other fraud, BEE fronting, environmental issues, and corruption and violence. These themes were by no means inclusive and were related to one another. Many of the themes were interrelated as in many cases multiple forms of corruption occurred in one housing project. This will be illustrated in the second section of this chapter, which will examine corruption in the case study of Phoenix.

4.3 Corruption in the case study of Phoenix

4.3.1 Introduction

The focus of Part B of Chapter Four is on corruption in the low cost housing complexes built in the Phoenix area. The main data sources included the due diligence report commissioned by First Metro Housing Company, the SHRA Report into possible corruption, court documents, various media reports and the Manase Report. The following section will first provide a background to the project and then will explore the various themes that have emerged in connection with corruption and low cost housing in the case study.

4.3.2 Background to case study

In the Year 2000 the eThekweni Municipality adopted a policy decision to utilize former landfill sites located across Phoenix for the purpose of lower economic housing/complexes (Court Document, 2013). The landfill sites were called infill sites and were large areas of vacant municipal land that was scattered throughout the township. The Municipality decided that 70 percent of the low cost houses would be intended for households earning between R3500 to R7000 a month (Court Document, 2013). The aim of the Municipality was for the residents of the new low cost housing complexes to obtain ownership. The rationale behind the project was to address the housing shortages across the township. The Municipality estimated that the houses would be sold R29 000 each (Court Document, 2013).

Due to the lack of funds the eThekweni Municipality decided to find new and innovative ideas in the sourcing of finances for the project. The Municipality decided that it would provide the land and would invite a private developer to use their own funds to build low cost housing complexes. This plan would help bypass the conventional methods whereby the Municipality would provide the land and the funds, and the developer would build the houses (Court Document, 2013).

Woodglaze Trading was appointed as the developer. Woodglaze Trading then formed a Section 21 company, namely, Moko Rental Housing in order to comply with housing regulations (SLMAN, 2012). This was undertaken to qualify for a housing grant from the SHRA. Controversial businessman Jay Singh formed Moko in 2008 and resigned a year later, leaving his wife Annamalay as the sole director (Court Document, 2013). While Jay Singh resigned from the company it was argued that he was still the main individual behind all the decision-making and played an oversight role (Naran, 2009). He met residents on behalf of the company and was seen at construction sites (Savides, 2009). In the media Woodglaze Trading is used, while Moko in the investigations by the consultants. Both names will be used in the study. Jay Singh is a controversial businessman who had been previously convicted for bribery to pass poor workmanship, was part of the failed bus privatization in the eThekweni Municipality, was criticized in the Manase Report for the Burbreeze and Hammonds Farm low cost housing projects, and was the developer behind the collapsed Tongaat Mall in 2013.

Various problems including corruption began to emerge across the Phoenix complexes. Firstly, there were allegations of tender irregularities and possible BEE fronting. Residents were furthermore denied ownership of housing units which was the original intention of the eThekweni Municipality. Instead the residents were forced into tenancy agreements, whereby they had to pay monthly rentals, which was not feasible or economic and would end up costing more than what it would have cost to buy the housing unit (Court Document, 2013). Poor workmanship and non-adherence to building regulations emerged across the various complexes. This posed serious risks to the residents occupying the units. Some residents fell behind in rental payments or refused to pay due to poor workmanship and were evicted (Court Document, 2013). Security companies hired by Woodglaze Trading were often used to intimidate and assault local residents. The private security companies often also served as debt collectors and would break into units and take appliances from the residents as a form of payment (Court Document, 2013).

Due to these grievances many residents from the complexes formed a community organization, the Phoenix Residents Association (PRA), and it helped to organize and mobilize against the developer. Both Woodglaze Trading and the PRA became part of a long and contracted court battle against each other. The developer took the PRA to court over defamatory remarks made about its company. The PRA took the developer to court to prevent evictions, harassment and assault of its members, as well as the sale of complexes to another company. The court battles would last for over a year, with both sides winning cases.

In 2014 it emerged in government documents that the developer received state funds through a grant for the project, illegally and corruptly. It furthermore emerged that over 68 percent of the occupants living in the complexes earned above R7 000 and thus were not the intended occupants of the housing (SHRA, 2013). The AFU attached the complexes in Phoenix, but in an appeal Woodglaze Trading won the case and the properties were returned. However, the judge commented that the findings were for whether or not the preservation order should be extended. He could not rule on the administrative irregularities and on whether fraud, corruption or any other unlawful conduct in the course of the transactions occurred as this was not before him (Naidoo, 2014).

The next section will explore the various themes that have emerged in the Phoenix case study and these include: previous deals with the city and corruption, tender irregularities and BEE fronting, contested land, poor workmanship, community struggles, rent but cannot buy, evictions and security, wrong owners, government involvement and collapsed mall, and continuing deals.

4.3.3 Previous tenders with the city and corruption

One of the first issues that emerged in the study was how government can continuously award contracts to developers implicated in corruption. This was no different in the Phoenix case study where Jay Singh had a poor record in terms of quality in numerous projects across eThekweni. One of the South African Government's plans to prevent corruption from occurring in low cost housing was the blacklisting of individuals and companies that are implicated in corruption and poor workmanship. This was to root out the 'bad apples' and reward those who perform well. Thus the contract to Woodglaze Trading should not have been awarded due to previous poor performance and corruption. This included a previous corruption conviction in the case of Jay Singh, and the poor workmanship associated with his companies.

Jay Singh's first corruption offence occurred as early as 1997 when he was a supervisor for Newlands Earthworks. Singh was caught paying a R4 000 bribe to a municipal official to pass condemned work on the project. He pleaded guilty to the bribery charge and paid a fine of R6 000 (Savides, 1997).

In the early 2000s Jay Singh was a part of the consortium associated with the failed privatization of Durban's bus service. Singh's private company Remant Alton took over the Durban Transport authority for R70 million in 2003 (Mbonambi, 2012). Soon afterwards the bus service started to experience problems and poor service. Remant Alton's top management drew in financial rewards despite mismanaging the company. Due to this, Durban residents had to pour in millions to the service through government subsidies, rates, fares and bailouts. However, the bus service got worse and eventually the Municipality had to buy back the dilapidated bus service for R405 million in August 2008 (Mbonambi, 2012).

Arguably the most damning evidence against Jay Singh's linked companies was recorded in the Manase Report (2012). The Report severely criticized Jay Singh's linked company Gralio Precast in the Hammonds Farm and Burbreeze projects. The Burbreeze Housing Project was part of the second phase of eThekweni's slum clearance programme. The Project was initially a private development that started in 1994 and was intended for middle to high income earners (Manase Report, 2012). However, the project was not completed and thus the owner of the property, Zani Property Limited, approached the eThekweni Municipality to turn the development into a low cost housing scheme (Manase Report, 2012). Initially Palm Civils won the tender, but then indicated they could no longer perform the contract and recommended Gralio Precast to take over with the same conditions. Palm Civils was apparently experiencing person power difficulties. It must be noted that the EMM Housing Unit was under no obligation to accept the reassignment of the contract and it should have been reviewed and revaluated as per Council rules (Manase Report, 2012). The approval of the transfer of the project by the Housing Unit was irregular and should have been referred to the Council for consideration. The Housing Unit should have enforced penalties due to early termination and non-performance (Manase Report, 2012).

On the 13th August 2004 the Housing Unit prepared a report for the The Burbreeze Housing Project. The intention was to build approximately 550 low cost homes. This includes providing services such as waterborne sewage, electricity, water supply, storm water disposal and tarred roads which were budgeted at a cost of R18 million (Manase Report, 2012). The

Municipality invoked Section 187 (3) (b) (ii) of Ordinance Number 25 of 1974 to justify that it would be in the best interest not to invite public tenders for the project.

Problems however, soon emerged (Manase Report, 2012). The construction costs of the project escalated to R57,2 million. This was R39 million over budget. Furthermore, the project failed to meet its housing targets. In total only 311 units were eventually built (Manase Report, 2012). The reason cited for the lack of performance was the unsuitable terrain. However, this should have been initially identified in the feasibility study. The feasibility study was required by the Department of Human Settlements and is undertaken to provide a full picture of the project as well as ensuring the prevention of wasteful expenditure (Manase Report, 2012).

The average cost of each dwelling was R162 270, which was 395 percent greater than the budgeted cost of R32 727 per unit. The NHBRC report on the project furthermore indicated poor workmanship and recommended that the Municipality should fully investigate and take action against negligent contractors (Manase Report, 2012). In a letter addressed to the Manase investigating team, dated the 20th of October 2011, the NHBRC stated that they found numerous problems relating to poor workmanship and irregularities with the structural engineer, Vernon Smith. Vernon Smith appears to be the competent person for both the Municipality and the contractor - Gralio Precast -, which was irregular as he was checking and signing his own work off (Manase Report, 2012).

It was uncovered by the Manase team that homes had numerous problems (Manase Report, 2012). A CIBD Report on poor workmanship in the project quoted in the Manase Report included phrases such as: 'Shocking and unacceptable, dangerous and substandard' (Manase Report, 2012:126).

The houses had unstable internal walls, which one was able to move by exerting just hand pressure onto it. Bed joints were visible. The slab construction in certain homes was suspect. Roof wire in some houses was not installed. Storm water management in the majority of homes was very poor. Some owners had to repair the faults themselves. There was water ingress in some houses. Water penetration occurred through walls from showers. Cracks were also common. Gralio Precast was not registered with the NHBRC at the time. This is important to ensure construction of homes complied with standards. The KwaZulu-Natal Human Settlement Department was unlikely to release the balance of R5 million in subsidies

until the poor workmanship was remedied. The costs to the Municipality may also exceed R5 million due to poor workmanship (Manase Report, 2012).

The findings in the Manase Report (2012) were the following:

- I. The feasibility study prior to the commencement of the project was inadequate. Proper feasibility studies are vital to the identification of problems and provide a useful indicator on whether or not a project is economically viable.
- II. Costs for the project escalated from R18 million to R57 million.
- III. Poor workmanship was also identified and may be attributed to poor controls by certain stakeholders.
- IV. There was poor performance, with only 311 units being built compared to the 550 that was required.
- V. The contractor was not registered with the NHBRC.
- VI. The project lacked supervision and management.

The recommendations by the Manase Report (2012) included the following:

- I. The Municipality should take action against all the officials and companies that have been found to be negligent. These include Cogi Pather, the project manager of Blue Magnolia, the consulting engineers Nelson Allopi and Associates, and the consulting resident engineer Vernon Smith.
- II. Contracts should be revised to hold the contractors responsible for damage and to ensure penalties for overruns.
- III. The penalties will act as an incentive to finish on time and defaulting contractors should be prevented from doing business with the Municipality in the future.
- IV. The EMM Housing Unit should only award contracts to those registered with the NHBRC.
- V. Proper and thorough feasibility studies must be conducted prior to the EMM Housing Unit committing to a project.
- VI. The Municipality should consider appointing accountants, engineers and supporting staff to the housing unit as it spends vast amounts on consultants. The consultants involved in the project should be reported to their professional bodies.
- VII. The ultimate responsibility for the poor performance of Gralio Precast, Blue Magnolia, Nelson Alloppi and Vernon Smith and poor control of the project that led

to over expenditure, on Mr. Cogi Pather, Head of Housing in eThekweni, in terms of Section 105(1)(a)(b) and (c) of the MFMA.

