





THE MOGALAKWENA LOCAL MUNICIPALITY IN SOUTH AFRICA

An institutional case study
conducted by the Public Affairs
Research Institute (PARI)

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ACRONYMS & ABBREVIATIONS

ANC	African National Congress
ANCYL	African National Congress Youth League
APC	African People's Convention
AO	Accounting Officer
Azapo	Azanian People's Organisation
CoGHSTA	Department of Cooperative Governance, Human Settlements and Traditional Affairs (provincial)
CoGTA	Department of Cooperative Governance and Traditional Affairs (national)
COSATU	Congress of South African Trade Unions
CFO	Chief Financial Officer
COO	Chief Operations Officer
COPE	Congress of the People
CSS	Corporate Support Services
DA	Democratic Alliance
DH	Divisional Head
DPLG	Department of Provincial and Local Government
EFF	Economic Freedom Fighters
Exco	Executive Committee (municipal)
HR	Human Resources
IDP	Integrated Development Plan
IT	Information Technology
MEC	Member of the Executive Committee
MIG	Municipal Infrastructure Grant
MM	Municipal Manager
MRA	Mogalakwena Residents' Association
NEC	National Executive Committee
NDC	National Disciplinary Committee

NUMSA	National Union of Metalworkers of South Africa
OHS	Occupational Health and Safety
PAC	Pan Africanist Congress
PDC	Provincial Disciplinary Committee
PEC	Provincial Executive Committee
REC	Regional Executive Committee
SALGA	South African Local Government Association
SCM	Supply Chain Management
SDBIP	Service Delivery and Budget Implementation Plan
TLC	Transitional Local Council
VF+	Vryheids Front Plus

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EXECUTIVE SUMMARY

This report focuses on the internal institutional dynamics of the troubled Mogalakwena Local Municipality, located in the Waterberg District of Limpopo Province. It considers how the Zuma administration has been narrated within scholarly debates, and seeks to complicate conceptualisations of the South African state and its institutions. The report traces in detail how local party-state conflicts are embedded in broader contests within the African National Congress (ANC), and how the resultant factionalism can produce rupture and collapse in the municipal council and administration. It presents substantive evidence from interviews and archival records – including council minutes and agendas, forensic reports, disciplinary hearings, court case records, and correspondence from various levels of government and party – to argue that the municipality has become a site of ‘perpetual instability’ for which there are no obvious remedies.

Part 1 of the report engages with academic scholarship and seeks to extend the concept of ‘fragile stability’ proffered by Beall, Gelb and Hassim in 2005. The term ‘perpetual instability’ is introduced to describe the condition of Mogalakwena Local Municipality, one in which recurrent factionalism in the province, region and local ANC has permeated the administrative fabric of the local municipality with corrosive consequences, at one point culminating in a complete shut-down of the municipality and a halt in service delivery. These dramatic events show that the municipality is not an insular entity, but is inextricably tied to broader political developments.

Part 2 focuses on how sustained political battles have produced a contested party-state interface in which ordinary officials are faced with often contradictory and complex demands. Through interviews, the report provides a glimpse into the difficult political terrain that officials have been forced to navigate on a daily basis. Moreover, it shows how many basic processes of the municipality have been disrupted and ruptured by deepening factionalism. It shows how municipal resources have been diverted away from the key mandate of service delivery towards increasing ‘lawfare’ and securitisation, coinciding with increasing violence both inside and outside the municipal precinct.



INTRODUCTION



BACKGROUND



Figure 1: Municipalities of the Waterberg District

The Mogalakwena Local Municipality is situated in the Waterberg district of Limpopo, one of five districts of the province. The district comprises the following other local municipalities: Lephalale, Modimolle, Thabazimbi, Bela-Bela and Mookgophong.

Mogalakwena Municipality encompasses the largest population in the district (298 433), containing the town of Mokopane (formerly Potgietersrus) as well as approximately 189 villages. The municipality was formed in 2000 through a process of amalgamation of the town of Potgietersrus with the neighbouring villages, which had formerly been part of the Lebowakgomo Bantustan. The former Mayor of Mogalakwena municipality from 2001-2011, describes this process:

In 2000 when new municipalities came in, I was amongst those who were appointed by

the President, you remember at that time Thabo Mbeki appointed 35 Mayors for strategic towns and Potgietersrus was one of those strategic towns and they appointed me to come and lead this institution...

There were areas where Boers aimed to form their Boeremag state and Potgietersrus was one of those... because they wanted to form a volkstad. Then when I came on board we integrated Potgietersrus and Bakenberg TLC [Transitional Local Council] which consisted of Kgosi Langa's village at Mapela and another Kgosi Langa's village at Bakenberg. There were many villages ...there were 189 villages in all.

Then there was Koelersrand Rebone [which] consisted of Kgosi Phuti Matlala's village, Kgosi Tau ya Tswala. Kgosi Ledwaba at Nkidikitlana, Kgosi Lekalakala and Kgosi Lebelo and part of Bakenberg, your Dipere

villages, Vienna as well as Chere. All of them formed Koelersrand rebone. My task then was to integrate all of them into one municipality... [We] opted to use former TLC offices at Potgietersrus [as the central municipality] because of its infrastructure.

The former mayor also explained where the name of the municipality comes from:

Now came this debate about what name are we going to give this animal now, then came up the history of Mokerong, the history of Mokopane...but we found out that we had nine traditional leaders and everyone is going to want us to name it after him. So we proposed this popular name, Mogalakwena. Hence we called it Mogalakwena which became a unifying name because this river passes through all these traditional leaders. That is why today we have this animal known as Mogalakwena.

As the former mayor indicates, the municipal building is situated in Mokopane, a town which bears the visible markers of a steadily accelerating mining boom. A steady stream of trucks passes through the town's main road. It boasts a growing guest-house economy, and a new golf course owned by Anglo American, who have operated a platinum mine in the area for several decades. Anglo American will soon be joined in Mogalakwena by new mining ventures, most notably, the Ivanhoe Platinum Mines, whose Platreef subsidiary is set to establish the biggest platinum mine in the country. Platreef has just begun work on the sinking of two shafts, which are due to be completed in 2017. The town is thus on the verge of significant expansion. Yet it is also the sight of growing political turmoil.

Our ongoing research looks at how local municipalities in emerging mineral extraction towns, such as Mogalakwena Municipality are governed. We seek to answer:

Who governs in these municipalities?
Who has power in these institutions and how do they reproduce their authority?

Our research focuses on internal institutional dynamics, rather than explicitly interrogating the role of the mines

in the community. This was especially pressing given the extent of political upheaval we encountered in the field. Our data is drawn from fieldwork conducted in the immediate aftermath a prolonged shut down in the municipality. The municipality made news headlines when an ousted mayor forcibly reimposed himself in 2014 with the assistance of armed police and a contingent of bodyguards, grinding basic operations in the municipality to a halt. The event signalled the culmination of prolonged disputes that had divided both councillors and officials in the administration along factional lines that extended through the region and province, which grew in intensity and violence. The mayor's return heralded a prolonged shut down in both administrative and political wings of the municipality – events from which it struggled to emerge.

The report presents substantive evidence from archival records, including council minutes and agendas, forensic reports, disciplinary hearings, court case records, and correspondence from various levels of government and party. From 2015 to 2017, we conducted extensive interviews with actors, including former mayors, senior managers, division heads and various other officials. Additional follow-up interviews were conducted with social movement activists and over the years we have continued to track ongoing events and undertaken several site-visits. In the interests of anonymity, not all respondents have been identified, although their responses have informed our findings. Those who are named are those identified in the public domain – newspaper headlines and court case documents.

We contend that Mogalakwena Municipality has for many years remained in the grip of 'perpetual instability', with routine and competing political intrusions into basic administrative processes of the municipality resulting in an entrenched spiral of weakening institutional processes, rising securitisation, protests and violence – each of which has reinforced the other. This situation is 'perpetual' due to recurrent factionalism underpinned by weakening control of central political structures of the ANC, and causes 'instability' due to the ineffectiveness of administrative protections to buffer the damage caused by these deepening cyclical contests. By the ANC's own admission, 'the political life of the organisation revolves around insidious internal strife and factional battles for power' representing 'a silent retreat from the mass line to palace politics of factionalism and

perpetual in-fighting' fuelled by 'contestation for power and state resources'.¹

The ruling party has struggled to gain control over the battles which have taken place between competing networks of the ANC, predominantly over state institutions, with contestations emerging over how to configure the distribution of economic wealth.

To adjudicate over the ambiguity between party commands and legislative prescriptions, the judiciary has frequently been called upon, not simply to ascertain compliance with legislation, but also to determine whether certain courses of action constitute undue intrusion by political factions into administrative processes – and, increasingly, to adjudicate between disputes of factions of the ANC. Yet judicial processes cannot address the root causes – indeed, they often only exacerbate them, even if indirectly. In the highly factionalised environment of Mogalakwena, lawyers and forensic investigators become indispensable in justifying certain politically expedient strategies in the language of the law. The often interminable nature of the court processes moreover delays resolution of issues, especially since many key issues cannot be formally discussed until the judicial process comes to an end – a process which actors frequently exhaust to the greatest degree given that they are often largely sustained by state funds. Purely legal adjudication is unable to provide sustainable solutions to intractable patterns of splintering which have become deeply rooted in the ruling party. As court processes drag on without resolution, Mogalakwena has also witnessed intensifying securitisation and violence within the municipal precinct. The internal conflicts of the municipality have, moreover, become intertwined with the community at large, with protests and violence having deepened to a point where the town is 'shut down' on occasions. 'Perpetual instability' emerges when all of these factors meet and reinforced each other.

Part 1 locates the events which occurred at Mogalakwena within wider scholarship on the South African state. We extend the concept of 'fragile stability' proffered by Beall, Gelb and Hassim. We argue that local government reflects and is embedded in broader conflicts which have permeated state institutions. In Mogalakwena, this has produced 'perpetual instability' in the municipality.

Part 2 focuses on how prolonged political battles have resulted in a sharply contested party-state interface in which ordinary officials are faced with often contradictory and complex demands. This provides a glimpse into the difficult political terrain that officials have been forced to navigate on a daily basis. Moreover, it shows how many basic processes of the municipality have been disrupted or ruptured, bringing a halt to service delivery.

¹ African National Congress, 'Organisational Renewal & Organisational Design Document', (March 2017), available at www.anc.org.za/sites/default/files/National%20Policy%20Conference%202017%20Organisational%20Renewal.pdf, retrieved on 25 March 2017



WHAT FUELS PERPETUAL INSTABILITY?



SITUATING MOGALAKWENA IN ACADEMIC DEBATES

The presidency of Jacob Zuma has forced both scholarship and commentators to probe further the nature and the character of the South African state. In their recent editorial introduction to the *Journal of Southern African Studies*² Robinson, Steinberg and Simon revisited a 2005 article by Beall, Gelb and Hassim which applied the conceptual framing of 'fragile stability' to post-apartheid South Africa.³ 'Fragile stability', they had argued, captures the 'contradictory nature' of the South African state. On the one hand, the post-apartheid transition created a 'stable' sovereign state which adheres to the international system and has established institutions governed by the Constitution and legitimate legal frameworks. On the other, the country is faced with high levels of inequality, unemployment and poverty.⁴ The result, in their estimation, was a 'tenuous equilibrium'.⁵ In sum, 'democratic consolidation had not yet been completed' since 'appropriate institutions and processes have not yet been established in state and society to resolve – manage and contain – the potentially destabilising impact of social fractures'.⁶

In revisiting 'fragile stability' in 2016, Robinson, Steinberg and Simon argued that the current 'political order remains standing, but the pressures it faces are significantly more acute'.⁷ Since the African National Congress' (ANC) 2007 Polokwane National Conference, when Mbeki lost the presidency of the ANC to Zuma, later to be recalled as the president of the country too, the splintering within the alliance and the ANC dramatically revealed in Polokwane continued – even within the ranks of those who had supported Zuma's rise to power. Julius Malema, the ANC Youth League (ANCYL) president who had campaigned for Zuma, was expelled after publicly criticising the president's failure to uphold his

promises of radical economic transformation. Malema and his allies then formed the Economic Freedom Fighters (EFF) in 2013, which has leached support from the ANC in successive elections. Chasms within the Tripartite Alliance also grew unbridgeable. The ANC-aligned Congress of South African Trade Unions (COSATU) was severely weakened when the National Union of Metalworkers of South Africa (NUMSA) – the largest affiliate at the time – was expelled from the labour federation. Robinson et al conclude that 'the fragile stability of the 2000s appears to have morphed into a new, heightened period of uncertainty'.⁸

Cooper-Knock points to broad consensus that destabilising 'new contours' are forming on the 'country's political landscape', which can be seen in the extent to which the term 'crisis' has come to predominate recent 'academic and popular discussions of South Africa' – crisis in the ANC, in government, and in society at large.⁹ In her review of recent literature, Drew similarly warns that 'the country's problems are too stark and too potentially destabilising to ignore'.¹⁰ The concept of 'crisis' is often loosely defined, held as self-evident and generalised – yet the elements of this crisis are not considered holistically, showing how they are connected and reinforce each other. Like Robinson et al, we believe that the concept 'fragile stability' offers an entry point in trying to conceptualise the current character of the South African state more broadly.

'Fragile stability' reminds us that the project of consolidating democracy is an ongoing one, incomplete, and still tied to the uneven transition which left unaddressed many of apartheid's legacies.

² J. Robinson, J. Steinberg and D. Simon, 'South Africa in Transition – Introduction', *Journal of Southern African Studies*, 41, 1 (2016), pp.1-3.

³ J. Beall, S. Gelb and S. Hassim, 'Fragile Stability: State and Society in Democratic South Africa', *Journal of Southern African Studies*, 31, 4 (2005), pp.681-700.

⁴ *Ibid.*, p.682.

⁵ *Ibid.*, p.685.

⁶ *Ibid.*

⁷ Robinson et al, 'South Africa in Transition', p.1.

⁸ *Ibid.*, p.3.

⁹ S.J. Cooper-Knock, 'Review Article: Continuity, Change and Crisis: Mapping South Africa's Political Terrain', *Journal of Southern African Studies*, 42, 1 (2016), p.149.

¹⁰ A. Drew, 'Review Article: South Africa between the past and future', *Journal of Southern African Studies*, 41, 4 (2015), p.925.