VIII. The Municipality must recover irregular expenditure according to MFMA Section 32 (2) (Manase Report, 2012).

Another housing project mentioned in the Manase Report (2012) was the Hammond Farm Development in ward 58 of Verulum. The Hammond's project came to the attention of the Manase team while investigating the Burbreeze project. This was because both projects had a number of similarities. These include using common contractors and service providers and the purchase of land from a developer who had already initiated a housing development (Manase Report, 2012). The common contractors and service providers in both the projects include Gralio Precast, Vernon Smith, Blue Magnolia and Nelson Allopi (Manase Report, 2012). The project was considered to be good investment as it was close to existing schools, clinics, hospitals and economic opportunities. Furthermore, excellent public transport routes were close by (Manase Report, 2012).

On the 20th of August 2008, Gralio Precast was awarded the contract for the project for R57 141 399 to build 594 units (Manase Report, 2012). The project was subsequently extended first to R221 796 491 and then to R351 044 913, to construct an extra 1456 top structures. However, like in Burbreeze case, there were a number of problems. The NHBRC report indicated that the houses were of poor quality and was thus one of the reasons for the escalation in costs (Manase Report, 2012). Furthermore, like in the Burbreeze project, improper feasibility studies were conducted and thus there was a need for the rehabilitation of geotechnical works. This should have been identified at the desktop stage, but these issues were ignored. The geotechnical works included stabilization of slopes and construction of retaining beams (Manase Report, 2012).

On the 3rd of January 2011, Ms Baijoo from the project manager's office requested Vernon Smith to issue a site instruction to ensure the contractor demolishes buildings that were unsafe on platform 7 (Manase Report, 2012). The consulting engineers and geologists indicated on several occasions since August 2010 that they raised a number of stability issues on all platforms and this was conveyed in their monthly reports (Manase Report, 2012). According to the Manase Report (2012) the KwaZulu-Natal Human Settlement Department may be withholding subsidies due to poor workmanship identified by the NHBRC. In total three blocks containing 22 units would have to be demolished due to stability issues. In

meetings the NHBRC threatened to withdraw all certifications of the top structures of buildings or stop the construction if no unit plans were brought forward to ensure that there was no stress put on the buildings or platforms (Manase Report, 2012). Furthermore, construction of top structures was stopped until plans were devised to address issues of stability and storm water control (Manase Report, 2012). The NHBRC expressed disappointment that the eThekweni Housing Unit did not involve the organisation at the beginning of the project, when poor workmanship could have been identified (Manase Report, 2012).

In platforms 5, 7 and 8 there was extensive cracking of top structures. In platforms 5 and 8 this was aggravated by poor storm water control, trenching close to the buildings and extensive groundwater seepage (Manase Report, 2012). These problems were regularly pointed out in reports.

Questions were raised as to who should be responsible for the project mismanagement. The Manase team communicated with Cogi Pather to figure out who would be held responsible for the demolishing of 22 units (Manase Report, 2012). Pather referred the query to the Acting Head of Housing Engineering, Mr Ashley Roopnarian. It was indicated that the professional team and the contractor will cover the costs. The Manase team requested proof that all parties accepted the responsibility, but this was not forthcoming (Manase Report, 2012).

The Manase Report (2012) made the following findings:

- I. The feasibility study prior to the commencement of the project was inadequate. Proper feasibility studies were vital to identify problems and provided a useful indicator of whether or not a project was economically viable.
- II. Costs escalated from R68 million to R351 million due to poor controls by various stakeholders. Poor workmanship was also identified and were attributed to poor controls. This resulted in 22 units being destroyed due to stability problems.
- III. The contractor was not registered with the NHBRC.
- IV. The project lacked supervision and management.

The Manase Report (2012) recommended the following:

- I. The Municipality should take action against all the officials and companies that have been found to be negligent. These include the Housing Head Cogi Pather, the project

manager of Blue Magnolia, the consulting engineers Nelson Allopi and Associates, and the consulting resident engineer Vernon Smith.

- II. The ultimate responsibility for the weak performance of Gralio Precast, Blue Magnolia, Nelson Allopi and Vernon Smith and weak control that led to over expenditure lay with Mr Cogi Pather, the Head of Housing in terms of Section 105(1)(a)(b) and (c) of the MFMA (Manase Report, 2012). This was due to the lack of monitoring of the project, the payment without proof of quality workmanship and Vernon Smith signing off on his own work.
- III. The Municipality must recover irregular expenditure according to MFMA Section 32 (2) (Manase Report, 2012).

The Manase team concluded that ‘the Municipality should re-evaluate and reconsider the awards made to Gralio Precast for the Cornubia Housing Development Project’ (Manase Report, 2012:129). This due to the poor performance and poor workmanship identified in both the Burbreeze and Hammonds Farm projects.

It is clearly evident that there was corruption and poor workmanship in previous projects in companies linked with Jay Singh. Jay Singh himself was convicted of corruption and therefore should not be allowed to undertake in business with the eThekweni Municipality. Due to rules and regulations that may impede his companies from receiving government tenders, his ex-wife and son were made directors of the various companies. However, it was reported in numerous newspaper articles and by the residents of Phoenix that while his son and ex-wife were de facto managers, he was de jure in charge of the daily operations of the companies. This was technically a loophole in the system which was exploited by Jay Singh. Table 4.5 highlights the various contracts that Gralio Precast, one of Jay Singh’s companies has been awarded since 2004. Gralio Precast was awarded over R500 million in contracts just in KwaZulu-Natal for housing.

Table 4.5: Projects awarded to Gralio Precast since the Burbreeze project in 2004

Date	Project	Amount in Rands
1) 13 th August 2004	Housing development at Burbreeze	50 466 000. 34
2) 4 th June 2007	Housing development at Hammonds Farm	351 044 913
3) 11 th May 2007	Namibia Housing project phase 1	76 239 099. 76
4) 23 rd September 2011	Cornubia pilot phase: construction of road and water supply	25 098 842. 28
5) 4 th October 2011	Civil engineering services at Cornubia housing project phase 1a	82 894 125. 15
Total		587 742 980. 73

Source: Manase Report (2012)

Despite being plagued by allegations of corruption and poor workmanship, companies associated with Jay Singh and his family continued to receive government tenders, including the contract to build low cost housing complexes in Phoenix. The Phoenix case study would parallel Jay Singh's previous housing projects and would be linked to corruption and widespread poor workmanship, with the poorest of the poor being the major victims.

4.3.4 Tender irregularities and BEE Fronting

Possible tender irregularities and BEE fronting were two issues identified early in Phoenix. An article published in the *Sunday Times* on the 19th of February 2012 questioned the relationship between Jay Singh and the eThekweni Municipality, as well as his tender deals and possible fronting (Horner, 2012).

Numerous landfills sites were awarded to Dr Nomalady Ngwadla by the eThekweni Municipality. Singh was then introduced to her by Housing Head Cogi Pather to help carry out work on the landfill sites as she reportedly had little experience in construction (Horner, 2012). They formed Woodglaze Trading together. Singh gained control over Woodglaze Trading after Ngwadla was delisted as a director without her even knowing about it, a day after the company was registered (Horner, 2012).

The *Sunday Times* undertook an investigation through council documents, company records and title deeds and found that Singh sidelined his empowerment partner Dr Nomalady Ngwadla, who took him to court and accused him of using her as a front. She was reportedly promised equal share of profits by Singh, but this had not materialized (Horner, 2012).

Singh made a fortune from building low-cost houses on cheap landfill sites awarded to Ngwadla's company. Singh also sold two landfill sites for an R8 million profit which was allegedly in contravention of Council regulations. Both the Municipality and Singh refused to respond to these issues raised by the *Sunday Times* (Horner, 2012).

Furthermore, it is alleged that there were tender irregularities in the awarding of the contract to build the Phoenix complexes. It was alleged the contract did not go through proper tender procedures when being awarded to Woodglaze Trading. Section 40 (2) (b) (i) of the SCM policy of the Municipality states that immovable property may be disposed of by a competitive bidding process unless public interest or the plight of the poor demands otherwise. No bidding process was conducted. Such exemption has been viewed as an abuse of the public interest clause (Court documents, 2013).

4.3.5 Undervalued land

After an investigation by SLMAN (2012) it was discovered that the sale of land in Stanmore and Treehaven to Moko/Woodglaze was well below market prices. The SLMAN argued:

Land sale prices at transfer - R21090.00 for each of Stanmore and Treehaven – were low for both properties which were observations by the eThekweni Municipality Valuations Department at a meeting held with them on the 10th of February 2012. The risk exists that the transactions may be investigated (SLMAN, 2012:10)

Furthermore, all records of municipal approvals in these cases were missing (SLMAN, 2012). Thus further investigations were needed. It was argued further that not all the land was owned by Woodglaze Trading and some was owned still by the Municipality (SLMAN, 2012).

4.3.6 Land claim violations

A further issue emerged in the early stages of the project was that Woodglaze Trading was building houses in Phoenix on disputed land that was expropriated 30 years ago (Dorasamy, 2009). Ahmed Mohamed Ismail bought 21 000 meters of land in Rydalevale, Phoenix in 1974. The land was expropriated two years later under the Group Areas Act (Dorasamy, 2009). While Mohamed had died his children believed that they could now lose their claim to the land as construction had already started. The issue was that there was a land claim on that property and no construction should have been allowed to take place. Their claim on that land was gazetted in 1998 and was still under negotiation (Dorasamy, 2009).

On the 7th of March 2010 the *Sunday Tribune* published an article on the disputed land claim, revealing that low cost houses have been built on the disputed land that was under investigation by the Land Claims Commission (Dorasamy, 2010). There was communication between the eThekweni Municipality, Woodglaze Trading and the Land Claims Commission. The developer and Municipality were told that the land was under dispute and thus no construction would take place legally (Dorasamy, 2010). However, Ismail found out in February 2011 that houses had been erected and occupied. This, according to Ismail, was a blatant disregard for the legal process and the Land Claims Commission. Pravesh Inderjeeth, the general manager of Woodglaze Trading, argued that Ismail was being opportunistic by taking the matter to the media (Dorasamy, 2010). The Company claimed that the land was built on by error by a subcontractor. This had happened in December while the Company was on end year closure. However, municipal authority would be needed to build houses on property and thus it appeared that the dwellings were built illegally, or more sinisterly that someone in the Municipality had authorized the project (Dorasamy, 2010).

4.3.7 Funding the project

A key issue that emerged in reports much later in the project was funding received by Woodglaze Trading for the project (SLMAN, 2012; SHRA, 2013). When Woodglaze Trading initiated the project they did not receive funding and were only provided land by the Municipality. Thus Woodglaze Trading had to find alternate sources of funding for the project. Woodglaze Trading turned to the SHRA and received nearly R236 million (SLMAN, 2012; SHRA, 2013). However, in a due diligence report SLMAN indicated that there were irregularities in the awarding of the funds. Woodglaze Trading did not qualify for the funds

(SLMAN, 2012; SHRA, 2013). The report indicated possible corruption had occurred. This will be explained further in the section on the AFU.

4.3.8 Community challenges, contestations and struggles

Before the Phoenix complexes were even built there were clear indications that there could be problems in the future. Corruption often impacts hardest on the poorest members of society and this was no different in Phoenix. The residents experienced numerous issues once moving into the complexes, including poor workmanship; the builder not adhering to regulations; being forced into tenancy agreements which were costing more than what it would have cost to buy the unit; evictions; heavy handed tactics by security; and individuals earning above R7000 occupying the complexes. This resulted in the residents banding together and forming a community organization to challenge the developer. The organization was PRA and consisted of members from the local complexes. The organization was led by Mervin Govender.

4.3.8.1 Poor workmanship

Poor workmanship was a common problem due to corruption in low cost housing across KwaZulu-Natal and this no different in the Phoenix complexes that posed serious risks to the residents' health and safety. Phoenix complexes were thus no different to other housing projects undertaken by Jay Singh's linked companies.

Some structural problems noted in the media (Goldstone, 2009; Savides, 2009; Kockott, 2010; Barbeau, 2010; Somduth, 2012; Soobramoney, 2012; Pillay, 2013) in the housing units include the following: sinking ground, collapsing pillars, cracked ceilings, burst pipes, dampness of walls, emissions of odours from the landfill site, and growth of fungi on the walls. This poses a hazard to the health, safety and well-being of residents.

Poor workmanship was noted as early as 2009 and complaints escalated. Kista Gounden's home had cracks in nearly all of her walls, this both inside and outside (Kockott, 2010). There was also a separating of the walls from the ceilings and floors, this to be most likely caused by foundations sinking (Kockott, 2010). Gounden believed the plaster contains very little cement and more sand. On the veranda pillar the paint had peeled off and the plaster could be removed with a thumb. There was also dripping taps and weak doors (Kockott, 2010). When the family complained they were reportedly threatened with eviction from the complex. A compliant was laid with the NHBRC on the 7th March 2007 which listed 30

structural defects (Kockott, 2010). However, no action was taken and on a follow up there was no record of the NHBRC complaint. Thus the compliant was either misplaced or was lost (Kockott, 2010). Woodglaze Trading obtained an eviction order against the Gounden family on the grounds of breach in the sale agreement. It was unclear what would happen to the large deposit the Gounden's had paid. The Municipality had ordered Woodglaze Trading to fix the house, but according to Kista Gounden it was too late (Kockott, 2010).

Further complaints were made in a local newspaper, *The Post*, on the 5th of March 2012. Another resident Lolly Naicker raised concerns around poor workmanship (Somduth, 2012). He argued that the property was unsafe to live in and posed a danger to children. Due to weak plaster, a wall could collapse and cause injury. Charmaine Naicker, another resident, complained that her ceiling was cracking and was waiting for assistance from the developer. Residents also complained that their living conditions resembled a 'pigsty' and that cupboard handles and fittings were failing apart. Lastly, residents were waiting for fire hydrants, post boxes and telephones to be installed (Somduth, 2012).

The various examples of poor workmanship mentioned in numerous newspaper articles were backed up by the due diligence report commissioned by First Metro Housing who bought some of the complexes (SLMAN, 2012). The report indicated various forms of poor and shoddy workmanship in Eastbury, Stanmore, Foresthaven and Rydalvale, and can be divided into external and internal problems:

Internal

The interior walls of the flats had cracks and the paint was peeling off in numerous instances. The cracks resulted in dampness, which caused mildew. In the bathroom and kitchen, fittings were causing leaks. The kitchen tops are lifting off due to swelling from the dampness. A major concern noted was the detection of water leaks in almost every house. Furthermore, most doors are faulty and required either alignment or refitting. Lastly, many floor tiles in the units were cracked or cracking (SLMAN, 2012).

External

Externally there were numerous issues. Firstly, it was noted that there were sewage problems. The topography on which the complexes were built on was undulating and thus gabions had been placed on the embankments to prevent mudslides. Along the paved driveways various cracks were starting to appear (SLMAN, 2012).

It was clear from the media, the due diligence report and from the residents themselves that the complexes had numerous structural damages that impacted on the health and safety of residents.

4.3.8.2 Building regulations

While poor workmanship was one of the biggest issues across the complexes, a problem that partly led to this was the non-compliance with various building regulations that created the path for future structural deficiencies (SLMAN, 2012). Numerous building regulations were not adhered too and was duly noted in the due diligence report (SLMAN, 2012). This included NHBRC compliance, electrical certification, municipal fire compliance and conveyancing.

NHBRC compliance

In Eastbury, Stanmore and Rydalvale the NHBRC technical department had rejected the sites due to there being no approved building plans. Units were being occupied at the time even though buildings were not covered structurally and the lack of approval. In Treehaven all units were covered by NHBRC certification (SLMAN, 2012).

Electrical

The consultants in the due diligence team did not view electrical certificates of competency. However, the Municipality showed the consultants a record book which indicated that there were numerous site structures that were regarded as illegal dwellings by their own building inspectors (SLMAN, 2012).

Fire safety

The consultants were not provided with documentation on fire safety approvals or compliance. There was no evidence at any of the sites of fire equipment. Thus if there was a fire, crucial equipment that could save the complexes and lives were not available (SLMAN, 2012).

Conveyancing

No occupation certificates were available. However, occupation of properties had occurred (SLMAN, 2012). Thus it can be concluded at the time of the due diligence report the

complexes were not compliant with numerous regulations. This posed serious risks to the residents' health and safety (SLMAN, 2012).

4.3.8.3 Owners or tenants?

One of the biggest issues was the tenancy agreements between the residents and Woodglaze Trading. In the planning phases of the project the Municipality took a policy decision that 70 percent of the low cost houses were intended for households earning between R3500 to R7000 (SHRA, 2013). The aim of the Municipality was for the residents of the new low cost housing complexes to obtain ownership (Court Document, 2013). However, residents were denied ownership of the units and forced to sign tenancy agreements with Woodglaze Trading. These tenancy agreements instructed residents to pay monthly rentals of between R2000 to R3000 a month (*Daily News*, 2014). According to the PRA the rental payments imposed on the occupants was not economical and not affordable (Court Document, 2013). The residents argued that Woodglaze Trading had installed itself as landlord over the premises and took advantage of them (Court Document, 2013).

The rental agreements trapped the residents into a never ending debt cycle by imposing upon them an obligation to pay rent without any assurance of obtaining ownership of the units occupied (Court Document, 2013). The amount of rent that each of the residents had to pay exceeded the envisioned purchase price of the houses about three times over (Court Document, 2013). Nearly five years into the project and many of the residents still did not own the units (Thathiah, 2014). The tenancy scheme thus falls short of the policy resolution to support ownership in low-cost housing schemes which was approved by the Municipality on the 6th April 2000 (Court Document, 2013). It furthermore worked against the Municipality's overall aim of the project to address the housing shortage of the poor in Phoenix as many of the intended recipients could not afford the rent (Court Document, 2013). According to the PRA it was not the intention of the Municipality to put public property in the hands of Woodglaze Trading for profit at the expense of the residents. Due to the increased economic burdens and pressures, many residents were unable to make regular rental payments and were in arrears (Court Document, 2013). Some residents refused to pay monthly rent due to the structural defects. Some of these residents were evicted from their homes. It was lastly claimed that the monthly rental profits for Woodglaze Trading were about R2,5 million a month for just four units (Erasmus, 2014b). This figure was realistic

because there is over 1000 units and if each unit pays R1000 a month in rental, it would amount to over a million.

4.3.8.4 Eviction of residents

Due to the non-payment of rent many residents were evicted by Woodglaze Trading from their homes (Court Document, 2013). According to the PRA many of these evictions were illegal as they did not comply with the PIE Act (Court Document, 2013). This is a potential human rights issue and brought back memories of the apartheid government's mass evictions. In terms of Section 7(2) of the PIE Act the KwaZulu-Natal Province should have intervened in the dispute concerning the evictions of the residents (Court Document, 2013).

Some residents fell behind on payments due to high installments. Others refused to pay due to the houses being in appalling condition (Soobramoney, 2012). Mervin Govender said it is not that they did not want to pay, but rather before they pay, the flaws must be rectified (Soobramoney, 2012). The problem was compounded by the heavy handed tactics used by security guards across the complexes (Soobramoney, 2012).

Woodglaze Trading employed three security companies to maintain law and order. However, instead of promoting safety and security the residents complained that the security companies were acting as debt collectors and illegally evicting residents for non-payment (Pillay, 2013).

The SLMAN Report (2012) acknowledged that there were numerous cases where residents were taken to court by Woodglaze Trading. It further acknowledged that many of the residents were disgruntled. Below contains Table 4.6 containing information of court action against residents in arrear up until 2012.

Table 4.6: Disputes between the developer and residents

Complex	Number of disputes	Summons issued to the Phoenix residents
Stanmore	9	1
Eastbury	67	20
Treehaven	23	0
Rydalvale	81	9
Total	180	30

Source: SLMAN (2012:28)

Even though Table 4.6 only contained information relevant from Project start up until 2012, it still indicated a very high number of disputes with the residents. Since then, this number has only increased. Many more residents have come into dispute with Woodglaze Trading.

Residents and community leaders were even assaulted by the security guards and their homes were invaded. The community lived in constant fear of the security guards due to their heavy handed approach to solving conflict (Pillay, 2013). In March 2013 Mervin Govender was in an alleged altercation with guards from Bambelela Surveillance and Protection Services and KS Security and Body Guarding. One of the guard's allegedly hit Govender at the back of his head (Pillay, 2013). A few days earlier a 27 year old lady was allegedly assaulted by a Bambelela guard in front of her seven year old son (Pillay, 2013). Furthermore, residents who did not pay rent had their services such as electricity and water cut off. This potentially being a major human rights breach.

A further case involved Ms Kheswa who was evicted with her three kids for the non-payment of rent. In a project that should be benefiting the poor, the question has to be asked how one can evict families. Her possessions were dumped on the side of the complex and was captured in photographs by a resident who will name anonymous. The pictures are captured in Plate 4.1 to 4.4.

Plate 4.1: Ms Kheswa being evicted in the Phoenix complexes



Source: Anonymous Phoenix resident

Plate 4.2: Ms Kheswa being evicted in the Phoenix complexes



Source: Anonymous Phoenix resident

Plate 4.3: Ms Kheswa being evicted in the Phoenix complexes



Source: Anonymous Phoenix resident

Plate 4.4: Ms Kheswa being evicted in the Phoenix complexes



Source: Anonymous Phoenix resident

Due to illegal evictions and the heavy handed tactics used by security, the PRA took the matter to court. This was in February 2013 when over 100 tenants faced eviction (Naran, 2013). This resulted in an interdictory relief being granted by the Durban High Court on the 17th of May 2013 and in December 2013, respectively. Security companies contracted by Woodglaze Trading were interdicted and were thus prevented from harassing, assaulting, intimidating or harming any resident or member of the PRA.

4.3.8.5 *Illegal recipients of the complexes*

Many of the occupants across the complexes earned above the R7500 threshold (SLMAN, 2012; SHRA, 2013). Thus the goal for the project to house the poor and address housing shortages across Phoenix was ultimately a failure. Moreover, 63 percent of the tenants of the Phoenix complexes earned more than R7500 a month (SLMAN, 2012). This meant that Woodglaze Trading did not qualify to receive grants from the state. The SHRA commissioned Report argued that ‘it will take years to correct the income profiles in the project.’ (SHRA, 2013:2).