Secondly, even though institutions were established and overhauled which gave some 'stability' to the South African state, using Beall et al's 'state-in-society framework', we see how state institutions have not been able to mediate profound social issues, sharpening 'fragility'. In this report, we revisit the concept from the vantage point of a troubled local municipality as a way to assess the last ten years under Zuma's presidency. We argue that historical inequalities have come to be further amplified along with acute political contestation within the ruling party. The splintering of the ANC – the extent of which Beall et al did not anticipate in 2005 – has increasingly turned state institutions into battlegrounds of competing factions. Looking from within the local municipality, we argue that this factionalism is profoundly damaging what Beall et al conceived to be the foundation of South Africa's post-apartheid stability: the institutional fabric of the state.

A number of authors have pointed out how state institutions have come to be increasingly infused with party politics under Zuma.

Booyesen has pointed to 'a far-reaching war for institutional control by individuals and groupings within the ANC' since Polokwane, characterised by 'continuous purge attempts' of deployed politicians and officials at all levels of the state.¹¹ A breakdown of internal party democracy and the 'institutionalisation of intra-ANC and – alliance conflicts' has had damaging ramifications for state institutions, triggering 'inaction and paralysis in the public sector'.¹² Patronage lies at the heart of these struggles, she argues, and the party 'sees state institutions as personal, occasionally organisational fiefdoms' and has used state resources to finance factional battles within the ANC.¹³

Beresford points to the deepening of 'gatekeeper politics' in the ANC, which sees members of different factions competing to secure access to positions of public authority – positions which bring with

them 'status, resources and opportunities' that fosters a 'cyclical relationship' in which 'patronage is distributed to regenerate the political power of the gatekeeper' and 'political power (control of the gate) is used to replenish the resources needed to maintain these networks'.¹⁴

Lodge defines these competitions in terms of 'neo-patrimonialism', locating the centre of political conflict over battles for resources.¹⁵

These authors agree that the increasingly blurred distinction between party and state has undermined democratic citizenship, party stability and the basic functioning of organs of government. Yet they do not explore in any great detail how sharpening political factionalism articulates with the administration, nor do they describe with any precision the forms that the resultant damage to basic administrative processes take.

In this report, we employ an in-depth institutional focus to complicate these scholarly contributions, and, more broadly, to reassess the state of South Africa's 'fragile stability'. We look at the events which unfolded at the Mogalakwena Local Municipality to cast some of the predictions made by Beall et al in more pessimistic terms. Beall et al insisted that 'collapse and social disintegration' were 'unlikely', with the building of institutions after the transition.¹⁶ Today, we argue, signs of collapse have in fact started emerging in various parts of the institutional fabric of the state. This case study of Mogalakwena Municipality suggests that South Africa's 'fragile stability' has grown both more fragile and less stable. It is a case which offers warning signs of the future trajectory of the South African state, since, as we show, the municipality is not an insular entity, disconnected from broader political contests at regional, provincial and national level;¹⁷ instead, many of its officials and politicians are key players in multiple arenas of party, and local government remains inextricable from the broader institutional fabric of state.

¹¹ S. Booyesen, *The African National Congress and the Regeneration of Power*, (Johannesburg, Wits University Press, 2011), p.359, p.371; S. Booyesen, *Dominance and Decline: the ANC in the time of Zuma*, (Johannesburg, Wits University Press, 2015), p.95.

¹² Booyesen, *The African National Congress*, p.379 ; Booyesen, *Dominance and Decline*, p.29

¹³ Booyesen, *Dominance and Decline*, p.29; p.33.

¹⁴ A. Beresford, 'Power, Patronage and Gatekeeper Politics in South Africa', 114, 445 (2015), p.226; p.238.

¹⁵ T. Lodge, 'Neo-patrimonial Politics in the ANC', *African Affairs*, 113, 450 (2014), pp.1-23. 2012).

¹⁶ Beall et al. 'Fragile Stability', p.698.

¹⁷ Such an insight may help to advance existing scholarship on local municipalities, which tend to limit their discussion to 'local politics' when they venture into discussions regarding the ambiguity of the political-administrative interface. There is often only cursory interrogation of the broader political scene at play in municipalities. See, for instance: S. Booyesen (ed.), *Local Elections in South Africa: Parties, people, politics*. (Bloemfontein, Sun Press, Bloemfontein.

While battles for resources may influence these unfolding conflicts – especially in the context of emerging mines, which present new opportunities for reconfiguring wealth distribution – our focal point remains on the consequences of political fractures for the administration of the local municipality. While the events that unfolded at Mogalakwena may be extreme, we nonetheless argue that they bring into sharp relief elements of instability which can be witnessed at multiple levels of the ANC and the state to varying degrees. In the example of Mogalakwena we can see the seeds of more generalised instability in the state at large – and a call for sustained support for local municipalities in the future.

CYCLICAL, PROVINCE-WIDE FACTIONALISM

The state is inherently a site of contestation and struggles between various actors seeking different outcomes.¹⁸ Alliances between groups of actors pursuing material and ideological interests are continually remoulded by shifting constellations of power. What we describe as a 'faction' in the ANC does not denote a static, immutable bloc, but rather encapsulates how various alliances work together at particular moments to pursue certain ends using both political and administrative mechanisms.¹⁹ Factional unity is often only temporary, swaying according to who occupies dominant seats of power. As contestations intensify both within and between factions of the ANC, dividing lines constantly fluctuate and cut through the state apparatus, bringing

instability to local municipalities. The deteriorating capacity of political and administrative structures to 'hold the centre' has in turn created an environment of perpetual splintering within the ANC and the state. Events which occurred in Limpopo in the post-Polokwane era illustrate these dynamics of 'perpetual instability' clearly.

Cassel Mathale was elected as the ANC's Limpopo provincial chairperson in 2008, having campaigned for the provincial elective conference on a pro-Zuma ticket, alongside Julius Malema, the then ANC Youth League president.²⁰ He was elected Premier of Limpopo in 2009. What Booyesen noted as a national trend occurred in Limpopo too, however, with internal fractures within the Zuma coalition quickly revealing.²¹ Malema's relationship with Zuma would soon fray, leading to his eventual expulsion as ANCYL president as he increasingly decried Zuma's alleged betrayal of his promises for radical economic transformation. Mathale continued to back Malema, and in the Limpopo structures of the ANC, a provincial coalition grouped around the two men called for Zuma to be replaced as ANC president at the 2012 Mangaung Conference.²² Their 'Forces of Change' campaign failed, however, and the Malema-Mathale coalition found themselves targets of attack, prominently from a number of regional leaders of the ANC who voiced support for Zuma.²³ Several months later, ANC Secretary General Mantashe announced that the National Executive Committee (NEC) was dissolving the Limpopo Provincial Executive Committee (PEC) for 'institutionalized factionalism'.²⁴ By this point, the provincial government had also been put under partial administration by the National Treasury, who cited growing financial collapse.²⁵

¹⁸ In this regard, our understanding of the state draws on the conception of Poulantzas who regards the state as an effect of the 'condensation of the relations of forces'. See N. Poulantzas, *State, Power, Socialism*, (London, Verso, 1978)

¹⁹ This seems to be the sense in which the term is employed in M. Langa M. and K. von Holdt, 'Insurgent Citizenship. Class Formation and the Dual Nature of a Community Protest: A Case Study of 'Kungcatsha', in M. C. Dawson and L. Sinwell (eds), *Contesting Transformation: Popular Resistance in Twenty-first-century South Africa* (London, Pluto Press, 2012), pp.80-100.

²⁰ 'Mathale Elected as New ANC Limpopo Chairperson', Mail & Guardian, Johannesburg, 20 July 2008, available at mg.co.za/article/2008-07-20-mathale-elected-as-new-anc-limpopo-chairperson, retrieved on 2 May 2015.

²¹ Booyesen, *Dominance and Decline*, p.11.

²² R. Munusamy, 'Battleground Limpopo: Tooth and nail brawl for Mangaung Frontline', Daily Maverick, 6 December 2012, available at www.dailymaverick.co.za/article/2012-12-06-battleground-limpopo-tooth-and-nail-brawl-for-mangaung-frontline/#.VwN7BqR9IU retrieved on 6 May 2015.

²³ The Limpopo ANC is subdivided into 5 regions – Vhembe, Mopani, Sekhukhune, Capricorn and Water-berg districts – each which have their own leadership elected by local branches of the ANC every 2 years.

²⁴ 'Thank you and Goodbye: Cassel Mathale resigns', Mail & Guardian (15 July 2013), available at <http://mg.co.za/article/2013-07-15-thank-you-and-goodbye-cassel-mathale-resigns> retrieved on 12 June 2015.

²⁵ 'Limpopo remains Malema's fortress', Daily Maverick, 19 December 2011, available at www.dailymaverick.co.za/article/2011-12-19-polokwane-2011-limpopo-remains-malemas-fortress/#.WVkJDcZ7G8V retrieved on 24 May 2015.

Mathale was eventually removed as ANC provincial chairman, and later tendered his resignation as Premier in 2013. He was replaced by Stan Mathabatha, and with the change came what some described as a 'purge' of Mathale-Malema allies in party and state structures in the province.²⁶

The effects of these upheavals were felt directly in municipalities across the province. In what follows, we show how a local municipality can come to be in the complex struggles that emerge over ANC leadership. The events that occurred in Mogalakwena were fuelled by the conflictual relations that emerged in Limpopo between different levels of the party – especially regional and provincial structures – during a period characterised by the seismic shifts in provincial leadership described above. Since local councillors and many senior municipal officials are tied into these broader competing networks, these province-wide divisions resulted in antagonistic intrusions into the municipality. We contend that ongoing, renewing divisions between region and province will continue to fracture the municipal council and administration.

In this section, we show how the ANC provincial leadership intervened directly to shape unfolding events in Mogalakwena. The provincial ANC intervenes in municipalities in two ways: the first in the form of edicts issued from the ANC provincial leadership; the second through the government machinery under their control – specifically the Department of Cooperative Governance, Human Settlements and Traditional Affairs (CoGHSTA). These interventions, however, worked to exacerbate existing tensions within the local ANC, and shaped an environment of perpetual factional politics.

The ANC provincial leadership stands as the highest political authority in the province. It is the final arbiter in the deployment processes of mayors and councillors to local municipalities. Through 'informal' deployment committees – which can include the chairperson of the province and leaders from other party structures – our findings show that the provincial ANC also plays an important role in the selection of a municipal manager (MM). This process is ostensibly guided by non-political, competitive interviewing processes as per the Municipal Systems Act,²⁷ yet in Mogalakwena, the deployment of the MM came as a directive from the chairperson of the ANC and Premier of the province. The provincial ANC also constitutes disciplinary committees to adjudicate infractions of the party's constitution, and has the power to expel mayors and councillors as members of the ANC. Both of these mandated political roles came to have a decisive impact on developments in Mogalakwena. When Mathale assumed power in 2009, he issued a directive to the sitting mayor of Mogalakwena to appoint an ally to the position of MM. Willy Kekana was appointed MM after having worked in the provincial department of health.²⁸ The former mayor recalls how Mathale imposed Kekana on the municipality, despite deep misgivings on the part of the ANC regional leadership and the municipal executive: 'there were problems [at the provincial health department]...so they wanted to remove him from there before a lot of things got damaged and they were forcing him to us here'.²⁹ Kekana had once served as the ANC's deputy regional chairperson. The former mayor believed that the hiring of Kekana would open the door to political interference in the administration: 'You can't take a politician to run'.³⁰ Nonetheless, Kekana's appointment was approved by the ANC-dominated council³¹ of the municipality.³²

²⁶ Moloko Moloto, 'Limpopo's Forces of Change leaderless', Independent Online, 31 May 2013, available at www.iol.co.za/news/politics/limpopo-s-forces-of-change-leaderless-1,1525122#.VXl18fmqqko, retrieved on 12 May 2015.

²⁷ Section 54 of Municipal Systems Act 32 of 2000, as amended in 2011.

²⁸ 'ANC NEC member arrested for fraud', SABC, 26 March 2013, available at <http://www.sabc.co.za/news/a/edd8f9804f087a3c9acc9b1e5d06aea0/ANC-NEC-member-arrested-for-fraud-20132603>, retrieved on 18 August 2015.

²⁸ 'ANC NEC member arrested for fraud', SABC, 26 March 2013, available at www.sabc.co.za/news/a/edd8f9804f087a3c9acc9b1e5d06aea0/ANC-NEC-member-arrested-for-fraud-20132603, retrieved on 18 August 2015.

²⁹ Interview with Former Mayor, 24 August 2015.

³⁰ Ibid

³¹ The Mogalakwena Council was made up of 63 councillors. From 2011 – 2016, it was constituted by 52 ANC councillors, and 3 DA, 1 VF+, 1 PAC, 1 APC, 2 COPE, 1 AZAPO, and 2 independent councillors.

³² Mogalakwena Local Municipality Records (Hereafter MLMR), 'Item 6: Appointment of Municipal Manager' in Minutes of Special Council Meeting held on 6 July 2009.

Kekana's appointment would form the catalyst for the escalating disputes which eventually came to cripple the municipality.

Resentment over Kekana's appointment would grow internally – and in the regional leadership. It is worth elaborating on the role of the ANC region, a structure which attracts surprisingly little scholarly mention.³³ Regions of the ANC are mandated to draw up lists for the candidacies of local councillors, drawing from elections held at branch level.³⁴

The region also plays a prominent role in the selection of mayors, selecting three names for the provincial leadership to consider when making their final decision. Yet, throughout our research in municipalities in Limpopo, it has become clear that beyond these expressly stipulated roles, the region also plays a key role in selecting an MM – a former mayor described this as part of 'ANC tradition'. The by-passing of this established process would form a key point of antagonism between the Waterberg Region and Mathale's provincial executive – Kekana was appointed against the region's wishes. The Waterberg ANC had advocated for the hiring of a different candidate for MM, the then Manager of Corporate Support Services (CSS) at the municipality strongly supported by the regional executive.³⁵

Yet the Kekana issue appears to have been just one issue which contributed to the widening chasm between the Waterberg Region and Mathale's province. The Waterberg region of the ANC had early on voiced their support for

Zuma, and hostility against Mathale's administration grew. Mathale had once tried to contain the threat posed by disbanding the region for ostensibly 'failing to provide political leadership' – but the regional secretary insisted it was a 'witch hunt'.³⁶ Nonetheless, the provincial ANC's attempts to pacify Waterberg failed, and the tension between the two sharpened.³⁷ The region routinely defied the orders of the provincial executive in the run-up to the ANC's Mangaung conference. In the disputes surrounding Kekana, we see how the region came to attempt its own intrusions in administrative processes of the municipality to undermine the deployment decisions of the Provincial Executive Committee (PEC).