It was furthermore alleged in court documents produced by the PRA, that Inderjeeth the project manager for Woodglaze Trading made residents pay up to R10 000 in order to jump the queue and be placed higher on the list for housing (Court documents, 2013). This according to the PRA was in contravention of Section 3 of the PIE Act. Jay Singh argued that the reason why 63 percent of the occupants earned above R7500 was that the residents either moved to better paying jobs or that they obtained promotions.

4.3.8.6 Court Action

Due to tensions between the developer and some residents there were several legal interventions. Firstly, the developer, Woodglaze Trading took Mervin Govender to court over allegations of spreading untruths and defamatory allegations. Woodglaze Trading filed an urgent application for an order to stop Govender from spreading untruths, the holding of unauthorized meetings at the complexes and from preventing Woodglaze Trading from doing their work. This relief was granted by the court.

In May 2013. Woodglaze Trading bought an application against Mervin Govender for breaching the court order granted in 2011. Woodglaze Trading believed that Govender must be held accountable for a protest held on Human Rights Day at one of the intersections in

Phoenix (Pillay, 2013b). Residents from the four Phoenix complexes held a demonstration outside the court in solidarity with Govender (Pillay, 2013b).

Secondly, the PRA led by Mervin Govender took Woodglaze Trading and various other government departments and private developers to court. These include First Metro, KwaZulu-Natal Human Settlements Department, eThekweni Municipality, Aplo Flash, Elite Star Investments and the various security companies. The court action between the two became a long and contracted battle. The battle by PRA was to prevent the sale of immovable assets to First Metro and Aplo Flash (Pillay, 2013a). According to the PRA there was vast mismanagement of municipal property by the developer for its own narrow commercial interests (Court documents, 2013). This was undertaken at the expense of the residents and allowed to continue by certain government functionaries (Court documents, 2013).

Furthermore, the sale of the properties by Woodglaze Trading to other companies created uncertainties. Residents were unsure where this left them in terms of the existing agreements with Woodglaze Trading (Somduth, 2012). Would residents have to formulate new agreements with the companies and what payment options would be required? According to the PRA's attorney Ramesh Luckychund, 18 families who bought their property from Woodglaze had not received title deeds and could face the prospect of losing their home (Padayachee, 2013). The PRA further took the developer to court over abuse by security guards in terms of intimidation and heavy handed tactics used in dealing with the residents (Soobramoney, 2012).

Mervin Govender commented that residents had exhausted all possible means to solve the situation and were forced to go to court (Soobramoney, 2012). The security guards also acted as debt collectors and broke into residents homes to attach appliances and other possessions of value. The security was said to be illegally evicting residents in the contravention of the PIE Act (Court documents, 2013). On the 17th of May 2013 this resulted in the court interdicting the security companies and preventing them from harassing, assaulting, intimidating or harming the residents or any member of the association. The order furthermore prevented the security guards from unlawfully entering into residents' homes. The PRA argued the agreement between the Municipality and the developer was null and void (Court documents, 2013).

According to the PRA submitted in court documents (2013) in Section 233 and 234 of the Local Authorities Ordinance, a private party is only allowed to buy or let immovable

municipal property. Therefore by installing itself as landlord of the municipal property, it was the belief of the PRA that this was illegal as when the lease agreements were signed in 2008 Woodglaze Trading was not yet the owner of the immovable assets. Therefore it was using government property for profit making purposes (Court documents, 2013).

Section 90(5) of MFA states that when there is a transfer of ownership of a municipal capital asset it must be fair, equitable and transparent (Court documents, 2013). Furthermore, it must be consistent with the SCM policy. The transfer of ownership to Woodglaze Trading was not fair, equitable or transparent according to the PRA (Court documents, 2013). The residents and public were not aware of the intended sale. According to Section 90 of MFA only a resolution by the Municipality at an open public meeting can municipal land, in terms of Section 40 (2)(b)(i) of SCM policy be sold in a competitive bidding process. According to the PRA they were not aware of any bidding process (Court documents, 2013).

Woodglaze Trading intended to sell the property to Aplo Flash, First Metro and Elite Stor Investments. This was also opposed in court by the PRA. The PRA asked the court to revert ownership of the property back to the Municipality. Due to the fact the deal fell afoul of numerous statutory provisions.

4.3.9 Government Response

Series allegations of corruption, human rights abuses and poor workmanship have emerged across the complexes built by Woodglaze Trading in Phoenix. Given Woodglaze Trading's poor record across various other projects in the Province this should have resulted in immediate government action to try and remedy the situation.

Even though the Phoenix housing project was not initiated by the Provincial Human Settlement Department it was still the ultimate body that was in charge of housing in KwaZulu-Natal. The project was initiated by the eThekweni Municipality's Housing Unit, but the Provincial Department still had an oversight role in all housing developments in KwaZulu-Natal. The response to the housing problems in Phoenix by the Province was inadequate. There was clear evidence of questionable practices as early as 2009 and yet by 2014 there seemed to be no solution to the problems, which were escalating.

Ravi Pillay, the KwaZulu-Natal MEC for Human Settlements, called for residents to report any incidents of corruption regarding the Woodglaze Trading complexes in Phoenix. Pillay said that he was dealing with one allegation of a person who had paid beyond what was

required to obtain the house (Sanpath, 2013). Pillay said he wants to stamp out corruption in low cost housing across the Province and bring the culprits to book (Sanpath, 2013). Pillay did intervene and temporarily stopped the eviction of residents from some of the homes (Sanpath, 2013).

Pillay argued that it was a good concept to provide housing using council land and private funds. He conceded that there had been some mistakes, in not enforcing appropriate checks and balances which had led to allegations of corruption (Sanpath, 2013). Pillay did not reveal any further details but did say that the KwaZulu-Natal Human Settlements Department was consulting and engaging with the various stakeholders on an intervention plan that could lead to a permanent solution (Sanpath, 2013). Woodglaze Trading responded by saying if any foul acts were exposed they would take immediate action to rectify the situation and sort the problem out (Sanpath, 2013).

On the 8th of April 2013 a statement was released by the KwaZulu-Natal Human Settlements Department. It endorsed First Metro as the potential new owner of the project. This, because First Metro was an accredited housing institute. Furthermore the MEC called on residents to keep on paying their monthly rents. The document lastly commented that it would set up a task team to investigate the matter. This intervention according to the document came after potential constitutional violations (Department of Human Settlements, 2013). However, what must be noted is evictions continued into 2014 after the intervention.

The housing project in Phoenix was initiated by the eThekweni Municipality. According to the PRA submitted in court documents, Cogi Pather the Head of eThekweni Housing Unit failed to take proper steps to prevent the contraventions by Woodglaze Trading (Court documents, 2013). They argued that there was little meaningful consultation between the residents, the developer and the various government bodies. This led to the breach of trust amongst the residents, the developer and the Municipality. The PRA accused the City of prioritizing the financial interests of the developer at the expense of the people (Court documents, 2013). They further argued that there were no appropriate measures and safeguards to ensure the residents obtained the houses and to prevent evictions. No conditions were placed in the sale to ensure residents obtain homes (Court documents, 2013). It was noted in the case study that numerous residents who were the intended targets ended up being evicted. While in instances the Municipality did try resolve conflicts they ultimately failed to protect the very people the project was supposed to benefit.

SLMAN added ‘(the) Municipality appear to have allowed a developer free reign to conduct developments in a cavalier and non-compliant manner’ (SLMAN, 2012, 30). SLMAN further went on to say that, ‘they have exhibited a lack of ownership in this process which in turn has allowed the developer more latitude than normal’ (SLMAN, 2012, 30).

According to the PRA in terms of Section 2 of the Rental Housing Act 50 of 1999, the government has an obligation to improve the conditions in the rental housing market (Court documents, 2013). However, the tenancy agreements with Woodglaze Trading essentially opposed ownership and did not result in an improvement (Court documents, 2013). In many respects it worsened their situation. Residents were trapped in a never ending cycle of debt, experienced various forms of poor workmanship and some were subjected to evictions (Court documents, 2013). The Municipality according to the PRA failed in terms of Section 2 of the Housing Act 107 of 1997 which states priority housing needs must be given to the poor with meaningful consultation with communities (Court documents, 2013).

The ultimate responsibility for all housing projects in South Africa falls on the National Human Settlement Department. The first major response by the Department came after the mall being constructed by one of Jay Singh’s linked companies collapsed in Tongaat (Barbeau, 2013). The Minister of Human Settlements, Connie September, wanted answers from the KwaZulu-Natal Human Settlements Department and the eThekweni Municipality regarding reports of shoddy work by Jay Singh’s companies (Barbeau, 2013). She also wanted the role of the NHBRC to be examined and to find out how poor workmanship was allowed. According to Minister September, contractors found guilty of shoddy workmanship should be blacklisted to prevent them from further doing business with any government department (Barbeau, 2013).

4.3.10 Attachment of complexes by the AFU

The first meaningful government involvement and intervention came from the National Treasury when it instructed the AFU to attach four properties consisting of 1244 units built by Woodglaze Trading in Phoenix and R101 million in cash (Thathiah, 2014). This came after an investigation indicated Woodglaze Trading had irregularly received state funding, and furthermore had fraudulently transferred properties to First Metro. The four properties attached include Foresthaven, Rydavale, Stanmore and Eastbury (Rondanger, 2014).

In April 2014 the AFU through a court order attached R400 million in assets linked to Jay Singh (Thathiah, 2014). This was after a forensic investigation uncovered major irregularities in the Phoenix housing project. The complexes were placed under curatorship, while R101 million which had been transferred to First Metro was frozen. Knorx Molelle the head of the KwaZulu-Natal branch of the AFU said money and units transferred from Woodglaze Trading to First Metro were derived from unlawful activities and were thus the proceeds of theft and fraud. At the center of the investigation was the government housing agency SHRA, which had paid R236 million in a housing grant to Woodglaze Trading/Moko (Thathiah, 2014). Moko was a Section 21 company formed in 2008 to comply with housing regulations. Jay Singh resigned from the companies a year later, leaving his ex-wife Annamalay in charge (Rondanger, 2014). The R236 million was paid to the companies despite the following:

- The companies not having the correct accreditation needed in order to build social housing projects - Phoenix had not been gazetted as an area for social housing-;
- The majority of the owners of the units earned above the threshold of R7500;
- Not having approved building plans;
- Not having electrical certificates; and
- Not owning the land (Rondanger, 2014)

According to AFU the flats and money were fraudulently transferred to First Metro in an attempt to legitimize the process. First Metro argued they did not sign any transfer documents. They only became aware of the fact that it was the unintended owner of the units after the PRA bought an interdict against them (Rondanger, 2014). Furthermore, in the SLMAN Report it argued that ‘any prospective sale will be illegal at this stage given that land is not owned by Woodglaze Trading and is not theirs to sell in every instance’ (SLMAN, 2012:29).

Singh denied the allegations against him. He responded by arguing that he had the paper work to prove that he had accreditation to build social housing. He did admit that he built the units without the proper building plans, but argued he had the correct permission to do so. He denied not having the correct electrical certificates and that First Metro was not aware of the transfer of funds (Rondanger, 2014). Lastly, Singh argued that residents salaries naturally increase and that people change jobs and this was the reason why there were residents earning above the R7500 threshold in the complexes (Rondanger, 2014).

The evidence for possible corruption and fraud emerged after an internal systems auditor at the Treasury came across the matter after investigating the SHRA for another matter in the Eastern Cape (Thathiah, 2014). In the Phoenix case, SHRA had transferred the funds without informing the Department of Human Settlements, and this suggests that government agencies were complicit in the intricate web associated with companies linked to Jay Singh and members of his family. In order to regulate the project the SHRA approached First Metro in November 2012 to buy the complexes (Thathiah, 2014). First Metro agreed but wanted a due diligence to be conducted on the state of the Phoenix projects. Before this due diligence was even completed, R101 764 000 million was transferred into its account. This according to First Metro was done without its knowledge (Rondanger, 2014). The due diligence reported indicated irregularities in the project. The AFU thus argued that the transfer of flats by Woodglaze Trading to First Metro and the transfer of R101 million by the SHRA to First Metro were unlawful and undertaken fraudulently. The SHRA commissioned Report thus argued;

“A conclusion can be reached that SHRA paid for 1244 units twice, firstly utilizing the RCG and institutional subsidy of R235 302 072 (to Moko) and secondly R100 764 000 (to First Metro)” (SHRA, 2013:10).

Therefore, ‘duplicate payment was made to Woodglaze Trading and First Metro by SHRA’ (SHRA, 2013:10). Mervin Govender stated that it was a relief that some action was being taken as residents had been highlighting irregularities associated with Woodglaze Trading since 2009 (Rondanger, 2014). However, Mervin’s relief was short lived. Firstly, residents claimed that Woodglaze Trading circumvented the court order a day after it was issued. Woodglaze Trading was reportedly issuing rental statements to residents and set up an alternate banking account whereby residents were instructed to pay monthly rents (Erasmus, 2014b). Media reports indicate that Woodglaze Trading was receiving R2,5 million a month in rent from the Phoenix complexes (Erasmus, 2014b). The curator Berrange Incorporated as well as the NPA received numerous complaints from residents over the confusion about where to pay their rent. However, the curator was in charge of the properties (Erasmus, 2014b).

On May 2014 acting Judge Peter Olsen returned the properties back to Woodglaze Trading. The Judge commented that the land had been purchased by Woodglaze Trading from the eThekweni Municipality (Naidoo, 2014). The papers filed by the state were incoherent, with the prosecutor acknowledging that the papers were ‘thin’ (Naidoo, 2014). The Judge

however, stressed that his findings was for whether or not the preservation order should be extended. He could not rule on the administrative irregularities and on whether fraud, corruption or any other unlawful conduct in the course of the transactions occurred as this was not before him (Naidoo, 2014).

4.3.11 Jay Singh's record after Phoenix complexes were built

On the 19th November 2013 a mall that was being built by one Jay Singh's linked companies, Rectangular Properties, collapsed in Tongaat killing two workers. Fifty workers were feared trapped under rubble and 26 people were taken to hospital with considerable traumatic injuries. The incident occurred at about 4pm after a concrete slab and scaffolding collapsed on an area the size of a football field. The mall collapse would become a national news story and the spot light would be firmly on Jay Singh. The poor workmanship could no longer be covered up and the event would impact on the Phoenix case study as people began to question more seriously the link between Jay Singh and eThekweni Municipality.

Days after the collapse, it emerged eThekweni Municipality had taken steps to halt the construction of the mall (*The Citizen*, 2013). However, the developers continued to build in contravention of court orders. The Municipality had sent a building inspector twice to summon the owners of the building to cease all construction work on the mall (*The Citizen*, 2013). On 31st July 2013 the Municipality filed an urgent court application to halt any future building. Prior to the collapse, the Municipality had already started a process of obtaining contempt of court warrant (*The Citizen*, 2013). The mall was being built without approved building plans or an EIA. However, questions were still raised as to why the Municipality did not take more decisive action when the developer was clearly contravening the court order (Barbeau, 2013).

Soon after it emerged that eThekweni Municipality had tried to halt construction, concerns were raised as to how Jay Singh was continuing to do business with the city, notwithstanding his rather controversial track record. It was alleged in an ENCA (2013) broadcast that Jay Singh had contacts in the council and some had even resigned and were working for his companies. Thus he was able to continually receive contracts totaling over R500 million from the city. The mayor of eThekweni Municipality, James Nxumalo, called for an investigation into Singh and his family and demanded that the companies linked to him be blacklisted.

Bhekani Ngcobo of the National Union of Mineworkers called for the immediate arrest of the company management and argued construction workers believed that there was collaboration between inspectors and employers to hide accidents. After the collapse, the Department of Labour had taken over the scene to conduct an investigation (*Business Day*, 2013).

This was not the first mall in which Singh was involved. In 2009 Jay Singh was taken to court by the eThekweni Municipality with regards to the Starwood Mall in Phoenix (Savides, 2009). The Municipality alleged the mall was a fire hazard and that there had been a serious deviation from the original building plans that had been approved by the Municipality. It was reported that Jay Singh was the owner of the property, while his son Jagadasen was responsible for operations (Savides, 2009).

A three-person Commission was established to investigate the Tongaat mall collapse. The Commission was chaired by the Department of Labour's Occupational Health and Safety manager, Phumudzo Maphaha and commenced with its work in February 2014 (Nair, 2104). The commission is a Section 32 hearing, which investigates negligence by a developer that results in the injury or death of workers. The hearing proceed like a court case with the presiding officer asking questions. Furthermore, the parties are allowed to have legal representation and can cross examine witnesses. The Commission has a mandate to gather evidence, compile a report of the findings and recommendations (Mdletshe, 2014). The report will be presented to National Public Prosecutions for consideration and information can be presented at a criminal trial (Mdletshe, 2014).

Workers, engineers, the developer, sub-contractors and the Municipality testified before the Commission since it commenced in February 2014 (Mdletshe, 2014). During the course of the Commission's hearings numerous irregularities and flouting of safety regulations emerged:

- I. One of the first testimonies came from building foreman Ronnie Pillay, who testified that Singh told him to carry on with the construction even after the Municipality had won a court order to halt building (Nair, 2104).
- II. The safety consultant for Gralio, Ismaiel Van Zyl, testified before the Commission that on the day of the accident a folder disappeared from his office. It emerged later on that a supervisor had taken the folder (Mdletshe, 2014).
- III. A structural engineer hired by Singh to investigate the collapse, Rob Young, indicated that the design of the mall was materially flawed (Erasmus, 2014a).

Commissioner Maphaha accused Gralio Precast legal team of conducting unauthorized tests as well as destroying evidence, after the results of 13 concrete samples had not been tested in the presence of a commissioner (Erasmus, 2014a). Concrete was destroyed to rubble after subcontractors, employed by Gralio after the collapse, were clearing the site (Erasmus, 2014a).

- IV. Andre Ballack an engineer and Ian Topping an eThekweni Municipality engineer were next to testify. Ballack tested 36 samples. This was of 1 beam and 6 columns. Two columns did not meet the minimum strength. Topping had undertaken tests prior to mall collapse. Of the 64 samples only 14 met the 30 megapascals requirement. Some concrete was as low as 9 mpa. According to Maphaha this was a catastrophe and meant collapse. The concrete was a third of what it should be.
- V. Roderick Raw of Contest who tested the samples before the collapse was questioned as to why the alarm was not raised when samples tested as low as 9 mpa. Raw's response was that he assumed action would take place. He further said that he thinks there is no problem with the cement. The problem was that there was either too little cement or too much water used. This could result in the substantial differences in the strength of the concrete. All concrete must be 30mpa after 28 days.
- VI. Lungiswa Cemane a law enforcement officer at eThekweni Municipality was also called to testify. She visited the site on the 8th of May 2013. She had instructed the foreman that the construction was illegal. A contravention notice was issued with the instruction to the builder to stop building (SAPA, 2014b). Fines were issued for not having approved building plans. The next day she went back to the site and construction was continuing. She issued Rajan Haripersad a further fine of R2500. However, the construction continued and Cemane referred the matter to the Municipality's legal department (SAPA, 2014b).
- VII. Mr Young further testified that two columns, col 319 and col 243 had severe design deficiencies (SAPA, 2014c).
- VIII. Ravi Jagadasen, owner of Gralio indicated that he was surprised that the collapse occurred as he had instructed the workers to halt construction (SAPA, 2014c). Jagadasen was unable to answer several questions. He said he was not involved in

the day to day running of the construction. He indicated that his father - Jay Singh - made all the decisions (SAPA, 2014c).

In another issue, Woodglaze Trading was fined R1,4 million by the NHBRC for failing to enroll 96 houses in Newlands (Teke, 2014). Woodglaze Trading was fined R15 000 for each house not enrolled. Prior to the issuing of the fine, the NHBRC obtained a court interdict to prevent Woodglaze Trading from continuing construction without following the correct compliance procedures (Teke, 2014). The NHBRC approached the Durban High Court because Woodglaze Trading ignored a notice of non-compliance and it continued with construction (Teke, 2014). According to the Housing Consumer Protection Measures Act all new homes are required to be enrolled with the NHBRC prior to construction to ensure minimum standards are met (Teke, 2014). The NHBRC furthermore attempted to get Woodglaze Trading deregistered which would prevent it from obtaining contracts in the future (Teke, 2014). The NHBRC argued that the failure to enroll the homes was deliberate and this could be due to the quality of work not being up to standard (Teke, 2014). The NHBRC was investigating problems emerging from various building projects associated with Jay Singh's companies and associated family members. An independent third party voted against the deregistering of Woodglaze Trading (Teke, 2014).

4.3.12 Conclusion

This part of the chapter explored the various themes with regards to the Phoenix case study, and included previous deals with the city and corruption, tender irregularities and BEE fronting, contested land claims, poor workmanship, community struggles, ownership versus rental status, the controversial role of security guards, government response, the collapsed mall and subsequent events. The analysis revealed that numerous irregularities and fraudulent activities. Since the beginning of the Phoenix project questions have been raised about how Jay Singh's companies were constantly awarded contracts even though he was criticized in the Manase Report for corruption and poor workmanship and had been previously convicted of bribery. The low cost complexes had many problems and included poor workmanship across the project, corruption in housing allocations, human rights abuses - including cutting off of essential services and illegal evictions - and lastly, gagging orders against community leaders. The Company furthermore bought some of the land from the eThekweni Municipality at prices below the market value and irregularly received grants from government. Over 63 percent of the occupants earned above R7500 and were not the intended occupants of the low

cost housing. Many refused to pay monthly rent which amounted to more than what it would cost to buy the house because of the poor workmanship. This has resulted in residents being illegally evicted from houses, having items taken from premises, and even being assaulted by security guards. The low cost units that were meant to provide homes for the Phoenix residents and improve their lives had turned into a nightmare.

CHAPTER FIVE

EVAULATION AND CONCLUSION

5.1 Introduction

This chapter focuses on the evaluation and overall conclusion to the study. Corruption is a complex and multifaceted problem which occurs in nearly all countries, rich or poor (Gebeye, 2012). The problem is worsened because corruption breeds corruption (Beyerle, 2014). Corruption is used to protect the narrow interests of a few elite as well as maintain the status quo of a corrupt government. In South Africa corruption is undermining our new democratic institutions and the principles of the anti-apartheid struggle. It is slowly eroding the moral fabric of society and impacting the worst on the most marginalized groups including the poor, women and children (Gebeye, 2012).