From the outset of his tenure, Kekana came to blows with the regionally-aligned manager, the mayor and the regional secretary, who tried to persuade ANC councillors to pursue legal action to nullify the new MM's contract. The CSS manager put it before Council that the MM's contract was illegal. The province had insisted that Kekana be hired on a five year contract, an action which contravened the Municipal Systems Act's stipulation that contracts can only be awarded up until one year after the end of term of Council.³⁸ Kekana, in turn, tabled a report alleging that the CSS Manager was guilty of authorising irregular expenditure. Council acceded to Kekana's request to put the CSS Manager on precautionary suspension pending an investigation.³⁹ The MM hired a local attorney as prosecutor in a disciplinary hearing at which the CSS manager was found guilty of a host of irregularities.⁴⁰

³³ We have yet to find a systematic treatment of the role of ANC regions. Most available scholarship only address them in passing. Booysen notes the role played by Regional Executive Committees (RECs) in the deployment of councillors and mayors (2011, p.376). Darracq offers some sense of the role of regional leadership in broader clientelist networks: 'Provincial and regional leaders/organisers are very influential in the local mobilisation of branches and delegates, through personal networks, clientelism and so forth. Indeed, they are often the most direct interface between the militants and the party's central office' (2008, p.449).

³⁴ Booysen, *The African National Congress*, p.371; R. Cameron, 'Local Government in South Africa: Political Decentralisation, Party Centralisation, Corruption and Maladministration' in A. Haldenius (ed.), *Decentralisation and Democratic Governance Experiences from India, Bolivia and South Africa*, (Stockholm, Almqvist and Wiksell International, 2003), pp.105-150.

³⁵ Interview with a former mayor, 24 August 2015.

³⁶ F. Maponya, 'Premier's Most Embarrassing Moment', *TheSowetan*, 28 June 2010, available at www.sowetanlive.co.za/sowetan/archive/2010/06/28/premier_s-most-embarrassing-moment, retrieved on 5 May 2015.

³⁷ The Sowetan reported that the 'return of the anti-Mathale faction to the ANC Waterberg Region' made Mathale 'uncomfortable'. 'Waterberg gets new ANC leadership', *The Sowetan*, 20 December 2010, available at www.sowetanlive.co.za/news/2010/12/20/waterberg-gets-new-anc-leadership, retrieved on 7 May 2015.

³⁸ Kekana was given a five year contract, which contravened 56(4)(1) of the Municipal Systems Act, which stipulates that a municipal manager's contract should not run beyond one year of a new council being voted in. Given that he was appointed in 2009, and municipal elections were held in May 2011, this should have meant that Kekana ceased to be the municipal manager in May 2012. This would be the point of challenge which Kekana's opponents would invoke in court.

³⁹ MLMR, 'CoGHSTA Limpopo: Forensic Investigation into allegations of irregularities at Mogalakwena Municipality, 15 March 2012.

⁴⁰ www.noordnuus.co.za/articles/news/12389/2012-03-26/einde-van-die-thobejane-sage?highlight=Esther%20Mothibi

Following the expulsion of the CSS manager, the ANC regional secretary wrote a letter to the then mayor and the Mogalakwena ANC Party Caucus, demanding the CSS manager's return. The regional secretary then met with the Mogalakwena Executive Committee (Exco) and insisted on the CSS manager's unconditional reinstatement.⁴¹ ANC councillors thus found themselves torn between competing instructions. The council deferred the matter of the CSS manager's removal until the new council was inaugurated.⁴² After the 2011 local government elections, in which the ANC once again claimed the overwhelming majority of seats in council, a new mayor was appointed with strong ties to the region.⁴³

After another appearance by the regional secretary at the ANC caucus, the new council passed a resolution to allow the CSS manager to return to his job – despite vociferous protest from Kekana.⁴⁴ The issue of the MM's illegal contract was also soon revisited. At a council meeting, the new mayor insisted that Kekana's contract was 'invalid from the outset'. She recommended terminating Kekana's employment and was authorised to approach the High Court to affirm the resolution. Minutes indicate that 9 opposition councillors called for a secret ballot to be held. While 34 councillors voted for the court action, 19 voted against it – marking the first split amongst ANC councillors.⁴⁵ The use of the vote was unprecedented, and indicated that the ANC caucus could no longer reach consensus.⁴⁶ Divisions became more public and sustained as the Kekana issue smouldered on.

After the new mayor secured a resolution to launch the case against Kekana, the MEC of CoGHSTA intervened.

In the face of threats from within council to his position, Kekana wrote to the MEC making a 'request for urgent intervention'.⁴⁷ In a letter to the mayor, the MEC demanded the commissioning of a forensic report, CSS manager's immediate dismissal, and the withdrawal of all legal action against Kekana – his contract as MM should be allowed to 'run its full course until 2014'.⁴⁸ The mayor chose to proceed with the court action.⁴⁹ Kekana launched a counter-application.⁵⁰ Both of these court actions would prove lengthy and without immediate resolution. The issue of the MM's contract remained sub judice. Facing direct refusal by the mayor to institute its directive, CoGHSTA commissioned an auditing firm to conduct a forensic investigation into both the mayor and the CSS manager. The latter was finally dismissed at a special council meeting personally attended by the MEC of CoGHSTA on the strength of the forensic report released in March 2012.⁵¹

CoGHSTA provides the machinery to intervene in the municipality's administrative processes. This provincial department answers to the national Department of Cooperative Governance and Traditional Affairs (CoGTA), formerly the Department of Provincial and Local Government (DPLG). CoGTA was formed in 2009, coinciding with Zuma's presidency. The department has a broad range of responsibilities, from overseeing the construction of housing and infrastructure, to coordinating traditional authorities in the province. It also plays an integral role in human resources matters in local municipalities, ensuring compliance with municipal legislation and giving approval to the appointment of mayors and municipal managers. The department is mandated to ensure stable governance

⁴¹ MLMR, 'CoGHSTA Limpopo: Forensic Investigation into allegations of irregularities at Mogalakwena Municipality, 15 March 2012.

⁴² MLMR, 'CoGHSTA Limpopo: Forensic Investigation into allegations of irregularities at Mogalakwena Municipality, 15 March 2012.

⁴³ MLMR, 'Item 5.6: Election of the Mayor from the Members of the Executive Committee' in Minutes of Council Meeting held on 1 June 2011.

⁴⁴ Letter from ANC Waterberg Regional Secretary to the Mayor and Speaker of Mogalakwena Local Municipality, 4 April 2011; Jasper Raats, 'Einde van die Thobejane Saga?', *Noordelike Nuus, Mokopane*, 26 March 2011, available at www.noordnuus.co.za/articles/news/12389/2012-03-26/einde-van-die-thobejane-sage?highlight=Esther%20Mothibi, retrieved on 29 April 2015.

⁴⁵ MLMR, 'Item 11: New Motions' in Minutes of Council Meeting held 16 Sept 2011.

⁴⁶ Interview with Former Mayor, 24 Aug 2015.

⁴⁷ MLMR, 'Letter from MM SW Kekana to MEC CoGHSTA S Lekganyane, Governance matters in Mogalakwena Local Municipality: Request urgent intervention', (23 September 2011).

⁴⁸ MLMR, 'Letter from MEC CoGHSTA to Mogalakwena Local Municipality, Present decline in governance and institutional stability in Mogalakwena local municipality', (26 Sept 2011).

⁴⁹ *Mogalakwena Local Municipality v. SW Kekana*, North Gauteng High Court, 59408/2011. *SW Kekana v. Mogalakwena Local Municipality*, North Gauteng High Court, 59597/2011

⁵¹ Jasper Raats, 'Einde van die Thobejane Saga?', *Noordelike Nuus, Mokopane*, 26 March 2011, available at www.noordnuus.co.za/articles/news/12389/2012-03-26/einde-van-die-thobejane-sage?highlight=Esther%20Mothibi, retrieved on 29 April 2015.

in its municipalities, and can carry out interventions in municipalities which underperform or in which there are governance disputes. By looking at the disputes that occurred in Mogalakwena, however, it is clear that CoGHSTA has come to be implicated in factional rivalries of the ANC. We argue that successive executives of the provincial ANC have employed the administrative muscle of CoGHSTA to directly shaped events in Mogalakwena.

While CoGHSTA undertook lengthy processes to remove the CSS manager, the provincial ANC could take more direct action against its political deployees who had staked their opposition to Kekana. The mayor was recalled by Mathale's PEC less than a year into her tenure.⁵² The PEC took the opportunity to discipline the regional secretary, who had been hostile to Kekana.⁵³ Through CoGHSTA and the PEC, Mathale's province achieved short-term victory by dismissing immediate threats to Kekana's contract – yet it could not decisively resolve the growing hostility of the Waterberg region to the provincial leadership. These actions in fact deepened the cycle of factional antagonism in which the municipality remained caught. Divisions within council over the Kekana issue remained, becoming only more entrenched as the chasm between the ANC Province and Waterberg Region grew.

Mathale's administration was finally dissolved in early 2013. Secretary General Mantashe indicated that the chairperson's role in irregularly constituting regional leadership across the province motivated his removal. With the dissolution of the provincial structure, the 'pro-Mathale' regions were also dissolved, while the pro-Zuma regions of the ANC, including the Waterberg region, were left intact.⁵⁴ The fall of Mathale's administration had

ramifications for Kekana in Mogalakwena, who was left without support from the provincial government, both politically and administratively – he now became a target of an incoming provincial faction, united with the region in their antagonism to Kekana. An opposition councillor believed the fall of the provincial government could 'set the cat amongst the pigeons' in Mogalakwena: 'Kekana could be in trouble now that Mathale is no longer a power to be reckoned with in the province'.⁵⁵

Following the recall of the mayor by Mathale, Kekana had sought to put the issue of his contract to rest. His lawyers had submitted an agreement to renew his contract and cease all legal action.⁵⁶ The new mayor, tied to the region and now dominant provincial faction, was slow to address this agreement after his appointment – this despite the fact that he had been appointed in a bid to 'unite the warring factions' of Mogalakwena. When Mathale's administration fell, the mayor took action against the MM. He called a special council meeting at which he read out the contents of an ad hoc report. He stated that Kekana's contract was illegal – terminated by 'operation of the law' – and he recommended that council place the MM on suspension pending final severance negotiations.⁵⁷ This recommendation finally shattered the already fractious ANC caucus. Minutes indicate that a significant number of ANC councillors requested their names be recorded in opposition to the motion – yet a narrow majority prevailed.⁵⁸

Kekana was placed on 'special leave', and would remain outside of the municipality for the next three months. During this time, when allegations of corruption on the part of the mayor began to surface, divisions within the ANC council became firmly cemented: 23 ANC councillors sympathetic to the MM rallied against the mayor, while

⁵² MLMR, 'Item: Removal of Mayor in Minutes' in Minutes of Special Council Meeting held on 9 May 2012.

⁵³ Moloko Moloto, 'A year after being sworn in three mayors face the chop', *The Star*, Johannesburg, 20 April 2012, available at www.iol.co.za/the-star/a-year-after-being-sworn-in-three-mayors-face-the-chop-1280308, retrieved on 8 May 2015

⁵⁴ 'Limpopo ANC Task Teams Disband Regions', *Independent Online*, 28 May 2013, available at:

<http://www.iol.co.za/news/politics/limpopo-anc-task-teams-disbands-regions-1522959>, retrieved on 5 May 2015.

⁵⁵ 'The big ANC shake up: how it could affect our municipal politics', *Noordelike Nuus*, Mokopane, 27 March 2013, available at www.noordnuus.co.za/articles/news/18235/2013-03-27/the-big-anc-shake-up-how-it-could-affect-our-municipal-politics?highlight=Esther%20Mothibi, retrieved on 12 May 2015.

⁵⁶ MLMR, 'Item 3: Settlement of Legal Actions Between SW Kekana / Mogalakwena Local Municipality' in Agenda of Special Council Meeting held on 6 June 2013.

⁵⁷ MLMR, 'Item: Progress Report on Settlement with the Municipal Manager' in Agenda of the Special Council Meeting held on 13 June 2013.

⁵⁸ MLMR, 'Item: Progress Report on Settlement with the Municipal Manager' in Minutes of the Special Council Meeting held on 13 June 2013.

29 ANC councillors supportive of the new mayor formed another distinct faction. The pro-Kekana faction of ANC councillors organised a meeting in council chambers with 9 opposition councillors to consider reinstating the MM.⁵⁹ The mayor's supporters in council and the administration attempted to derail the meeting, yet it went ahead anyway.⁶⁰ Minutes indicate that these councillors used their slim majority to renew the MM's contract. They also noted allegations that the mayor had irregularly used the Mayoral Discretionary Fund to finance political campaigns under the guise of 'Mayoral Outreach Programmes', and resolved to commission an investigation.⁶¹

Kekana returned amid chaotic scenes in the municipality⁶² – and against the backdrop of deeper trouble brewing in other structures of the ANC and the provincial government. After Mathale's resignation, a new MEC of CoGHSTA was appointed who undertook actions which were diametrically opposed to those of his predecessor when it came to dealing with the disputes of Mogalakwena. With all CoGHSTA MECs since 2009 drawn from the top ranks of the ANC provincial executive, the department has at times functioned as the 'administrative arm of the provincial ANC', the primary mechanism employed to rubber-stamping political recruitments and politically expedient interventions to neutralise those in municipal leadership whom the provincial ANC opposes. The new MEC of CoGHSTA directly sought to prevent Kekana's return.⁶³ He launched a court application arguing, as the regional politicians had, that Kekana's contract was illegal, and accused the 'Kekana faction' of exceeding their mandate in authorising its renewal.⁶⁴ When this legal application proved lengthy and without resolution – Kekana appealed

the ruling of the judge who declared his contract invalid – CoGHSTA would try to circumvent Kekana's powers more directly in the months that followed.

Minutes indicate that Kekana was given broad discretionary powers by his supporters in council, who constituted a narrow majority. Minutes outlined a growing sense of insecurity within the municipality, highlighting incidents of intimidation and fear amongst councillors and officials. The 29 councillors who supported the mayor voted against all resolutions proposed by the Kekana faction. Council meetings became sites of intense clashes between ANC factions. Kekana hired 'bouncers' to attend council meetings and remove troublesome councillors. The mayor had meanwhile authorised the hiring of a host of personal bodyguards to protect him. Through the majority vote of the Kekana faction, Kekana was authorised to commission an auditing firm to investigate the conduct of the mayor and his supporters during Kekana's three month suspension.⁶⁵ Minutes show how the mayor's faction railed against this resolution, claiming that the 23 councillors had been expelled by the ANC and remained in council 'illegally'.⁶⁶ The mayor's faction was forcibly removed from this troubled meeting, which marked one of the last they attended with the Kekana faction.