This study found corruption was clearly evident in the KwaZulu-Natal Human Settlement Department and the EMM Housing Unit. Corruption occurred in a multitude of different ways and impacted on the government's ability to deliver low cost housing to the poor. There were a number of different actors involved in corruption in low cost housing and included senior managers, low level officials, councillors and private businessmen/women. Similarly, corruption was found in the Phoenix case study and in many instances mirrored provincial patterns. Poor workmanship, the illegal issuing of funding by the SHRA and human rights abuses were the three main themes that emerged in connection with corruption in Phoenix. Overall, the worst impacted area in low cost housing was undoubtedly in procurement processes, with cronyism endemic and poor workmanship the ultimate consequence that could cost near R1 billion to remedy. Lastly, throughout the study it was found that the poor were the most adversely impacted by corruption and felt its consequences the hardest. It was the poor that had to live without adequate housing, which not only provides shelter, but acts as an economic base and creates further employment opportunities. Thus corruption in housing helped to entrench the high poverty levels.

This chapter is broken into three sections. The first section explores the theoretical reflections and how the different theories relate to low cost housing. The next section is the evaluation and sums up the final findings of the study. The third section provides a final conclusion to the study.

5.2 Theoretical reflections

According to Gebeye (2012) corruption is a multifaceted problem with the causes, forms and impacts varying greatly. There is little consensus around many of the aspects about it and thus the task of theorizing becomes an incredibly difficult one, with multitude of different explanations. This is especially the case around housing, where there is no clear theory accounting for corruption.

The dominant western theories on corruption argue that it is a more common occurrence in the developing world (Rubinstein and Maravic, 2010). Weberian approaches view corruption as a symptom of political backwardness and a key feature of primitive societies (Rubinstein and Maravic, 2010). They view that with more western type development, corruption will be eliminated. Two years after apartheid and the South African government's RDP policy was replaced with the neoliberal GEAR strategy (Bond, 2002). GEAR was more western orientated and promoted the injection of the private sector into the housing process. This was seen as the most efficient method to streamline the process and address the critical housing shortages in the country. Instead of making the process more efficient there was a scramble by any means possible for government contracts, and resulted in a narrow elite amassing huge fortunes with dwellings crumbling and the poor being forced to bribe to move up the housing waiting list.

A further theory is the structural functionalist approach which views corruption as not a flaw, but rather argues that it has some role to play in non-western societies (Zwart, 2010). In the case of housing in KwaZulu-Natal this could be to bypass restrictive red tape that might prevent someone from gaining access to low cost housing. The problem with these approaches is that South Africa is a medium income country which has lower levels of corruption than developed states such as Italy, Russia and China. Corruption is often associated with the developing world, but corruption is very much a part of the 'civilised' west as well. In many cases it is western TNC's who support and prop up corrupt leaders and governments.

Furthermore, these two above theories do not adequately explain the endemic forms of corruption in housing in KwaZulu-Natal. The theories fail to take into consideration the historical background of South Africa, which resulted in the underdevelopment of the black population. During apartheid Africans, Indians and Coloureds were forcibly removed, with blacks being confined to homelands with few economic opportunities and poor housing

(Cross, 2006). Post-apartheid and South Africa is battling to address the housing issues inherited.

Some scholars argue that a Marxist analysis needs to be injected into corruption research. Since 1994 South Africa has followed a western model of development. This has filtered into the low cost housing process and there is a 'scramble' by the private sector for contracts. Tenderpreneurs were abundant and exploit the housing crisis for personal gain. Together with certain officials, these individuals were robbing government and society.

However, while Marxist theories can explain some cases of grand corruption, it fails to adequately account for it in totality. It is not just the private sector that is involved in corruption, but also officials and the general population. Corruption is occurring regardless of which political ideology exists.

Other theories focus on the individual and not on political theory. The institutional economic approach views the individual as a rational maximizer, that will likely to take the most profitable course of action (Graaf et al, 2010). Due to the crisis in housing, this opens up opportunities for corruption. The poor were desperate for a house and thus corrupt officials can fully exploit this. This can also explain why many officials selfishly abuse the housing subsidy programme. On the other hand criminology approaches focus on the psychological nature of the individual (Graaf et al, 2010). The violence of South African society engenders a criminal society, whereby corruption is not seen as a wrong. While these theories focus on the individual, they fail to take into consideration factors that lead to corruption like the legacy of apartheid and the present economic situation.

While there is a multitude of different theories discussing corruption at great length, it is becoming increasingly clear corruption ultimately impacts on the poor and most marginalised groups in society (Pearson, 2001). It threatens the very human rights culture that exists in the country, and in this study it is the right to housing. Thus a shift to a human rights approach to corruption was relevant. This was especially so in South Africa whereby corruption was aggravating the housing crisis as well as deepening the inequalities in the system (Pearson, 2001).

According to Pearson (2001) corruption was a major human rights issue that impacts on the poorest of the poor. This was no different in the Province of KwaZulu-Natal. It was the poor who require housing the most and thus corruption robbed them of a right enshrined in South

Africa's constitution. Corruption was one of the main reasons behind the one billion rand in poor workmanship, the delayed projects, the major dysfunctions with the waiting list system and so forth. It was thus corruption which was one of the main contributing factors to the housing crisis. According to Pearson (2001) there thus must be a paradigm shift from viewing corruption as an economic misappropriation of wealth towards it as a major human rights issue. This was especially relevant in low cost housing in KwaZulu-Natal. This shift in paradigm can bring renewed focus to fighting corruption and stimulate a greater response. It will also most importantly identify corruption as a human right's violation and an activity that was anti-poor.

Unfortunately, it was not government currently that takes the lead in the fight against corruption, but the poor. The poor were left with the consequences of corrupt acts and were often left powerless in the face of rich tenderpreneurs. It was through protests, marches and court action that the poor were left to challenge the corrupt elite in a country. This was the same in the case study of Phoenix and in the Province of KwaZulu-Natal. In Phoenix even though many of the residents were poor, they were resilient and took on the developer and government. They fought possible corruption and human rights abuses like evictions, assault and having essential services cut off. This fight against corruption was occurring all around the country. It was a fight for dignity, respect and the right to basic human rights enshrined in our constitution. It was a fight for the right to housing and a fair and just distribution system. While the Phoenix residents have not necessarily changed the whole of society, they brought increasing attention to corruption in the Province. Together with the campaigns around South Africa, this was spurring on more interest and action against it. It was clear that corruption was becoming a bigger issue in South Africa.

5.3 Evaluation

It was evident from the study that since 1994 corruption has occurred in the KwaZulu-Natal Human Settlement Department and the EMM Housing Unit. This has contributed to the housing crisis that was presently being experienced. Nationally there was a backlog of 2,1 million houses and it was clear that corruption was one of the biggest obstacles to addressing this challenge (SERI, 2013). While over 3 million houses have been built, poor workmanship has been a common occurrence across multiple projects. While the Province has put in place numerous mitigation strategies, corruption was well entrenched in the KwaZulu-Natal

Human Settlements Department and EMM housing unit and occurs in a myriad of different ways. The next section will sum up the final findings of the study.

5.3.1 Scale of corruption in the Province of KwaZulu-Natal

Corruption was well entrenched and exceptionally high in low cost housing in the KwaZulu-Natal Human Settlements Department and the EMM Housing Unit. There were numerous instances of corruption and it occurred in a multitude of different ways. Bribery, embezzlement, fraud and nepotism, as well as grand and petty corruption were all evident. A high number of officials were implicated and ranged from senior managers and a MEC, right down to local level officials and councillors. Furthermore, it was not just government officials involved in corruption, but also the private sector. What must be further noted was a number of officials in local government were complicit with regards to corruption and allowed it to occur. Therefore numerous reports recommend action be taken against these officials too, who allowed corruption to occur.

The results of this study concur with Ajayl (2012), SERI (2013) and Thwala (2005), who indicated that corruption was entrenched in the low cost housing process in South Africa. Previous research undertaken in the Province of KwaZulu-Natal by Rangata (2008) also indicated high levels of corruption in the low cost housing process. Corruption thus seriously impacted on the delivery of low cost housing to the poor. Shoddy workmanship was a common occurrence and corruption was often the only method to obtain a low cost house.

The different data sources indicated that corruption was well entrenched in the low cost housing process. The SIU (2013) identified 1567 government officials illegally receiving housing grants; the Manase Report (2012) discovered a possible 17 officials selling low cost housing illegally in the eThekweni Municipality; in the Financial Year 2010/2011 the AG discovered R381 million in irregular expenditure in the Provincial Department due to non-compliance with tender procedures; and lastly various media outlets exposed many cases of corrupt misdeeds including that of Shauwn Mpisane and Jay Singh.

Therefore a general conclusion can be that corruption was high in the low cost housing delivery process in KwaZulu-Natal. However, Thwala (2005) and the UNDP (2004) noted that this was a general trend across the world, where corruption was a common occurrence in the delivery of low cost housing, both in the developing and developed world. Transpwerency International (2010) notes it was these key services like health, education,

water and housing that often experience corruption the most, and it was no different in the study. Housing as an essential service was riddled with high levels of corruption, with both the KwaZulu-Natal Human Settlements Department and the EMM Housing Unit battling to combat it.

5.3.2 Types of corruption evident in KwaZulu-Natal

According to Cockcroft (2012) corruption can occur in a vast variety of different ways and this was no different with the KwaZulu-Natal Human Settlement Department and EMM Housing Unit. Similarly Gebeye (2012) argued that corruption generally takes different forms in different countries and no two nations shared the same experience. This section explores, how corruption occurred in low cost housing. Corruption occurred in multiple different ways in the low cost housing process. While procurement and poor workmanship were two main issues, corruption occurred in numerous other ways too. This made the task of tackling corruption even harder.

According to Perry (1997) and Uslaner (2008) corruption can be distinguished as either grand or petty. In the Province of KwaZulu-Natal, both grand and petty corruption occurred. Grand corruption was less common, but there were still major instances of it throughout the province. In the case of the KwaZulu-Natal Human Settlement Department it involved high ranking officials usually in conjunction with the private sector. The most prominent case involved the former MEC Mdu Khosa and a private estate agent who were caught embezzling funds through the inflation of property prices. However, the scam was discovered and Mdu was convicted and sent to jail with an estate agent.

Other cases of grand corruption included tenderpreneurs who made millions on government contracts. In the literature it was identified that a narrow elite were making millions in government contracts and were failing to deliver on targets (CASAC, 2011; Corruption Watch, 2012a and 2014e). Two of these tenderpreneurs occurred in the low cost housing process and were dubbed in the media as the tender king and queen of Durban. This was Jay Singh and Shauwn Mpisane. Both amassed fortunes on government contracts and were implicated for failing to deliver in housing projects and poor standards. Even with numerous court cases and a multitude of agencies investigating them, they were not convicted of corruption in the low cost housing process. Mpisane had to appear in three separate court cases in one week on charges of bribery, fraud and tax evasion, respectively. Yet the state had to drop all three cases due to negligence by the investigators in handling the case. According

to Caiden et al (2001) those committing grand corruption were often able to escape prosecution and jail time due to the power and wealth they exude. This was clearly the case in the low cost housing process and questions have to be raised on the links between these tenderpreneurs and government officials.