The forensic report was finalised in early 2014, implicating the mayor, the chief whip, and a range of municipal officials in Supply Chain Management (SCM) subversion in the course of organising the 'Mayoral Outreach Programmes' and the hiring of security companies during Kekana's three month suspension.⁶⁷ The report was sent to various government departments,

⁵⁹ The opposition in council included 3 DA, 1 VF+, 1 PAC, 1 APC, 2 COPE, and 2 independent councillors.

⁶⁰ MLMR, 'Mogalakwena Local Municipality: Forensic Investigation into Allegations of Irregularities at Mogalakwena Municipality, Report on Factual Findings', 5 February 2014.

⁶¹ MLMR, 'Item: Case against the Municipality: SW Kekana / Mogalakwena Municipality, 42595/2013' in Agenda of Special Council Meeting held on 11 October 2013.

⁶² South African Broadcasting Corporation, 'ANC Investigates its Mogalakwena Councillors in Mokopane', 17 October 2013, Available at www.youtube.com/watch?v=w6X3MBd9keo.

⁶³ MLMR, 'Mogalakwena Local Municipality: Forensic Investigation into Allegations of Irregularities at Mogalakwena Municipality, Report on Factual Findings', 5 February 2014.

⁶⁴ MEC CoGHSTA v. Mogalakwena Local Municipality & SW Kekana, North Gauteng High Court, 70319/2013.

⁶⁵ MLMR, 'Annexure C: Municipal Manager SW Kekana' in Agenda of the Special Council Meeting held on 26 November 2013.

⁶⁶ MLMR, Minutes of the Special Council Meeting held on 26 November 2013.

⁶⁷ MLMR, 'Mogalakwena Local Municipality: Forensic Investigation into Allegations of Irregularities at Mogalakwena Municipality, Report on Factual Findings', 5 February 2014.

and the speaker wrote a letter informing CoGHSTA of the intention to remove the mayor and other implicated councillors. CoGHSTA then dispatched a Rapid Assessment Team. The findings of the task team noted an environment 'inconsistent with the objectives of local government'.⁶⁸

On this basis, CoGHSTA resolved to take the municipality under administration in terms of Section 139(1)(b) of the Constitution. CoGHSTA informed Kekana that his powers as MM had been 'withdrawn' and an administrator had been deployed.⁶⁹ Yet Kekana and his supporters viewed the intervention as a means for the MEC of CoGHSTA to protect the mayor and unseat the MM. The administration was prevented by court actions launched by both the municipality and a local social movement, the Mogalakwena Resident Association (MRA) – a movement whose public support for Kekana would become increasingly vocal. The MRA's leader launched a challenge against CoGHSTA's attempted intervention on behalf of the MRA,⁷⁰ as did the municipality when the MRA's interdict came under review.⁷¹ These two applications successfully interdicted the MEC of CoGHSTA from imposing the planned administration.⁷²

With the deflection of CoGHSTA's intervention, the Kekana faction resolved to oust the mayor on the strength of an internal investigation which confirmed the findings of the forensic report. They appointed a Kekana ally as mayor – a contravention of the established pattern of electing a mayor with input from different structures of the ANC.⁷³ For a period of time, the pro-Kekana faction, opposition parties and officials inside the municipality tried to continue with normal operations,

attempting to 'stabilise' the municipality. Yet the decisions undertaken by the Kekana faction left them besieged, an 'island' isolated from other structures of the ANC, and subject to the punitive action of both CoGHSTA and the provincial executive of the ANC, both of whom would act in concert during Kekana's final months as MM.

The ANC province used party disciplinary action to neutralise the Kekana faction. Court documents indicate that, shortly after they had reinstated Kekana, councillors of the Kekana faction were called to a disciplinary hearing by the ANC Provincial Disciplinary Committee (PDC) to face charges for alleged insubordination for colluding with opposition parties. They were expelled as members of the ANC. In the subsequent months, the Kekana faction appealed their expulsions unsuccessfully to the ANC's National Disciplinary Committee (NDC). Yet they remained inside the municipality, and challenged the ANC's decision in court, claiming that their expulsion was informed by factional motives.⁷⁴ While appealing their expulsions, the Kekana faction continued to attend council. The MEC of CoGHSTA meanwhile declared 23 vacancies in council, announced the appointment of 9 new PR councillors and called for by-elections to fill the remaining seats.

With both the MM and his supporters in council 'digging in', an atmosphere of fear, insecurity, and sporadic violence loomed, both within and outside the municipality. In June 2014, the MRA leader, who had been demonstrably supportive of Kekana, was shot dead outside his home.⁷⁵ After the Kekana faction voted to expel the pro-mayor councillors, the latter unsuccessfully attempted to storm the municipality, and the former mayor of Waterberg was shot in the leg.⁷⁶

⁶⁸ MLMR, 'Media Briefing of MEC CoGHSTA on Mogalakwena Local Municipality', 17 February 2014.

⁶⁹ MLMR, 'Letter from MEC CoGHSTA to MM Mogalakwena: Withdrawal of your powers as municipal manager, accounting officer', 20 March 2014.

⁷⁰ Piet Pale vs. MEC Coghsta, Premier of Limpopo, Mogalakwena Municipality, North Gauteng High Court, 10200/2014

⁷¹ Mogalakwena Local Municipality v. PEC Limpopo, MEC CoGHSTA, Minister CoGTA, NCOP, DH Makobe, North Gauteng High Court, 35248/2014

⁷² In his judgment on the matter, Tuchten J wrote: The seriousness of this step cannot be overstated. With a stroke of his pen, the MEC attempted, in favour of a functionary of the MEC's own choosing, to circumvent the carefully constructed network of constitutional and other statutory powers which led to the vesting in the municipal manager by the democratically elected representatives of the community served by the municipality, of the municipal manager's powers to administer the funds of the municipality. The functionary selected by the province, declared the MEC, would not be accountable to the council of the municipality and ultimately the voters within the municipality but effectively to the MEC.

⁷³ MLMR, 'Item: The Outcome Of The Investigations Conducted Into The Allegations Of Breach Of The Code Of Conduct For Councillors Against Certain Councillors' in Minutes of the Special Council Meeting (11 April 2014).

⁷⁴ MLMR, KD Malatjie and 22 Others v. Gwede Mantashe, NEC ANC, IEC, Chief Electoral Officer, MEC CoGHSTA, NDC, North Gauteng High Court (65154/2014).

⁷⁵ Noordelike Nuus, 'Who Killed Piet Pale?', 3 July 2014, Available at www.noordnuus.co.za/articles/news/25582/2014-07-03/who-killed-piet-pale?highlight=.

⁷⁶ Moloko Moloto, 'Pravin Must Explain Chaos, says DA', Independent Online, 4 September 2014, <http://www.iol.co.za/news/politics/pravin-must-explain-chaos-says-da-1.1746213#.VUjIPCqgqko>

The mayor's faction was physically barred from the municipality by security guards. After several months, the mayor's faction held special council meetings at the nearby hotel to orchestrate their return. At one of these meetings, attended by officials from CoGHSTA and SALGA, the mayor of Mogalakwena was reinstated. It was also resolved that Kekana be placed on special leave and an official from CoGHSTA be seconded for the position of acting MM.⁷⁷ In the closing weeks of 2014, the mayor, alongside 9 newly deployed PR councillors, supported by the police and his bodyguards, forcefully returned to the municipality and were sworn in. The besieged pro-Kekana ANC councillors were finally removed from the building, as were most municipal employees, when police fired tear gas and rubber bullets in the municipal precinct.⁷⁸

The mayor's return brought paralysis to the municipal administration. Kekana, alongside his supporters in council and management, ordered officials to report for duty at the neighbouring municipal library assuring them that the mayor would soon be removed, citing numerous court orders that interdicted the mayor and his supporters from entering the building.⁷⁹ According to Labour Court records, the municipal administration was split between pro- and anti-Kekana officials.

Factional divisions had permeated the municipal unions too. The mayor's supporters occupied the municipal building with a significant security presence while 160 officials remained at the library for three months with Kekana.⁸⁰ A skeleton staff at the municipality was largely unable to fulfill basic service delivery obligations.

The situation attracted the attention of then Minister of Cooperative Governance and Traditional Affairs (CoGTA), Pravin Gordhan, who visited the municipality with the MEC of CoGHSTA.⁸¹ After the Minister's second visit, officials gradually returned to the municipal building.⁸² Some officials claimed that they were barred entry from the municipality, however, and only returned after being granted a court order by a judge of the Labour Court.⁸³ Many officials would never return, however, including Kekana and four senior managers who were put on suspension. Kekana was dismissed after a disciplinary hearing found him guilty of having used municipal funds to irregularly finance the lawsuit of the 23 ANC councillors appealing their dismissal.⁸⁴

The ANC province, however, could not contain mounting opposition from municipality staff and from the community more broadly. The MRA led pro-Kekana protests, denouncing corruption and the halt in service delivery. In an attempt to defuse the growing insurgency in the municipality and town, the ANC province recalled the mayor they once supported.⁸⁵

Yet the turmoil in Mogalakwena has not ended with the departure of Kekana and the mayor. Since Kekana's removal in 2015, the municipality has been unable to appoint a permanent MM. There have been at least 7 acting MMs since, and 2 mayors – an indication of just how difficult it has become to reach consensus within structures of the ANC. We see new forms of divisions emerging once again in the run-up to the ANC's 54th National Conference to be held in December 2017, with new battle lines drawn both between and within

⁷⁷ MLMR, 'Item: Role of the Municipal Manager' in Minutes of Special Council Meeting held at Oasis Lodge, held on 6 November and 4 December 2014.

⁷⁸ Jasper Raats, 'Top Cops and Mayor to be Jailed, Orders Court', *Noordelike Nuus*, 27 November 2014, Available at www.noordnuus.co.za/articles/news/28152/2014-11-27/top-cops-and-mayor-to-be-jailed-orders-court?highlight=

⁷⁹ Interviews with a range of municipal officials

⁸⁰ Mokapane and others v. Mogalakwena Local Municipality, J244/15. Judgment available at <http://www.saflii.org/za/cases/ZALCJHB/2015/97.html>.

⁸¹ Bosveld Review, 'Minister Pays a Visit to Mogalakwena Muni', 6 February 2015, Available at reviewonline.co.za/62212/minister-pays-a-visit-to-mogalakwena-muni/

⁸² Moyahabo Mobebe, 'Gordhan Pays 2nd Visit to Mokopane', *Bosveld Review*, 12 February 2015, Available at capricornreview.co.za/34615/gordhan-pays-2nd-visit-to-mokopane/

⁸³ Mokapane and others v. Mogalakwena Local Municipality, J244/15. Judgment available at www.saflii.org/za/cases/ZALCJHB/2015/97.html.

⁸⁴ MLMR, 'Disciplinary Hearing: MLM / SW Kekana', (25 March 2015).

⁸⁵ Poloko Tau, 'ANC finally gives mayor with 27 bodyguards the boot', *City Press*, Johannesburg, 2 June 2015, available at www.news24.com/SouthAfrica/News/ANC-finally-gives-mayor-with-27-bodyguards-the-boot-20150602, retrieved on 2 June 2015.

the ANC local, regional and the provincial structures. Recent headlines have pointed to the province-wide fissures between those who support Cyril Ramaphosa or Nkosazana-Dlamini Zuma in their bids for ANC presidency. One senior ANC member described divisions within the regions as 'quite deep and very bad' – especially in the Waterberg region.⁸⁶ The ANC-dominated Mogalakwena Municipality will likely remain caught up in these divisions, and may encounter further damaging intrusions.

When Beall et al used the concept of 'fragile stability' to describe how the South African state was struggling to mediate the legacies of apartheid and growing inequalities, they argued that a more permanent stability – a 'high-level equilibrium' – would only be achieved through new policies and organisational forms. Furthermore, they predicted that 'a crisis of the state leading to its collapse and social disintegration' was 'unlikely', because of the stable state institutions that emerged with democracy.⁸⁷ Yet what they could not anticipate were the corrosive divisions that would emerge from within the ranks of the ANC itself, in the form of competing factions, and which have weakened what Beall et al's understood to be the basis of South Africa's stability: the strong institutional fabric of the post-apartheid order.

The case of Mogalakwena shows how local government is not an insular entity, but is immersed in broader party-state factionalism – the deepening of which can lead to the collapse of an institution. We contend that the municipality remains in the grip of 'perpetual instability', with recurring and competing factional intrusions disrupting and rupturing some key administrative processes, which has directly undermined the implementation of routine service delivery, obstructing the institution's ability to mitigate some of the continuing legacies of poverty and inequality.

The next section looks within various departments of the municipality and considers how 'perpetual instability' manifests in the everyday lives of municipal officials, and how it can lead to a halt in basic administrative processes.

⁸⁶ 'Upcoming Limpopo conferences could influence ANC leadership race', *The Citizen*, 22 January 2017, available at <http://citizen.co.za/news/news-national/1404783/upcoming-limpopo-conferences-influence-and-leadership-race/>, retrieved on 24 January 2017.

⁸⁷ Beall et al. 'Fragile Stability', p.698



EFFECTS ON THE ADMINISTRATION



PARI researchers arrived at Mogalakwena in March 2015, when it was still in a gridlock following the three month shut down. The recent events had brought great disruption to the functioning of the municipality. The forcible re-entry of the ousted mayor in November 2014, which had followed complete ruptures within council, resulted in a breakdown of the administration from which the municipality has struggled to emerge.

Gradually, officials had begun to return to work. Most of those we interviewed shared a deep-seated sense of paranoia, fear and pessimism – many were looking for alternative employment. Their workload was immense, and the basic routines of administration had been derailed. Those who had taken part in the strike were facing disciplinary hearings, some were demoted from their positions, and many reported bullying by the returning mayor's faction who now dominated the political wing of the municipality. Several senior managers associated with Kekana were suspended, and virtually all departments were headed by acting managers, who brought with them unpredictability and sometimes intrusive demands. Many crucial basic processes were deferred – for example, submitting necessary reports to the National Treasury, processing

tenders, and issuing electricity accounts. While there were pockets of functionality, they remained immensely threatened by daily political upheaval in the context of high securitisation and occasional incidents of violence. Several interventions of the provincial government and ANC could not restore certainty and order after the political meltdown – the appointment of a 'peace-making' mayor and an acting MM from CoGHSTA proved only temporary fixes. With a deterioration of capacity to deliver basic services to the community, politically-charged protests have become frequent spectacles outside the municipal premises.