Spector (2012) argued that in order for corruption to be successfully combated there must be a strong political will, which must start at the head. However, in the case of KwaZulu-Natal, the head of housing was involved in corruption. In the eThekweni Housing Unit, the Manase Report (2012) recommended disciplinary action against numerous senior managers including the head of housing and procurement. Corruption was more about weighing up the expected advantages against the disadvantages (Otusanya, 2011). This was the profits versus the chances of getting caught. When the chances of getting caught decrease and the profits increase, corruption was most certainly likely to increase. Therefore according to Klitgaard (1989) there must be a 'frying of a big fish' and thus more effort into tackling grand corruption in low cost housing. The officials rewarding tenders to those that perform poorly must also be weeded out.

Provincially KwaZulu-Natal was also riddled with high levels of sustained petty corruption. The study found corruption occurs in a multitude of different ways through accessing low cost housing, accessing housing subsidies, passing shoddy workmanship, selling low cost houses and so on (SERI, 2013). It was increasingly becoming clear that corruption was seen as the norm in the housing process and a necessary nuisance in order to gain access to a low cost dwelling. While petty corruption only involves small amounts, it can still have numerous consequences. According to Uslaner (2008) petty corruption was often used to bypass red tape and speed the administrative process up. This was the case with low cost housing in the Province of KwaZulu-Natal whereby money was paid to access dwellings. It was increasingly been seen as the only way to access low cost housing and thus corruption levels were only likely to increase if no action was taken against the perpetrators. Corruption as a tool to access low cost housing must be put to an end and this was only going to occur if government makes the system more fair and efficient as well as speeding up the process of delivery.

A further way to distinguish between the different types of corruption was through Andwig and Fjeldstadt (2000) categorization. They identified five types of corruption including bribery, embezzlement, fraud, extortion and nepotism.

5.3.2.1 Bribery

In the KwaZulu-Natal Human Settlement Department and the EMM Housing Unit, bribery was very common. It occurred in a multitude of ways and was seen as a necessary action to gain access to low cost housing. Officials from the Human Settlements Department, eThekweni Municipality, councillors and local party members were all involved. In most instances the bribe required was money, which ranged from a few hundred Rands to large amounts. The Manase Report (2012) indicated that numerous councillors and other government officials required a bribe in order for the public to gain access to low cost housing. Alcohol was also often used in bribes and often used to supplement cash. A disturbing trend was the fact females were in some instances forced to perform sexual favours to gain access to low cost housing. This in a country with very high woman abuse rates and HIV/AIDS.

Bribery occurred because it was in many instances perceived to be the only method to gain access to a low cost house. According to SERI (2013) there was much frustration with the waiting list system and much confusion around the process. Furthermore, bribery was used by individuals who did not qualify for housing. This resulted in many owning a dwelling for which they did qualify.

Bribery was also suspected to have occurred in the passing of shoddy workmanship. Shoddy workmanship was arguably the biggest consequence of corruption in housing across the Province. This finding was similar to Goebel (2007) who found many low cost housing projects South Africa are being plagued by poor workmanship. The question has to be posed, how can one billion rand worth of shoddy workmanship get approved? There were allegations of bribery of building inspectors in local government and the NHBRC. According to SERI (2013) bribery of inspectors was an increasingly common practice in South Africa to pass shoddy work.

5.3.2.2 Embezzlement

Embezzlement was not too common in the low cost housing delivery process. The most high profile case involved Mdu Khosa. There were other instances of possible embezzlement. There were projects whereby funds went missing and deposited into private bank accounts. Another case involved Thubulisha Homes in Ingwavuma, Northern Zululand. It was tasked to build 3300 homes, yet it only managed to build 140. Investigations revealed that the money

was deposited into personal bank accounts, a good example of embezzlement. The last example where possible embezzlement occurred was in Umtshezi near Estcourt. Money was paid to upgrade an old hostel and yet the funds went missing, with little construction work taking place. Officials were accused of possible embezzlement.

5.3.2.3 Fraud

A common form of corruption committed in low cost housing was fraud. This occurred in a multitude of ways and had a variety of impacts. The most common way identified in the study was housing subsidy fraud. Corruption Watch (2013c) also found this to be a common form of fraud in the low cost housing sector in South Africa which resulted in government losing millions. This involved the illegal and corrupt receiving of government funds for housing subsidies. Fraud occurred through the use of fake identity documents and incorrect information being submitted to the Department by corrupt officials. The use of fictitious information to gain an undue advantage was one of the most common forms of fraud internationally (Otusanga, 2011). Housing subsidy fraud resulted in one of the biggest and longest investigations into the KwaZulu-Natal Human Settlements Department. Investigations into housing subsidy fraud started in the early 2000s and continued right up to 2013. In total 1567 officials were caught illegally and fraudulently receiving government funds. Due to extensive investigations by the SIU, the AG and the Department of Human Settlements, R14, 7 million was recovered.

A further type of fraud becoming common in government contracts was fronting. While there was only a few cases in the Department, it was a common practice in South Africa. This worked against South Africa's efforts to try rewrite the wrongs of the past, and to redistribute wealth opportunities. One of the cases involved Raj Lakraj who used his domestic worker and her daughter as a front to receive nearly 3000 contracts worth an estimated R87 million from the provincial government.

Another form of fraud committed was by Shauwn Mpisane. This was where fictitious documents were used to obtain a positive building contractor grading. This, according to Corruption Watch (2014g), was a common practice in the construction industry in South Africa. With this positive grading numerous contracts were received. Shawn Mpisane was alleged to have received R140 million in contracts using forged documents. She was charged with 119 counts of fraud, however was acquitted after the state botched the case.

The last type of fraud identified was election fraud, which was very minor. In some cases individuals trying to obtain a house were instructed to vote for a specific party or candidate. However, this occurred on the local scale and seemed to be more rogue officials, than a major campaign undermining South Africa's democratic institutions.

5.3.2.4 Extortion

This was the least common type of corruption identified in the study. No major instances of extortion were identified. The only possible extortion that could have occurred was officials forcing residents to pay bribes.

5.3.2.5 Nepotism

Nepotism was one of the most common ways corruption occurred in procurement process. Tender rules and processes were constantly broken and flouted in favour of family and friends. This ranged from minor contracts to major multi-million Rand ones. This was often the most cited issue in studies regarding corruption in South Africa (CASAC, 2011; Corruption Watch, 2012, 2013 and 2014; Rangata, 2008; SERI, 2013). All these studies found that the procurement process was the most vulnerable sector to corruption. This often led to further corruption and poor workmanship.

One of the biggest tenders awarded in the Province of KwaZulu-Natal was for the Vulindlela housing project in Pietermaritzburg. The VDA was awarded the contract as a Section 21 company whose directors were local community leaders. However, the VDA awarded the entire project to the politically connected Dezzo Projects. A number of individuals working for Dezzo were former politicians. Furthermore, the project was not controlled by the community. The BESG argues VDA was just a ploy to subvert normal tender procedures.

In numerous instances in this study it was identified that officials were doing business with government. This was noted in the AG Reports. This represented a major conflict of interest. In other instances family members and friends were conducting business with government. This meant the individual had an unfair advantage in the procurement process. In 2012/2013 R10 million was considered irregular in the KwaZulu-Natal Human Settlement Department due to non-compliance with tender rules. In 2010/2011 R381 million was considered irregular due to non-compliance with tender rules in the KwaZulu-Natal Human Settlement Department. The consequences of this were drastic over expenditure, excessive construction delays and widespread poor workmanship. When the contract was not offered to the best

company, poor workmanship was undoubtedly going to be a common occurrence. Tender rules were in place to ensure dodgy contractors were weeded out and that conflicts of interest do not occur. However, cronyism was endemic in the low cost housing process, which meant that individuals like Jay Singh and Shauwn Mpisane were awarded contracts even with poor performance and track records. This results in the poor being the ultimate victim. A case in example was of the Burbreeze and Hammond Farm projects.

5.3.3 Corruption in Phoenix

It was evident throughout the study that corruption was a very illusive and difficult subject to research and in many cases identified it was extremely hard to prove especially before a court of law (Vogal, 2012). Even with the vast amount of evidence on Shauwn Mpisane and the three separate court cases for tax evasion, another for fraud and the last for bribery of a witness she was able to escape conviction. This was due to the weak and incompetent state prosecution team, and her political support from the ruling party. A similar pattern was evident in the Phoenix case study. Possible corruption did occur in numerous instances, but as yet nobody has been convicted and the developer was awarded with further contracts.

Firstly, possible corruption occurred in the tender procedures. This in relation to the tender being awarded and with possible BEE fronting. The contract for the Phoenix low cost housing units was alleged to be awarded without proper tender processes and procedures being followed. The land owned by the eThekweni Municipality was apparently not disposed of in a competitive bidding process. Therefore the Phoenix project mirrored many other housing developments in the Province, where proper tender processes were not followed. This, like in many other instances would lead to further problems. Also, Jay Singh should also not been involved in the project due to previous poor performance in the KwaZulu-Natal Province. This included his previous conviction, the failed bus privatisation attempt and being mentioned in the Manase Report for poor performance.

An issue found across the Province of KwaZulu-Natal was that when tender procedures were not followed, this often led to poor workmanship. This was no different in the case study of Phoenix. Poor workmanship was one of the major issues to emerge across the different unit's identified in multiple data sets from the media, residents and investigations by private consultants. This posed a serious safety issue to residents and they were forced to pay for housing units that were in poor condition. Problems noted were cracks in walls and ceilings, damp, mildew, bathroom and kitchen fittings causing water leaks and seepage, faulty doors

and floor tiles that were cracked. External problems included collapsing pillars, unstable foundations, emission of odours and collapsed roads. Residents argued that poor quality materials were used in the construction. The weak plaster was believed to be a danger to residents that could collapse. While Woodglaze Trading did admit there were problems, they argued that workers were rectifying mistakes. However, some residents felt no action had occurred.

There were furthermore numerous safety and building violations. This included non-compliance with electrical, fire and safety regulations. While poor workmanship was not corruption in itself, it was often a consequence of it. Government land and funds were used in the project. Thus the poor delivery of the low cost housing units and the shoddy workmanship was a misuse of government funds. Furthermore, it must be questioned how poor workmanship could be passed. How could the non-compliance with various building regulations occur?

One of the major contentious issues in the project was the tenancy agreements imposed on the occupants of the new low cost housing complexes. These were not economic or feasible, and forced residents into a never ending cycle of debt. The Municipality had targeted the project for those who earn below R7500 a month. This to address the shortages of houses in Phoenix and help individuals and poor families obtain their own dwellings. However, from the onset of the tenancy agreements, residents were subject to monthly payments to the developer. This ended up amounting to more than what it would have cost to buy the unit in the first place. It was the belief of the PRA that the development was purely a profit-making scheme, with the interests of the poor being side-lined.

This resulted in many of the residents falling behind on payment. Due to this, security companies were employed as debt collectors and used heavy handed tactics to recover rental arrears. This included intimidation and alleged assault. Residents had their homes broken into and items taken to recover debts. Furthermore, residents argued that they had their essential services like lights and water cut off. This was illegal in South Africa and a human rights violation. Security was also used to evict residents, with some illegal evictions occurring.

However, one of the most controversial areas in the project was provision of government funding to the developer. When Woodglaze Trading obtained the land to build on by the eThekweni Municipality it received no funds. The company thus sought alternative sources of funding to build the complexes. This funding came from the SHRA who awarded Woodgaze

Trading R236 million. However, in two reports one by a consultancy firm, SLMAN, and the other by a government housing agency, SHRA, major irregularities and possible corruption were identified. The area of concern was the money paid to Woodglaze Trading, although it was not qualified to receive government funding. Phoenix had not being gazetted as a township for social housing, and thus Woodglaze Trading did not have the proper accreditation. The majority of the tenants of the low cost housing earned above the threshold of R7500 and were thus not considered eligible for social housing funding. There were furthermore issues of not having approved building plans and electrical certificates. Lastly, Woodglaze Trading did not allegedly own all the land.