This section seeks to highlight the institutional dynamics within Mogalakwena Local Municipality in post-strike context, in particular focusing on how the recent turmoil has affected the everyday functioning of the municipality, from decision-making to how officials have come to understand their work. We examine some of the key departments of the municipality and how they were affected internally by the turmoil, and how they continue to function in an extremely factionalised environment. The key departments which will be discussed follows the municipality organogram, starting with the highest office of authority – the office of the municipal manager.

THE OFFICE OF THE MUNICIPAL MANAGER

The office of the Municipal Manager (MM) is the highest administrative office in the municipality – and one of the most contested positions in all of government. The MM is recognised as the Accounting Officer (AO) of the institution who provides the final signature on most processes. All other department managers are directly accountable to the MM. The MM reports to the mayor and council, as well as the MEC of CoGHSTA. The MM, like all other managers, is a Section 56, appointed on a fixed term contract, which usually extends for 5 years or until one year after the election of a new council in local government elections.⁸⁸

Figure 2: Organogram of the Administrative Wing of Mogalakwena Local Municipality



KEY:
 ● + ● Senior Management
 ● Divisional Heads

⁸⁸ It was this latter clause that was invoked by Kekana’s opponents to insist that his contract was illegal ab initio, since it stipulated that he could continue until 2014 – three years after the 2011 election. Kekana has tried unsuccessfully to challenge this through the court process, yet most recently found his application refused by the Supreme Court of Appeal. He has filed papers showing his intention to pursue this to the level of the Constitutional Court. Yet irrespective of the outcome of this court case, Kekana is unlikely to return to the municipality given that, as we have discovered, the position of MM is profoundly political.

The inclusion of the Elections +1 Clause anticipated that incoming politicians often wish for a new MM to pursue new plans for council. It speaks to an understanding that was voiced by the COO we interviewed: “for the municipality to function, a good working relationship between the MM and mayor is imperative”. As we have discovered, the appointment of an MM is a profoundly political process, determined by the provincial executive of the ANC. And in the context of the profound fracturing in the ruling party, Mogalakwena has suffered from a complete breakdown between mayor and MM, tied to larger political currents in the province.

Since Kekana’s removal, the position of MM has been undertaken by acting officials – a situation that has failed to produce stability in the administration, especially since these officials have frequently acted as proxies for provincial factions. When PARI arrived at the municipality during April 2015, the official seconded by CoGHSTA had been acting in the position of MM for several months. This acting MM had been a senior manager of Risk and Internal Control in the Department of CoGHSTA, and was deployed to stabilise the municipality in the short-term. The COO described this acting MM’s role in the municipality: “when Kekana was suspended, the MEC of Coghsta... seconded [the CoGHSTA official] to come and assist as an acting MM until the problems are resolved” and until the disciplinary process against Kekana had been completed. The acting MM confirmed that his role was primarily to bring stability to the municipality. He however expressed concern about his lack of skills in executing the duties required for the job of MM at Mogalakwena:

You know, when I came here it was just a big task for me which I didn't know I will even finish. I didn't expect to last longer than a month here because I didn't think my experience is sufficient to be heading such a big institution. You see if it was a smaller municipality like Aganang, Lepelle, Nkumbi or any smaller municipalities I am sure I would be comfortable. And also given the political turmoil in this municipality, that just stopped now, in terms of conflict resolution, I don't think I am the correct person.

Nevertheless, he describes how he received assistance from the provincial and national governments to meet the challenges of restoring stability to a crisis-wracked institution. A “Back 2 Basics” team was deployed by the CoGTA to assist the acting MM to achieve the following objectives:

- A functional municipality
- Bring the municipality to state of normalcy
- Conduct an audit of state of services in communities
- Resolve the political tensions; and
- Regain the community's trust.

The emphasis in trying to implement these objectives was on the “normalisation of the staffing situation” by firstly verifying the “qualifications and relevant experience of senior managers and acting senior managers to ensure full compliance with regulations on minimum competency requirements for Section 56 managers as per the amendments of the Municipal Systems Act” and, further, to provide “mediation to assist with polarization amongst staff, tensions and mistrust and ensure rebuilding of a workforce committed to stabilisation and creation of a functional municipality”. The Department thus played an instrumental role in shaping the acting MM’s job description. He affirms this:

[With] the support from the department, both the national department CoGTA and CoGHSTA, I managed to pull it through and as we speak, we are seeing some stability here. So it was a valuable experience to having to go through that conflict resolution... I mean at some point I didn't know what to do next, I would wake up and I didn't know where to start because this kind of conflict is way beyond my capabilities. But I banked on the support from CoGTA, from CoGHSTA, people who assist me from these two departments have had huge experience in doing it so they guided me and ultimately here we are. When I came here there were just so many things that were not in order, actually this particular municipality, the crisis that was here, I don't know if it was experienced anywhere in this country, to me, it looked like we were in another country. Because when I came here I also experienced what made it even more frightening, I realised that I also had bodyguards, so I have never been used to that kind of life and I never thought it would come this...so, ja, those are the kinda of things that...ja, but it was a very nice exposure, ja.

While CoGTA provided a broad oversight role over the “intervention package”, it was CoGHSTA as well as a consultant from the Johannesburg-based firm, Tokiso Dispute Settlement & Dispute Resolutions, who played the most active role. This was not the first time that CoGHSTA had attempted to put the municipality under administration – we noted the failed intervention attempt of March 2014 above. We suggest that the return of the ousted mayor reopened a space for a quasi-intervention on the part of CoGHSTA to override the powers of the MM. Previously, the pro-Kekana council alongside the MRA leader, had fiercely resisted the attempts of CoGHSTA to take control of the administration. Now, with Kekana suspended, the acting MM became an entry point into the key functioning of the municipality and its decision making processes.

To further understand what the task of creating stability entailed, we asked the acting MM to describe his day to day responsibilities:

Well, yoh! Hehehe...you know, in brief I manage service delivery. On a daily basis I have to have meetings with head of departments and get feedback on how certain things are being done, how service delivery is progressing. Obviously we do get a lot of complaints which I would always forward them to the departmental heads responsible and then I will also want to get feedback on how they are being resolved.⁸⁹

The Local Government Municipal Systems Act of 32 of 2000 stipulates a far broader, far more detailed role for the MM in developing an “economical, effective, efficient and accountable administration” based on good governance to ensure that service delivery is provided by the municipality. While the acting MM believed that he was fulfilling his mandate to bring “stability” to the institution, it seems that this mandate was exceptionally narrow, doing little more than signing the documents presented to him and forwarding complaints to his subordinates. During the IDP roadshows that PARI researchers attended, the acting MM did not speak. He seemed disinterested and was constantly typing on his phone. In one meeting, just before he was due to speak to community members, he disappeared and a ward councillor spoke on his behalf.

In an interview with the Manager of Technical Services, it was claimed that the acting MM “knew nothing” about the municipality. The absence of strong leadership on the part of the acting MM seems to have forced the Chief Operation Officer (COO) to perform many of the basic functions of the position of MM. Indeed, a great deal of power appears to have been concentrated in the hands of the COO, who would also later be appointed as acting manager of Corporate Support Services in addition to his normal role. When we asked the acting MM about a number of issues, he deferred the questions to the COO, who displayed far deeper knowledge about the crucial issues facing the municipality. It seems that the acting MM took many of his cues from the COO.

The former mayor argued that the acting MM was less an active player in the intervention, and more a pliable proxy for the region:

Then CoGHSTA sent [the acting MM] and that's when they started doing strange things... When [he] was here he was run by regional office because he appointed people to act in certain positions and even today we are still surprised as to how could he appoint those people, and he got instructions somewhere. And that is not possible. You cannot tell a cleaner to act in finance. So that is what is happening in Mogalakwena. So they should reverse those issues now”.

Under the acting MM’s watch, several decisions that were implemented by Kekana and his allies in council were reversed. Some of the most visible were the far-reaching decisions made relating to Human Resources. For a start, the disciplinary action endorsed by the pro-Kekana councillors against anti-Kekana councillors was summarily withdrawn. In addition, a number of officials of the administration who had been accused of misconduct by the forensic audit conducted during Kekana’s tenure had their suspensions lifted by the acting MM. In the interview with the Divisional Head (DH) of Human Resources, she noted that there were no records which explained the lifting of the charges, and she suggested that due processes were simply not followed. This period was also characterised by the removal of officials who were labelled as ‘pro-Kekana’;

⁸⁹ Acting MM interview, April 2015.

and their replacement by less obstructive personnel. Three key Section 56 managers were suspended and did not return, coinciding with disciplinary action against a host of other officials.

Many officials we interviewed believed that the acting MM oversaw greater damage being wrought by even more audacious political interference. Allegations of corruption under his tenure were highlighted in the media two months after the acting MM had left. The municipality admitted that R5.7 million had been irregularly paid to four different accounts – one of which, it was speculated, was that of the regional secretary.

The municipality has since failed to appoint a permanent MM – and seven different people have served as acting MMs during the period under review. The COO described how this has made the daily work of the municipality incredibly difficult, since every incoming MM demands a revision of existing plans, and the creation of new strategies. Yet to successfully appoint an MM requires political buy – a difficult task in the context of continuing and intensifying factionalism across the province. As we have seen in the case of Kekana in Mogalakwena, the factionally-aligned appointment of an official to the position of MM can wreak significant damage to the functioning of the municipality.

CHIEF OPERATIONS OFFICER

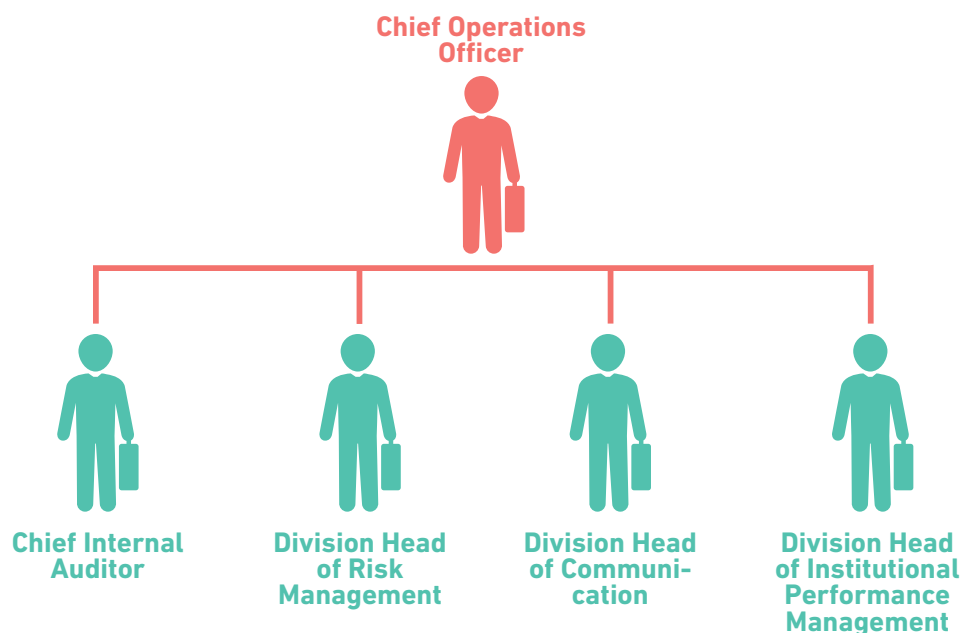


Figure 3: The Chief Operations Officer

The Chief Operations Officer (COO) of Mogalakwena plays a role that is largely undefined but indispensable to the functioning of the municipality. This position falls under the office of the MM. However, the COO's position is permanent, unlike Section 56 managers. Under his office are the Divisional Heads (DHs) of the following departments: Chief Internal Auditor, Institutional Performance Management, Risk Management, and Communications. According to his testimony, his role is expansive:

...to supervise the divisions/units that are working under me including communications, internal audit, performance management system, presidential and premier's hot line, managing the office of the mayor and managing the office of the MM, the unit for special programs, the unit for coordination of ward committees. Those are some of the units which I am managing in the municipality. I am managing their progress and supervising the divisional managers that are heading those units. That is my role but beyond that what I am doing is to make sure that where there are bottlenecks in different departments, in Technical, Community Services, Electrical Services because sometimes people come to our offices complaining about individual departments...I liaise with the managers concerned. Where there are challenges I always organise a meeting with the mayor, the exco and the manager concerned and members of the community to come together.

In addition to these duties, however, he finds that his key role is to ensure "that there is proper communication between the MM and the mayor because these are senior people in the institution". He noted that:

[The mayor] is doing overall oversight on the whole services that we are rendering in the municipality politically and the MM as well, is to do administrative work, manage finances, make sure that there is property service delivery, that there is proper spending. So I will always make sure that the MM reports to the mayor and the mayor also [they] come together at a particular time where they brief each other about challenges and way forward and how they can be able to bring other stakeholders like the political management team etc. so that there is proper internal communication for the smooth running of the institution. And that is my role.⁹⁰

The COO is the longest serving official, since 2007, in the administration, and brings with him a great deal of institutional memory – the reason the seconded acting MM relied so heavily on his expertise. During the shut-down and its aftermath, he also undertook the position of

acting manager of Corporate Services, and a great deal of administrative power was therefore concentrated in his office. During Kekana's term, the COO was suspended on two charges of corruption. However, when the CoGHSTA official was appointed acting MM, his charges were lifted and he resumed his position. The primary challenge facing the COO is to navigate between the demands of the mayor and the MM. When these two centers of power are in conflict, the COO often faces irreconcilable instructions. For instance, he argues that the charges against him came as a result of being forced to authorise illegal purchases for the mayor's outreach programmes, which Kekana seized upon to launch disciplinary charges against the COO.

This scenario highlights how irregularities and deviations can be used as a ready weapon to remove rivals. Frequently, the evidence presented in forensic reports and disciplinary hearings focuses narrowly on whether a particular rule has been breached, rather than considering the broader context of coercion that is often brought to bear on officials. Facing impossible demands from opposing authorities in the municipality, it is frequently officials who find themselves targeted. It is no surprise that many officials express a certain paranoia when it comes to signing any document – their signature may in time be used to incriminate them.

PERFORMANCE MANAGEMENT

The Performance Management function was introduced in a bid to rectify a function which has long remained a challenge in South Africa: reconciling resource inputs with outputs, ensuring that budgets translate into actual service delivery. Yet in Mogalakwena Local Municipality – and in other municipalities we have studied – this unit is afforded peripheral importance. The current acting DH for Performance Management started working in Mogalakwena municipality in July 2014. The DH reports to the COO. According to his testimony, his core responsibility is:

⁹⁰ Chief Operations Officer Interview, April 2015.

...strategic in nature because it deals with institutional performance. I collate data, municipality data of institutional performance...if whether we are achieving our set targets depending on the IDP [Integrated Development Plan] and the SDBIP [Service Delivery Budget Implementation Plan] ⁹¹... of the municipality. So usually I compile quarterly reports to the MM, [and the] CFO. I then compile all the reports and send them to external auditors... meaning the Provincial Treasury and National Treasury gets our report, which eventually goes to the Minister of Local Government who then reports the performance of 278 municipalities in the parliament...whether they are performing or not.

He works closely with the IDP division in streamlining the objectives and deliverables of the municipality:

Within 30 days when the IDP has been adopted by council, we craft the SDBIP...we elude to key performance areas and key performance indicators as well as targets to departments. Where by departments themselves they should agree or disagree with the targets, they should construct the way they understand best. From there...we start monitoring them quarterly but usually I advise departments to draft their monthly reports ...From there my role nearly every day is to see that departments are also complying with other legislative requirements by the minister like the issue of Performance Management System forums and IDP forums, alignment of your priorities to district and national priorities. We also monitor institutions in terms of what we call Back to Basics information system which was introduced last year by the Minister. ⁹²

In addition to report writing, the DH is also responsible for collating, monitoring and evaluating Performance Agreements of the Section 56 managers:

I also make sure that the Section 56 A [managers], previously known as Section 57, have signed their Performance Agreements, the Performance Plan, the financial forms, as stipulated in the Municipal Systems Act, because local government operates within the ambit of business legislation that governs local government...

Despite the high level of monitoring and performance assessment envisaged in the Performance Management Division's mandate, it is woefully under-capacitated – it is a single-person division. Under budgetary constraints, the municipality has frozen a number of appointments and, moreover, scaled back on the training of staff. However, the DH has questioned this, claiming that the continued lack of staff in his division is not necessarily motivated by budgetary concerns:

But why don't we have competency component to people who does operational work? In fact who does work for the senior managers? It's the operational. Why don't you capacitate and provide human [resources]... [They respond] "We are busy sorting out"...They will sort it out until the financial year ends. What is amazing, when they have got their meetings, the aroma here will be Nandos and Gallitos. So you wonder, if someone's annual salary does not even reach, for example, R350 000, why can't you capacitate that person so that your municipality gets a clean audit? ⁹³

Moreover, he is spatially isolated in the municipality, tucked away in a far end corner of the building. For someone who is meant to be so central in engaging with various stakeholders to ensure that targets are met, the DH position was hardly mentioned nor integrated within the municipality processes. The situating facing this division signals how a lack of resources and integration of planning within departments can become amplified when a municipality experiences political turmoil.

⁹² DH of Performance Management interview, April 2015.

⁹³ DH of Performance Management interview, April 2015.

RISK MANAGEMENT

Like the Performance Management Unit, the Risk Management Division is a single-staffed department tasked with performing one of the key aspects in ensuring the smooth running of any institution. It is a new division, established only in 2012. Prior to this, the function was outsourced. This is possibly one of the reasons why it occupies a precarious position. Given the division's recent history, the DH's core responsibilities, currently, have been mainly focused on establishing it:

Even though I am still alone, it means I am building this management from scratch. There were no policies when I got here so I am drafting risk management related policies, establishing a structure, I even drew risk officer position and appointment...remember that risk management used to be outsourced before and if there are policies then they would have last been assessed a while ago, somewhere around 2012 so I just have to review them and make sure that they are up to date with the current legislation and current practices, current challenges that we are facing...I coordinate the process of Risk Management. Risk Management on its own is a process where we identify events which might affect the institution negatively, before they occur. Then we come up with ways to mitigate those risks before they happen.

Actually I am not the one to identify the risks, but the managers [should] or I can help them identify them and to help come up with ways to make sure that those risks are dealt with. Senior managers, they are the risk owners, I am the risk coordinator. So I coordinate the process and then report to the Accounting Officer...that way we are being proactive instead of being reactive. In cases where events happen, we go and assess it to check what caused it and what can be done to make sure that next time it doesn't happen or the next time when it happens we are ready.

Even a strike, when there is a march, we should be able to identify, to do a root cause analysis, to check what is causing it and what can be done because a march on its own it affect the reputation of the municipality because once people march, it means that they have concerns with issues that are not being dealt with and once reputation is at stake, people might decide we are not paying for our services. So those are some of the things that I do every day. ⁹⁴

The DH is new to the position, having been appointed in December 2014. The process of Risk Management was affected by the upheaval of November 2014. The previous DH left during the mayor's takeover. According to the IDP office, this meant that the new official was forced to start his position without any induction:

He is alone, there was not even a handover, orientation, he was supposed to be orientated about what the division because the one who was there before, she started the unit from scratch and she was still alone so there was supposed to be a smooth handover and it was not done. ⁹⁵

There is very little evidence of the new DH playing a significant role in the municipality. He has been absent in the discussions about the waves of CoGHSTA interventions that have taken place since the end of the strike, and he does not feature in several other key initiatives in trying to stabilise the municipality. His description of his job does not seem to reflect on these interventions, which involves the mitigation of a great deal of risk. Instead, with CoGHSTA's involvement, these processes have been overwhelmingly political and intrusive, failing to provide much relief to officials working in these difficult conditions.

⁹⁴ DH Risk Management interview, 17 April 2015.

⁹⁵ DH IDP Office interview, 14 April 2015.

CORPORATE SUPPORT SERVICES

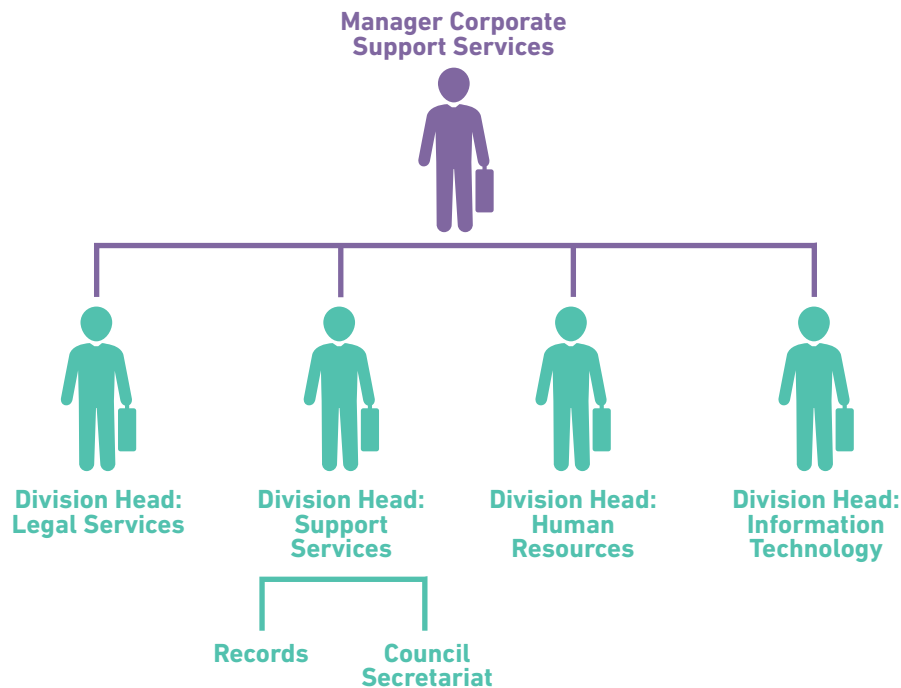


Figure 4: Corporate Support Services

The Corporate Support Services (CSS) department provides the administrative backbone of the institution. The growing turmoil in Mogalakwena has been accompanied by a distinct weakening of the autonomy of this department from political interference. Our archival research pointed out that early sparks in the Kekana debacle emerged from the manager of CSS. He was accused of gross misconduct, which involved interference in the core divisions that fall under the department – and which are moreover amongst the most important in the functioning of the municipality. The long-standing official who replaced him was literally chased away with the return of the ousted mayor in late 2014, and the municipality has yet to make a permanent replacement. In the absence of a strong bulwark against political intrusion, many core processes involved in the everyday functioning of the municipality have been subject to interference.

Acting positions are also not preserved for a long period of time. During the time of our research, the DH of Information Technology (IT) was acting as Corporate Support Services Manager.

HUMAN RESOURCES

By the time we were about to interview him in this role, he had ceased to perform this role and returned to his original position. As mentioned, following the shut-down of the municipality the COO was then appointed to act as Manager of Corporate Services. He understood the position as follows:

... to manage the subdivision in CSS, these include HR (benefits and recruitment for staff as well as training for officials); the legal section that advises us on legal matters, all litigations, interpretation of legal documents like policies etc. as well as making sure that we are represented in all litigations in our courts; the IT which deals with all the systems in the municipality e.g. our website, our lines, electronic filing, descriptions when we buy IT equipment; the council support which deals with council secretariat, issuing of agendas for council, writing minutes for executive management and the mayoral committee and recordings for all council meetings, exco and portfolio meetings and the selling and buying of property by the municipality. Under council support we also have OHS (Occupational Health and Safety) and the Employee Assistance Program like in the situation in the municipality, those who are traumatised by it, we arrange counselling for them etc. My role then is to make sure that there is proper coordination from the different units and proper reports that are needed just to manage. To make sure that services are rendered in remote areas and we go there from time to time to check whether they are happy with everything. Mainly, the CSS role is to support other internal departments to make sure that they execute their duties properly without delays, bottlenecks, with other matters that are within the institution. And that is the role that I think I am playing and also advice council on legal matters. ⁹⁶

One immediate area of contention has been the processes governing Human Resources, with dismissals and appointments forming key elements of political strategies. Additionally, the Legal Services Division, which falls under the CSS Department has been a site of contention.

A crucial division within the municipality which falls under Corporate Services is Human Resources (HR) – which oversees the politically contentious area of recruitment. The Divisional Head of HR joined the municipality in 2013. She had previously worked in the Polokwane Municipality as Chief Personnel Officer for 3 years and for the department of Education as Manager Corporate Support Services. She describes her function as being to “[O]versee HR related issues, developing policies, oversee OHS (Occupational Health and Safety), recruitment and selection, training and development”.

Despite her experience and qualifications, due to the recent political instability in the municipality, her position has become mired with uncertainty regarding her role. After the strike, the DH describes being alienated, and believes that she has been increasingly and strategically excluded from her core functions. She describes the insubordination of her juniors, and how it impacts on her work:

I say oversee but the way things are being done in Mogalakwena is not in that fashion because hierarchy of authority is not observed, that is my observation. My subordinate will go directly to my [manager]. It's a practice because you find that positions will be advertised without you knowing, you will be surprised to see them on the mailing list and for somebody who is there, o bona okare [they think] it's normal practice and it seems like it is a practice that has been there and for me it frustrates me more because I am not used to this kind of operation or behaviour.

As mentioned earlier, recruitment has been taking place outside of its regulated processes without reference to the HR Division:

Anything which has to do with HR, as a responsible person, as a custodian, I need know and endorse but sometimes it's hard in the sense that when something happened... The shortlisting will be done without my involvement....I am not involved in

⁹⁶ Acting Corporate Support Services Manager Interview, April, 2015.

LEGAL SERVICES

recruitment and selection, I only partake when the appointment for Section 57 managers where I will be scribing is where I am involved but basically the advertisement of positions, I am not involved. Even those section 56, the position will be advertised and for enquiries you will be surprised to hear people phoning....It's a practice...for somebody she see it as normal...it's the overall operation...⁹⁷

She reflected on the high level of turnover and vacancy in senior management. And for more than two years, most Section 56 positions have remained vacant, undertaken by acting managers. The DH described the impact that acting positions creates extreme burdens of workloads, induces lower morale, and results in a loss of institutional knowledge:

Last year in 2014 we lost two Section 56 managers and that was Finance, which is key, and Planning and Development and at the same time, the manager of community services was suspended and that has a very serious impact in terms of the smooth running of the organisation and remember, in the three positions that we are having, the other three were still vacant which meant that 6 positions were vacant... we managed to appoint [a new CFO and Manager of Planning & Development] somewhere in July... but because of this instability they are now suspended. It means that it will affect the day to day operations because suspension does not only have an effect on the person per se. It will have an effect on those who are within the organisation, remember they will have to appoint people to act in that position and that person must do his or her job and the job of whoever is on suspension and that basically will have a serious impact in morale...⁹⁸

While the Legal Services Division is meant to handle all legal matters involving the municipality, PARI found that many of the municipality's basic legal processes are undertaken by private lawyers. They are outsourced. The DH of Legal Services indicated that her job is largely reduced to manage the contracting of external lawyers who act on behalf of the municipality. Alongside Technical Services, the Legal Division is thus a predominantly outsourced function. The DH is, at most, called by council to provide advice on some legal matters, but she is not directly involved in further legal processes:

"I give [council advice] then maybe if they are not satisfied, that is when they will appoint [an external attorney] – if they want a second opinion they can appoint a service provider... If I have to appoint attorney, then I do it, I liaise with attorney on legal matters of the municipality".

A register that sits on the counter at the Records Division notes which lawyers have been hired to undertake certain legal processes – debt collection, property transfers, disciplinary hearings and so on. The DH Legal Services and the records clerk both indicated that attorneys are appointed from a database and selected for particular tasks depending on their particular area of expertise and price. PARI has access to the attorney database for 2015, which includes the names of 10 firms, alongside their areas of specialisation and a breakdown of their fee structure (hourly and day tariffs, costs to open a file, costs per page to draft a document and to peruse a page).⁹⁹ According to the DH, around 5 or 6 attorneys are used on a routine basis for particular tasks.

During Kekana's tenure since 2009, one firm of attorneys received the lion's share of legal work for the municipality. This attorney was hired in virtually every case involving labour disputes in the municipality during Kekana's term, from disciplinary hearings to court cases. He was also given power of attorney in virtually all cases involving property and title deeds.

⁹⁷ Human Resources Manager interview, April 2015.

⁹⁸ DH Human Resources interview, April 2015

⁹⁹ Fraud control 2007-2013_Mokopane attorney profiles0cr, p.82.