According to the AFU in order to legitimize the process Woodgaze Trading fraudulently transferred the housing units to First Metro. First Metro argued they did not sign any transfer documents and only became aware it was the owner after the PRA bought court action against them.

The AFU attached the assets of Woodglaze Trading. However, in the court case Woodglaze Trading won the complexes back. The judge did stress that a case of corruption was not before him and rather whether to extend the preservation order. The court papers by the state were also considered thin.

5.3.4 Government response

Government response to the Phoenix problems lacked forceful intervention that would protect the occupants of the low cost units. When government did challenge Jay Singh, it resulted in a few improvements.

One of the major challenges of taking action against Jay Singh were the allegations that former councillors were working for him. This would obviously hamper any efforts by the EMM to improve the lives of the residents of the low cost units. The major problems in Phoenix should have resulted in government investigations and interventions to protect the rights of occupants. However, it was left up to the residents of the low cost housing units to take action. It was the residents even with the limited resources who took the matter to court via the PRA.

When government did intervene it was after prolonged media coverage and court battles, highlighting the plight and challenges faced by the residents. The Provincial Department of Human Settlements in KwaZulu-Natal intervened and tried to mediate between the residents

and the developer. They tried to protect the rights of the residents. However, this ultimately failed to stop the evictions and harassment. The National Department intervened only after the Tongaat mall collapse. However, by this time many had been evicted and the majority of residents earned above the R7500 threshold.

Overall the response by government was slow and ineffective. This meant that residents were left on their own to fight for the right to housing. This was similar to corruption in housing in Kenya (UN, 2013). Government failed to protect the poor's rights in the face of public officials who were illegally allocating land meant for housing. Due to this it was left up to the poor to form shelter committees to challenge the government. Through the media they brought attention to the problem and stimulated greater response from government. This mirrors what the Phoenix residents did and which was occurring across South Africa. It was the poor who feel the consequences of corruption the most, and it was the poor that are left to combat it. Corruption was a war against the poor.

5.3.5 Measures and alternatives

South Africa has some of the best and most comprehensive legislation in the combating of corruption (Corruption Watch, 2014g). Furthermore, there was a myriad of agencies that have some role in the combating of corruption. Even with the strong legislation and numerous government agencies to implement it, corruption is still high in South Africa and in the low cost housing process. This section will explore the measures and alternatives to combating corruption.

5.3.5.1 Procurement reform

Procurement was one of the major areas where corruption occurs in South Africa (Rangata, 2008). This has prompted government to put in place strict rules around tender processes to prevent and combat corruption (Corruption Watch, 2014e). This includes strict procedures to follow when awarding tenders, as well as the blacklisting of corrupt individuals and firms to prevent future dealings with government. Furthermore, these strict rules against officials or family of officials doing business with government implemented.

In both the KwaZulu-Natal Human Settlement Department and the EMM Housing Unit, contracts were awarded to family and friends of officials as well as those with political connections. It is clear even with strict tender rules, conflicts of interest still occur. Therefore stricter action and consequences were necessary. A few elite were amassing huge fortunes

due to government contracts and yet they constantly perform poorly. Poor workmanship, poor performance, delays, escalation of costs and corruption occurs, yet the same contractors keep on getting rewarded. There thus must be an end to the rewarding of these tenderpreneurs and contracts must go through proper tender procedures.

Furthermore, Section 36 contracts must be re-examined and what constitutes an emergency clearly defined. This was because Section 36 contracts were used as an easy way to bypass normal tender procedures and support the contractors desired (Rangata, 2008). This even when contractors have bad records. Therefore an emergency was declared and the contract need not go through strict tender processes that ensures no corruption occurs or any foul act was committed. The use of Section 36 contracts was common in the eThekweni Municipality.

There must also be a cooling off period for government officials who engage in the awarding of tenders (Corruption Watch, 2014f). This as government officials were awarded lucrative contracts after awarding contracts to a private company. It was alleged that councillors were on Jay Singh's pay list and some even quit and ended up working for his companies. This could be a reason why his companies kept on obtaining contracts. This cooling off period will prevent government officials from being awarded positions in private companies and will safeguard government information (Corruption Watch, 2014f).

The last area of concern regarding procurement reform was blacklisting. Individuals that were convicted of corruption were merely appointing family members and friends, in charge of companies (Corruption Watch, 2014d). This was the case with Phoenix as Jay Singh's wife and son were directors of the various companies. However, on the ground it was argued that he was running the day to day operations. This was a loophole in the system that contractors were taking full advantage of, and this must be re-examined.

5.3.5.2 Poor workmanship costs

The problem of poor workmanship needs to be addressed urgently. Billions were needed to rectify shoddy work across South Africa and it was one of the biggest consequences of corruption (SERI, 2013). Improved inspection and monitoring measures must be implemented to ensure shoddy work does not get passed. Corrupt inspectors that pass shoddy work for a bribe must be weeded out. Furthermore, even though contractors by law were required to pay the costs to the state for poor workmanship, this does not always occur. All costs from shoddy workmanship must be recovered from the negligent developer. This must

be viewed as a priority to ensure budgets were used to build new houses and not repair shoddy work. Furthermore, this will act as an incentive not to use shoddy materials and construction methods.

5.3.5.3 Allocation of housing

A further major area where corruption occurred in the low cost housing process was through the allocation process. There has been an increasing decentralization of allocation powers to the local level where councillors and private developers were playing a greater role in the decision making process. Instead of solving the problem of corruption, it has localized it. Corruption seeks out the powerful and the individuals who make the most important decisions in a society (Caiden et al, 2001). Therefore the officials that decide who gets a house and who does not in a country with a critical shortage of low cost dwellings, was likely to yield power that many would want to influence. This was intensified due to many individuals waiting years on housing waiting lists. There was much confusion in this process and thus there must be better communication between the government and applicants. Tighter measures and controls must be implemented in the allocation process to ensure corruption does not occur. This part of the low cost housing process must be targeted and a thorough review on who can and who cannot be involved in the allocation process must be decided. Furthermore, a more open and transparent system must be implemented in allocating processes with more oversight from the Provincial Department of Human Settlements.

5.3.5.4 Stricter action against the corrupt in low cost housing

Those that were involved in corruption or maladministration in the low cost housing process must be dealt with and strict action taken against them. This to send a strong message that corruption will not be tolerated in any form, by any person in the low cost housing process. Furthermore, all money must be recovered for any corrupt act or poor workmanship. Action must also be taken against officials who allow misdeeds to occur and who reward dodgy contractors. In the Manase Report senior officials in the EMM Housing Unit were identified for the serious lack of oversight of municipal housing projects, which led to irregularities such as poor workmanship, delays and a major escalation in costs due to negligence. This lack of oversight leads to corruption and a loss in public funds. Therefore action must be taken and tighter controls over funds implemented.

5.3.5.5 Informed citizen involvement

One of the problems noted was citizens were often misinformed or there was a lack of information that led to confusion. More effort must be made to not only make the housing allocation process more transparent, but also greater communication must occur to ensure an informed citizenry.

Civil society organizations and NGOs must work together to ensure a sustained fight against corruption. This to ensure a concerted effort was made to combat it. Help and advice must be given to citizens taking on the corrupt. Often citizens and individuals were left powerless in the face of corruption and do not know how to combat corruption. At times the odds may seem dire as in the case with the PRA. However, if no action was taken, the corrupt were likely to continue with their misdeeds. As in the Phoenix case study, the most important individuals fighting corruption were the residents and thus more help must be provided to them.

5.4 Conclusion

Corruption was a cancer that can take many different forms and have a vast variety of consequences (Cockcroft, 2012). Once it takes hold of a society it was difficult to eliminate. However, one must note corruption was not just a developing world problem, but a curse that impacts on all nations, rich or poor (Vogal, 2012). In South Africa it threatens to derail all progress and achievements made since 1994 because of the greed of a selfish few. Corruption impacts the worst on key service areas like housing, the focus of this study (TI, 2010).

Corruption was clearly evident in the low cost housing process and occurred in a multitude of different ways. The aim of this study was to investigate corruption in low cost housing. Results showed that corruption levels were high in the Province of KwaZulu-Natal. Therefore from the study it was clear that corruption has contributed to the present housing crisis, with the ultimate victims being the poorest of the poor. The root cause of the problem can be traced back to apartheid where land reforms and oppressive laws robbed the majority of any dignity and forced Africans to live in overcrowded homelands (SERI, 2013). The apartheid government was not able to meet demands and the amount needing housing grew substantially.

Post-apartheid and the government had a chance to address the crippling housing shortages experienced across the country (SERI, 2013). However, corruption has been the major

obstacle to meeting the needs of the poor. While combating corruption will not solve the housing crisis completely, many lives will be improved. It was robbing many South Africans of a second chance that was granted post-apartheid. The worst impacted area identified in the study was in procurement processes with bribery and cronyism common. Contracts were awarded to friends and families, with some officials obtaining contracts themselves. Within the Phoenix case study questions have to raised how contractors' previous poor performance and corruption can be rewarded with further government contracts. Both Shauwn Mpisane and Jay Singh contain poor performance records and in both cases possible corruption. Furthermore, the eThekweni Municipality has to revisit Section 36 contracts, which were used to bypass normal tender procedures. This resulted in poor performance and dodgy contractors been awarded with lucrative tenders

However, procurement was not the only area where corruption was occurring. The study found accessing low cost housing was another major area of concern. Bribery and fraud were almost the norm in the process, with authorities battling to control it. What was compounding the problem was rogue officials, including councillors, who demand bribes in order to grant houses or to move an individual up a housing waiting list. Individuals were furthermore selling or renting low cost housing. In the case of Phoenix while the occupants were meant to earn less the R7500 a month, 63 percent earned more than that. Lastly, there was major fraud in the housing subsidy programme, whereby officials were obtaining housing subsidies through providing fictitious information. This amounts to theft of state funds that were meant to help the poor obtain a house.

The major consequence of corruption has been poor workmanship. While there were many estimates, one billion might be needed to repair shoddy workmanship across the KwaZulu-Natal Province. Thus while there were many housing projects in progress and many houses have been built, this achievement was being dampened by corruption and poor workmanship. Bribery was furthermore used to pass shoddy workmanship and thus more corruption was used to hide the consequences of it.

A common theme that emerged throughout the study was that corruption was not just an economic curse, but a major humans rights' violation. Ultimately it was the poor without housing and were thus the victims of corruption. Phoenix residents had water and lights cut off, as well as being evicted from housing, some even illegal. Therefore in order to remedy the triple challenges of poverty, unemployment and inequality there needs to be a sustained

fight against the scourge of corruption. This was because corruption was not only a major obstacle to housing, but also to the provision of other essential services like health care, education, water, electricity, policing and access to natural resource rights. While it was not the root cause of poverty, it was most certainly one of the factors contributing to sustaining the high poverty levels in the country. All efforts must be directed at combating corruption in South Africa as public patience was running out. Action needs to take place before it was too late and there was an Arab Spring in South Africa.

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