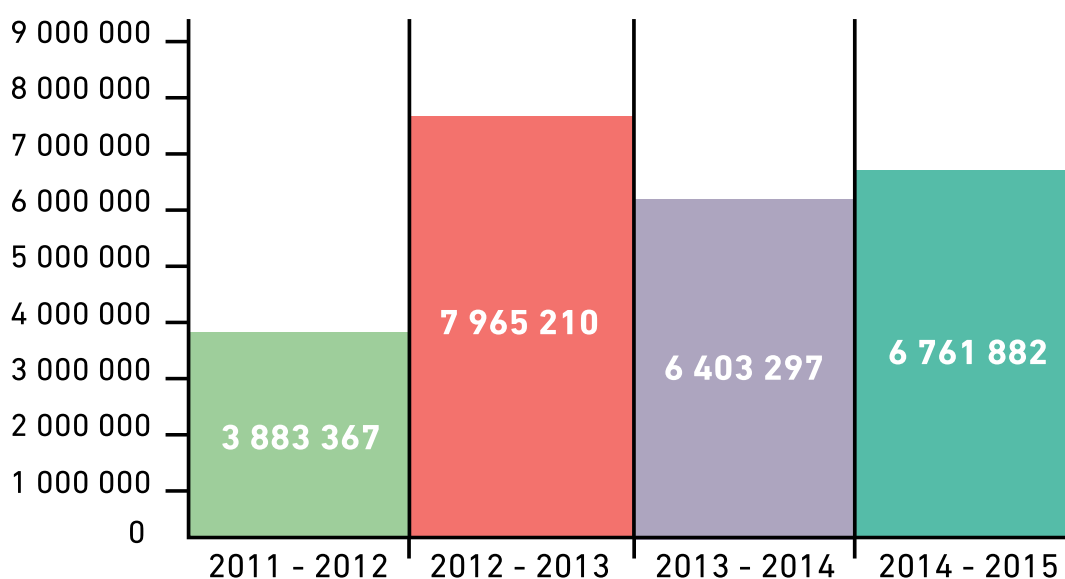
We have access to a company profile submitted by this firm to the municipality, which indicates that it has been very active throughout the Waterberg and Capricorn regions especially, having done work for the “Waterberg District Municipality, Mogalakwena Local Municipality, Lephalale Local Municipality, Greater Giyani Municipality, Thabazimbi Local Municipality, Greater Tubatse Municipality, Modimolle Municipality, Department of Roads and Transport Limpopo Province, Molemole Municipality, Mookgophong Municipality, Capricorn District Municipality [where Polokwane is located], Bela Bela Local Municipality, Gauteng Provincial Government Department of Local Government and Housing, Polokwane Municipality and Local Municipality of Madibeng to mentioned a few as well as tribal authorities to help them have their voices heard and give expression to their rights”. The attorney is deeply interconnected with the politics of the ANC province, regional and local, emphasising the embeddedness of ‘lawfare’ within institutions that are factionalised.

It is the MM who has signing powers for the appointment of attorneys. This creates something of an anomaly when it is the MM himself who is the target of judicial action launched by members of the council, as happened

on several occasions in Mogalakwena. In these cases, Kekana refused to authorise the payment of attorneys who were prosecuting cases against him on behalf of consecutive anti-Kekana mayors and councillors. By contrast, Kekana authorised lavish payments to the attorney mentioned above, who beyond representation in court, was paid for commissioning legal opinions and forensic audits, and prosecuting disciplinary hearings against Kekana’s opponents. The power of the MM to authorise legal action on behalf of the municipality thus became a key point of contention. Even after his expulsion, Kekana has continued to claim that, as the rightful MM, he has the power to use municipal funds to pursue legal action against his opponents. In his latest court challenge, he lists the municipality as a co-applicant, and continues to send legal bills to the municipality for payment.

Legal fees have become a source of great contestation. A cost order delivered against an unsuccessful party has the potential to bankrupt officials or politicians. Frequently, however, it is the municipality that pays, even in situations where the lawsuit is politically influenced. It will be remembered that Kekana authorised the payment of the legal fees of the 23 councillors appealing their

Figure 5: Budget for Legal Fees over four years of conflict Mogalakwena Municipality



expulsion from the ANC – the grounds upon which he was ultimately fired as MM. PARI acquired the following figures from the Budget Division, which reflects the increase in the budget for the appointment of private attorneys for the past four years. In each financial year, the voted amount was exhausted. During the 2012-2013 financial year, a major injection was authorised, coinciding with the rise in turbulence in the Municipality.

While enormous sums are being spent on hiring private attorneys, the Legal Services Division has remained a skeleton operation. As with a number of other divisions, the DH noted that Legal Services is understaffed, with two positions for assistants remaining “frozen”:

We do have two vacancies, we do have this positions on the organogram. I don't know how it happens that you can have a position on the organogram but it is not budgeted for. I have requested one of those positions be unfrozen, so they can allocate budget, so that I can have an assistant but the process is not yet finalized.

In addition, the DH is frequently excluded from high level court cases involving the municipality. In the aftermath of the strike, she furthermore complains of being excluded from council, where she ought to be providing advice:

I am a part of council but if there is a council meeting I am not invited – I don't get an agenda ... I [have] lodged a complaint to the MM [but he] does not respond ... I can't impose myself. When I came back in March, I asked for a hand over on everything that has transpired when I was not here ... I didn't receive anything, I can't do anything. We just hear the rumours [that] there was a council meeting [and] I was supposed to be invited, but I haven't be invited. I didn't get the agenda. I asked the MM but he didn't respond to me. I asked my manager, and he didn't respond. They're ignoring me. ... I wanted them to tell me what are my responsibilities.

The DH further noted that she cannot monitor the budget of the attorneys, who were being appointed without her knowledge:

I'm meant to write invoices for attorneys. But some of the invoices are being processed without my knowledge, the only things I see is the legal vote being exhausted. And when I inquire they just tell me that they've paid this person so much.

I don't know, they took so many people I don't know and I could not take responsibility, I haven't been involved. The MM is the person who has the final say, so he doesn't actually need my consent. It's up to him whether to involve me or not ... I can't force him to.

SUPPORT SERVICES

The Divisional Head of Support Services manages the Records Division and the Council Secretariat. She is exceptionally overworked, however, also having to manage the five satellite offices of the municipality in remote areas, and moreover administering property deeds and purchases of municipal land. Of particular relevance for our research in gathering the evidence we present in this report, the Records Division and the Council Secretariat proved key resources for accessing crucial documents which provide granular details of the developments that came to embroil Mogalakwena. Given the importance of documentation and records when undertaking political strategies, these two sub-divisions – the primary nodes of document production and storage – found themselves caught between conflicting demands which brought uncertainty and significant fear to their everyday work.

RECORDS

Positioned at the very centre of the multi-story municipal building of Mogalakwena Local Municipality, the record-keeping division is meant to function as the informational heart of the institution. All original documents are meant to pass through this division to be captured and stored. The use of documents is guided by a strict regime: 'You sign for the file and are given a certain period of time with it to attend to it and if you don't, we come to your office and take it back as others would want to use it ... it might also get lost in your office'. A heavy safe door guards the municipal archive, which contains a number of fire-proofed filing cabinets – 'crocodiles' – in each are folio folders containing a host of 'active documents', classified and filed.¹⁰⁰

Many of the same challenges that authors have noted of state record keeping generally have been experienced here.¹⁰¹ The record-keeping function has long been marginalised and underfunded, and has not kept pace with digital technology. The staff complain of non-compliance, widespread misunderstanding of the records function and its importance, and routine disrespect from officials and politicians. Photographing documents in the archive over several weeks confirmed that the record-keeping staff have maintained an archive of significant comprehensiveness. The Records Clerk was optimistic that the unit captures roughly eighty per cent of all documents. Yet the unit has struggled to ensure that all documents are stored and handled in accordance with legislation. The manager of records complains that many departments do not forward the faxes they receive to the unit. Many digitally transmitted documents also fall through the cracks. Moreover, the Records Manager notes that 'The personnel files are still with HR, we don't have them in records but procedurally, they must be kept in records... to be kept safe'. She also notes that all tender documents were moved to the Supply Chain Management (SCM) division in 2013:

'Sometimes things just change and there is nothing that we can do even when we advise, maybe it is because we are juniors'.

One of the records clerks, however, expressed that she was happy to be relieved of the tender documents, as it meant she no longer received calls late at night demanding that she opens the vault for councillors or officials.

By far the biggest challenges for the unit have arisen with the political turmoil that has gripped the municipality over a number of years.

¹⁰⁰ The strong room also holds much older folios which date far back into the history of the town, when the area was still under the governance of the Potgietersrus Stadsraad (town council). Files containing council minutes and agendas date as far back as 1974, and track changing political developments. Meeting rosters from 1994, for instance, begin to include the names of newly appointed black managers and political leadership. Documents from 1995 show how Afrikaans was displaced by English as the municipality's official language. The archive of documents also bear witness to technological changes: the appearance of new fonts and styles announces that computers had replaced typewriters in the early 1990s.

¹⁰¹ See, for instance, the Archival Platform, 2015, 'State of the Archives: an analysis of South Africa's national archival system', available at www.archivalplatform.org/news/entry/state_of_the_archives/

COUNCIL SECRETARIAT

The records-division was not spared intrusions from the political battles which split the municipality. As disputes matured and intensified, for instance, the sight of lawyers arriving to demand swathes of documents became far more frequent.

The records clerk is a fierce defender of the autonomy of the unit, as we discovered when we arrived to conduct research at the municipality. Yet she recalls being powerless to stop the entry of lawyers, who had the backing of the powerful managers or the political principals they were defending. This points to the centrality of documentation in launching court cases or forensic investigations.

Nonetheless, the records division was one of the few units in the municipal administration that weathered this period of intensified conflict and institutional paralysis – purely as a result of the dedication of two of its officials who continued to report for work even while most of the municipal offices remained empty and the mayor's armed guards stalked the corridors for over two months. The record clerk explained that it was exceptionally strenuous to keep the basic processes of the unit running, and, exhausted, she used to take short naps under her desk. Despite managing to keep the unit functioning, morale amongst the record-keeping staff was at an all-time low in the aftermath of the chaotic shutdown. Memories of a number of violent incursions which had overtaken the municipality left a lingering sense of insecurity, and the summary dismissal of their long-standing executive manager was met with a profound disillusionment. Continuing divisions of council, managers and the growing factional incursions into their domain brought fear and uncertainty amongst many of the staff. When we returned, a number of officials in this unit were seeking alternative employment.

The minutes capture the processes of deliberation and decision-making until final resolutions are made by council. PARI found that they were organised very systematically. They are drafted by the two secretariat officers who sit in on a range of meetings, including those of Portfolio committees, the executive committee, and council. The production of agendas and minutes, we have found, increasingly became a site of contest as political turmoil in the municipality intensified.

According to the council secretariat officers, the former CSS manager played a crucial role in ensuring that minutes were properly drafted. When asked about whether any changes had been made in recent years to the creation of minutes, the secretariat officers indicated that they produced minutes the way that they had always been done, but that the only change they could think of stemmed from the growing political turmoil of the past few years. Indeed, these two officers found themselves caught in the midst of the battles of Mogalakwena's opposing factions.

They noted that divisions within ANC councillors had not been so visibly expressed in council before 2013. Internal party differences were worked out during the caucus sessions beforehand, and the ANC would arrive at the meeting with a unified voice. Since 2013, however, they saw growing displays of disunity within council chambers, which made drafting minutes more complicated. For the first time, councillors from within the ANC began requesting that their names be recorded against the resolutions proposed by other ANC members.

As meetings also became more chaotic, creating minutes proved more challenging. For instance, PARI asked the secretariat about the meeting on 26 November 2013, the minutes of which reflected the following introductory statement:

“NB: The ANC party caucus was held from 14:04 to 14:15. During the meeting, councillors were shouting order. NB: From Item 3 until the last item, councillors were shouting order continuously and making noise while the speaker was busy proceeding with the meeting and councillors were recommending and seconding approval of the items”.

When asked about this inclusion, the secretariat indicated that the meeting was exceptionally disorderly, that councillors had shouted over each other and, as indicated, shouted order constantly.

It is also worth noting that council must approve each and every set of minutes produced, affirming that they are “true and accurate reflections”. This may further explain why certain areas of contestation are specifically noted. It also suggests that the minutes are not simply a formality, but are rather an important site of political contestation in themselves. The link between the production of minutes and political turmoil is reflected in other ways. In the build-up to the contentious meeting in which the 23 councillors voted to reinstate Kekana as MM, the acting MM had ordered that the agendas be withheld and not distributed – an order which put the secretariat in a difficult position, unsure whether to accede to angry demands to release the agendas. The meeting took place anyway, with the pro-Kekana councillors hurriedly photocopying agendas of their own.

The splits in Mogalakwena council eventually culminated in the creation of another parallel council outside of the municipality’s walls. They held meetings at the hotel where the former mayor lived. Minutes were created for these meetings too, although without access to the template or a secretariat officer . This council took it upon themselves to draft their own minutes, more or less copying the style of the “official” minutes. The creation of these minutes seems to indicate that the process was regarded as an important political tool for establishing legitimacy and justifying certain manoeuvres.

The parallel councils created a dilemma for the secretariat officers, who were told by each that they were the ‘real’ council and that they were therefore to draft minutes for them. They chose instead to produce minutes for meetings which took place inside the council chambers. During the shut-down of the municipality, they had refused to write minutes for the pro-Kekana councillors who had begun holding their own meetings at another local guesthouse. When the situation calmed down, they returned to their duties within the municipality. They insist that they do not get involved in politics, and that “as long as we get paid at the end of the month”, they take minutes for whomever is in the driving seat at the municipality. Yet municipal politics frequently finds them, forcing them to make difficult choices in their day-to-day work.

TECHNICAL SERVICES

The Technical Services Department comprises four divisions and is linked directly to the IDP office in terms of services delivery. As the centre of project management, Technical services is one of the key service delivery departments in the municipality.

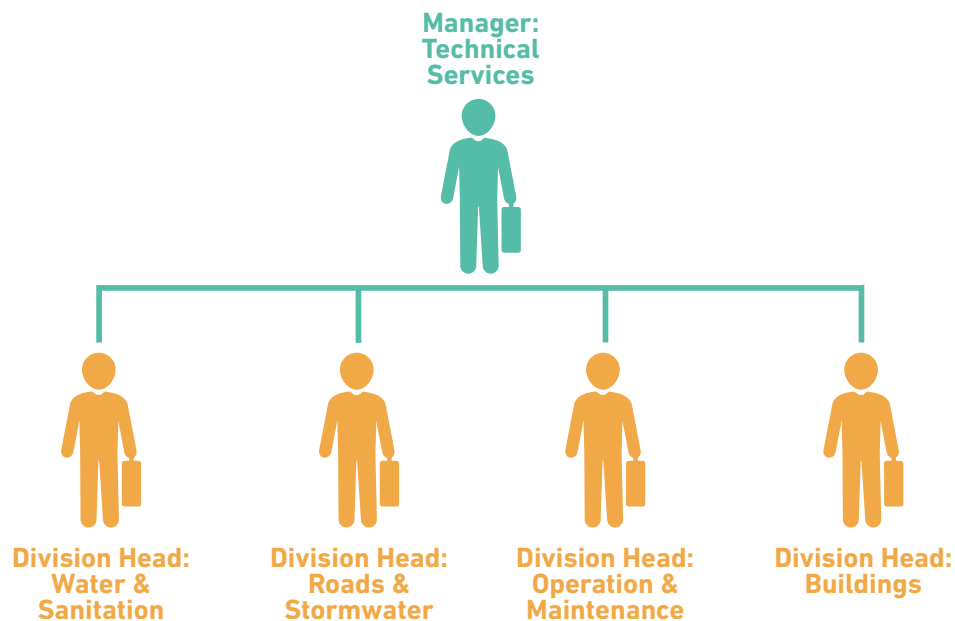


Figure 6: The Technical Services Department

The manager described his role:

That position puts you in a position where in the department, you are responsible for all four divisions within the department, now are taking care of Water and Sanitation; Building Services; Operation and Maintenance; Roads and Storm water. These are the four divisions within Technical Services. But this time it will be for the entire municipality. It obviously includes Roads and Storm water, both Operation and Urban Maintenance and Capital Projects.

To implement these projects, the municipality receives grants from the National Treasury, he explained:

Remember we have two sources of funding and programmes, you have Operation and Maintenance which is mainly funded by your equitable shares and [grants]... you basically do project management, contract management, project administration, where you now interact with your service providers that the municipality would like to engage... Consulting engineers then go and scope, and obviously prepare technical reports and results... At the top, strategic planning level, you are overseeing operations on a day-to-day basis. You attend council meetings, your exco, portfolio but you still report to your manager in the department.¹⁰²

¹⁰² Technical services manager interview, April 2015.

This department undertakes the largest procurement-based projects, and manage the largest share of funding. The manager noted that “80% of the municipality in terms of service delivery” is furnished by Technical Services. As such, Technical Services, and its managerial position in particular, is a highly contested site across the country.

While the manager was one of those officials who were reporting to the library faction during the strike, he was allowed to return to work without any disciplinary action – this is in contrast to, for instance, the acting CSS manager and the Deputy Finance Manager, who were both suspended. He believes that he was retained because his position is indispensable to the political wing. He has found a means of managing the political interference that has become a feature of the municipality. He noted that he received demands to fake the tender bids and other deviations of SCM processes.

This was demonstrated to us when, during an interview, the manager received an SMS from the mayor, demanding R80,000 to pay rent for the local ANC branch property, to be made the following day. We asked how he was going to manage the situation, and he indicated that “you have to find ways”. He claimed that if he did not follow through with the payment, they would harass him continually.

The manager believed his life was constantly in danger, with people, including those who work in the police department, coming to his house to request tenders and being called in the middle of the night by the mayor to request him to attend meetings. Additionally, he showed us the list of those who had already been chosen for the award of tenders, prior to any official process being undertaken. A listed company was highlighted as the preferred recipient of a R2 million tender for storm water construction. The manager claimed that the company was “linked to the province”.

In a recent visit in 2017 to the municipality, we found that it is not only through tenders that the ANC pays its operational costs, but also through local businessman who give donations to the party in return for the awarding of contracts for the municipality. The attorney, for instance, is alleged to have paid the rent of the local ANC offices. The acting MM therefore demanded that all commissioned work regarding conveyancing be awarded to him in return – even though in several other cases he has taken the municipality to court in the battle for Kekana’s reinstatement as MM.

INTEGRATED DEVELOPMENT PLANNING DIVISION

The IDP office falls under the Department of Planning and Development. The IDP is the key document which stipulates service delivery projects for the next five years, which requires constant annual updating, bringing in a number of departments to compile the service delivery roadmap and ensure that its targets are met. In Mogalakwena, their main priorities included the installation and maintenance of storm water drainage, bulk water delivery and the construction and upkeep of roads.

A key mandate of the IDP is to engage with communities in drawing up service delivery priorities for the following financial year by hosting a number of events in various locations across municipal wards. We were allowed to accompany the IDP officials on various roadshow hosted across different villages. In these roadshows, the manager of Technical Services and the Divisional Head of the IDP both presented the proposed budget for the following year, as well as reporting back on the progress of current projects. What clearly emerged during the

course of these roadshows is that water is central to the needs of the community: most queries and complaints raised were about access to water.

What also became clear was that there were contradictions between what the municipality outlined as achievements and what communities claimed to be receiving. Most community members complained about projects which had been left unfinished for months, projects whose expenditure the municipality listed as having been 100% complete, while on the ground, nothing had actually been done. Other young community members referred back to the last IDP roadshow, noting what the municipality had said they would do and yet had still failed to even consider in the drawing up of the latest IDP.

Municipal officials explained that some projects had not been implemented due to the clustering of projects, as outlined earlier. Furthermore, community members were constantly urged to “speak to the budget”, while other members of community asking “how can we talk to the budget when we’re not a part of it?”. “We have been writing letters [to the municipality] and we haven’t received anything”. In some cases, officials resorted to prayers, and urged community members to be patient, insisting that there was a “long walk to service delivery”. The IDP roadshow in Mahwelereng township was called off due to fears that the MRA would violently disrupt proceedings. At the IDP events that did take place, security was visibly tight, with a number of heavily armed guards present.

The IDP roadshows are a political site for social movements. The ANC also use them as an opportunity to legitimise various factions, often using the language of the liberation struggle. In the aftermath of the ousted mayor’s return, he seized the podium to affirm his legitimacy. One of the councillors declared that the

returning mayor was “the real mayor, there is no other mayor except this one”. He further announced that new ward councillors would be introduced to communities and indunas, and that ward committees should work with them and not the expelled councillors. He warned that if ward committees continued working with the expelled councillors, they would have their stipends cut off.

The strike had long-term consequences for the implementation of service delivery. The DH of the IDP office described the strike as a “speed hump” which, coupled with the constant change in the MM and the mayor, had wrought serious administrative damage from which it would require years to recover:

...the speed hump, administratively, it had a very serious damage. In terms of the administration, the set up now, it has had a huge damage. You can see everybody is acting, acting. And this process can't work well. If you started [a process in] July 2014 and around November, everybody is acting [yet] it must be concluded at the end of June 2015. So somebody who started the process must conclude the process. So if, then you have the acting MM, when you adopted a project in July 2014 it was another MM. Now it's another one. And they are acting. You will remember when we adopted this thing in July, it was another mayor. And now it is March and you are introducing another mayor with...he was not there in July. And also the steering committee, the whole committee is new, only one month old. That is what I was trying to emphasise when I said in terms of administration it had a huge impact, that speed hump. To recover from that situation you need 6 years. It's like you fall on top of the person that you didn't want to talk to and after that then you will say that but why that thing happened. That thing is going to take you years...it is not going to be sorted out right now .¹⁰³

¹⁰³ DH IDP Office interview, April 2015.



OVERALL CONCLUSIONS



The events that occurred in Mogalakwena, which resulted in the collapse of the municipality, provide indications of the potentially destructive consequences of institutionalised factionalism embedded in the ANC. Evidence has shown that the commissioning of lawyers is fundamental to sustaining division among various actors. Lawyers proved key 'foot soldiers' in the struggles of Mogalakwena, integral in shaping how disputes unfold. Our findings demonstrate a pattern of certain lawyers acting on behalf of certain factions – each faction used the services of a preferred law firm.

Due to the increase in legal disputes which are fuelled by municipal funds and the significant expenses associated with these, we have found that in Mogalakwena and other municipalities, legal services have become a particularly vulnerable site for the deviation of large amounts of money to politically-affiliated lawyers.

The effects of the lengthy timeframes and unresolved court cases has opened a vacuum, manifesting by a growing climate of violence emerged within which private security services stepped in, translating this factionalism into a physical and escalating 'turf war' between various actors. What followed was a sharpening securitisation at the municipality. The violence spread outside the municipality – there was an increase of community protests – often organised by the MRA.

This report shows how the problems facing local government are not simply a manifestation of parochial issues, but tied to broader contests at multiple levels of party and state. Local government cannot be conceived

in insular terms – what happens in municipalities does not simply 'mirror' broader dynamics in party and state, but is integral to both. We have seen how a local municipality can function as the theatre for an array of competing, collaborating and shifting alliances across party and state, and how local officials and politicians are directly implicated in these networks. More broadly, the municipality reflects structural failure in both politics and administration, which are bereft of adequate mechanisms to address the deep-seated social legacies of apartheid of which Beall et al noted in the context of 'incomplete democratic consolidation in South Africa'.¹⁰⁴

We have shown that recurring factionalism within the ruling party can divide council, erode the administrative fabric of the local municipality, put many officials in impossible predicaments, and halt urgently needed service delivery. Looking within the institution, and the daily lives of administrators and councillors, challenges much contemporary scholarship, which often locates the weakness of state institutions in terms of a lack of capacity, skills and a weak processes.¹⁰⁵ These authors give useful insights into the regulatory and capacity challenges facing municipal administrations. Yet beyond gestures towards problems of 'corruption', they do not interrogate how systems are embedded in political disputes which can foster more fundamental dysfunctionality in state institutions.

Another strand of contemporary literature looks explicitly at the politicisation of government, but through the limited lenses of 'patronage', 'neopatrimonialism', 'gatekeeping'.¹⁰⁶ Their analysis generally focuses on political dynamics at the national level and are in

¹⁰⁴ J. Beall, S. Gelb and S. Hassim, 'Fragile Stability: State and Society in Democratic South Africa', *Journal of Southern African Studies*, 31, 4 (2005), p.685.

¹⁰⁵ See, for instance, W. Zybrands, (2012). "Municipal Structures and finances - predicaments and performance 'challenges'" In Booysen, S. (ed.). *Local Elections in South Africa: Parties, people, politics*. Bloemfontein: Sun Press. p.67-88; D. Atkinson (2007). *Taking to the streets: has developmental local government failed in South Africa?*. In Buhlungu et al. (eds), *State of the Nation*. Pretoria: HSRC Press. p.53-77; Makgetla, NS. (2007). *Local government budgets and development: a tale of two towns*. In Buhlungu et al. (eds), *State of the Nation*. Pretoria: HSRC Press. p.146-170.

¹⁰⁶ See, for instance, T. Lodge, 'Neo-patrimonial Politics in the ANC', *African Affairs*, 113, 450 (2014), pp.1-23; A. Beresford, 'Power, Patronage and Gatekeeper Politics in South Africa', 114, 445 (2015), p.226; p.238.

broad agreement that South Africa has seen a growing fusion between party and state under the Zuma administration. Yet they give little insight into dynamics at the local level. Those authors that do study local politics often remain focused on descriptive explorations of conflicts that surround ANC councillors,¹⁰⁷ how political contests affect the administration of the local municipality. Booysen has suggested that, like other levels of the state, local government experiences the routine 'purging' of deployed officials with changes in leadership, yet she does not give any indication as to how such 'purges' are carried out, or what the effects on the administration can be.¹⁰⁸ None of these analyses capture the nuances and complexities that can only be witnessed by going inside these institutions and immersing oneself in the daily life of a local municipality.

Using the concept of 'perpetual instability' complicates the presumed fusion of party-state, which is often articulated in a fixed, static sense. Factionalism within the ANC is fluid, evolving with new developments, shaped by shifting political milieux, reconfigured by continuously changing forces of power. Actors embroiled in politics frequently shift allegiances. Moreover, officials often resist impositions, make expedient calculations to navigate the daily dilemmas posed by politicians, and devise methods to protect themselves and retain their jobs.

The simplified notion of a fused party-state moreover does not reflect how the administrative-legal framework can not only constrain the agendas of actors, but even

derail their objectives. When an institution fractures, as happened in Mogalakwena, various competing actors make appeals to legislation to limit the actions of rivals. In this context, lawyers prove increasingly indispensable allies for competing factions in attempts to legitimise conflicting political strategies. The rise of 'lawfare', which includes court cases, disciplinary hearings, legal opinions and forensic investigations, has become the entrenched mechanism in conflict management. Yet these processes have frequently led to a legal gridlock, with unresolved court cases continually deferring the resolution of the root causes of the problems facing municipalities.

As judicial processes deepened political feuds, we saw in Mogalakwena how violence increased within the municipality, and in the community at large. A climate of fear and paranoia prevailed in the highly securitised institution. This furthermore drained the municipality's resources, with large amounts of the budget spent on the procurement of outsourced security firms.

When all of these elements collide, they create an unsustainable environment for officials working in the municipality. As a result, the key function of the municipality – providing services to communities – collapses. With the escalation of party political conflicts across the province, and country more broadly, the country is at a critical juncture in its history. There are signs that the kind of 'perpetual instability' witnessed in Mogalakwena, for which there are no obvious remedies, is emerging across the state.

¹⁰⁷ See, for instance, K. Von Holdt, M. Langa, S. Molapo, N. Mogapi, K. Ngubeni, J. Dlamini, and A. Kirsten. 2011. *The Smoke That Calls: Insurgent Citizenship, Collective Violence and the Struggle for a Place in the New South Africa*. Research report. Johannesburg: CSVR and SWOP; Langa M. and von Holdt, K. 2012. 'Insurgent Citizenship, Class Formation and the Dual Nature of a Community Protest: A Case Study of "Kungcatsha"' In *Contesting Transformation: Popular Resistance in Twenty-first-century South Africa*, edited by M. C. Dawson and L. Sinwell, 80-100. London: Pluto Press; Dawson, H.J. (2014). 'Patronage from below: Political unrest in an informal settlement in South Africa', *African Affairs* 113, 453 (2014), pp. 518–39.

¹⁰⁸ S. Booysen, *The African National Congress and the Regeneration of Power*, (Johannesburg, Wits University Press, 2011), p.386.

