



**STRATEGIES FOR THE NATIONAL ASSEMBLY TO ENSURE THE EFFECTIVE
IMPLEMENTATION OF THE NATIONAL DEVELOPMENT PLAN OF SOUTH
AFRICA**

by

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Signed

Date

ABSTRACT

The primary objective of this study was to contribute evidence and analysis that the administration of Parliament and structures such as portfolio committees can utilise during their oversight activities to ensure the successful implementation of the National Development Plan (NDP). In this regard, this study endeavoured to shed light on the current legislative, oversight and public participation practices of the National Assembly with respect to the executive.

In particular, the study considered the strengths and weaknesses of the many ways in which Parliament pursues its mandate, through its oversight methods such as debates, questions, portfolio committee oversight activities, and legislation, amongst others. As such, the study's recommendations are geared towards strengthening the capabilities of Parliament to deliver improved outcomes and, in so doing, raise the level of accountability within and throughout the institution.

A number of gaps and weaknesses in the way in which Parliament executes its mandate were found. Significantly, accountability – which is the axis around which the roles of Members of Parliament and Parliament itself revolves – has been significantly weakened by competing political agendas. The highly political context and the proportional representative system influence the autonomy and commitments of Parliament.

The NDP (2012:45) holds that “accountability is essential to democracy and that the accountability chain should be strengthened from top to bottom”. Serious questions emerged about the ability of Parliament to hold the executive to account. Capacity constraints which pertain to both members and staff and the building of coalitions (external expertise) were factors that require attention.

The study underscores that, even though significant energy and resources were invested since 1994 into addressing the efficiency of Parliament, insufficient attention has been paid to the effectiveness of the institution.

It was observed that the operational plans of Parliament, committees and the various business units, in most instances did not relate logically or directly to Parliament's policy imperatives. Notably, the institution emphasised outputs to the detriment of outcomes and impact- driven indicators, which is crucial to ensure accelerated service delivery.

The study underscored that, Parliament had performed poorly in identifying the failures of the executive and exacting the necessary punitive measures where this may be needed. With regards to parliamentary public participation processes, it was revealed that, Members of Parliament, were not sufficiently responsive to the substantive issues which the public had raised during various public participation processes. In terms of co-operative government, the study found that it was necessary for the three spheres of government to clarify their roles and responsibilities in the context of South Africa's tiered system of government.

The study proposes a number of recommendations in an endeavour for Parliament to strengthen its oversight, legislative and public participatory processes to ensure the effective implementation of, amongst others, the National Development Plan (NDP).

Amongst these being-

- The introduction of measures to ensure enhanced and effective oversight;
- A comprehensive review of legislation passed since 1994, to determine its impact;
- The development of mechanisms to track and monitor the implementation of the commitments made of the Executive;
- Forging meaningful partnerships and collaborative initiatives with external stakeholders; and
- The introduction of fundamental changes to the programme of Parliament, to ensure more focussed oversight, especially as it relates to the National Development Plan (NDP).

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DEDICATION

Dedicated in memory of my brother, Calvin Vernon van der Vent.

GLOSSARY

ANC	African National Congress
BRR	Budget Review and Recommendation Reports (BRR)
GUPTAGATE	Guptagate, is the term the media dubbed the controversial circumstances surrounding the arrival of a foreign businessman and his entourage at Waterkloof airbase, which is a national key point.
GWME	The overarching Government-Wide Monitoring and Evaluation (GWME) system aims to: provide an integrated, encompassing framework of M&E principles, practices and standards to be used throughout Government, and functions as an apex-level information system which draws from the component systems in the framework to deliver useful M&E products for its users (South Africa. The Presidency, 2007:5).
IPU	Inter-Parliamentary Union The IPU is the focal point for world-wide parliamentary dialogue and works to strengthen parliamentary systems across the world.
LOGB	Leader of Government Business The LOGB is responsible for the affairs of the national executive in Parliament.
LEGISLATIVE SECTOR	Legislative Sector The Legislative Sector includes the National Parliament of the Republic of South Africa and the nine Provincial Legislatures
M&E	A monitoring and evaluation system is a set of organisational structures, management processes, standards, strategies, plans, indicators, information systems, reporting lines and accountability relationships which enables national and provincial departments, municipalities and other institutions to discharge their M&E functions effectively (South Africa. Presidency, 2007:4).
MTSF	The Medium-Term Strategic Framework contains a detailed five-year implementation plan related to the National Development Plan (NDP), with target indicators, roles and responsibilities and timeframes for the implementation of key actions to enable systematic and evidence based monitoring of the implementation of the NDP. The Medium Term Budget Policy Statement
MTBPS	A Government policy document that communicates to Parliament and the country the economic context in which the forthcoming budget will be presented, along with fiscal policy objectives and spending priorities over the three-year expenditure period

NA	<p>National Assembly</p> <p>The NA consists of 400 members elected by voters to represent them and to ensure government by the people under the Constitution. It does this by choosing the President, by providing a national forum for public consideration of issues, by passing legislation and by scrutinising and overseeing executive action.</p>
NCOP	<p>The National Council of Provinces</p> <p>The NCOP consists of 90 provincial delegates (10 for each province) and is constitutionally mandated to ensure that provincial interests are taken into account in the national sphere of government. It does this by mainly participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces.</p>
NDP	<p>National Development Plan</p> <p>This is a plan to eliminate poverty and reduce inequality by 2030.</p>
NPM	<p>New Public Management</p>
POs	<p>Presiding Officers (POs) refer to the political leadership of the two Houses of Parliament. For the National Assembly, these comprise the Speaker, Deputy Speaker and House Chairpersons, while for the NCOP, they consist of the Chairperson, Deputy Chairperson and House Chairpersons.</p>
PBO	<p>Parliamentary Budget Office</p>
PR	<p>Proportional Representative System</p>

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CHAPTER ONE

CONTEXTUALISATION OF THE STUDY

Because the people of South Africa finally chose a profoundly legal path to their revolution, those who frame and enact the Constitution and law are in the vanguard of the fight for change. It is here that oversight of government has been exercised. It is here that our society in all its formations has had an opportunity to influence policy and its implementation. (Nelson Mandela's speech at final sitting of the first democratically elected Parliament, Hansard, 26 March 1999).

1. INTRODUCTION AND BACKGROUND

Parliaments are the custodians of democracy and the institutions that shape and give meaning to democracy. In his first address as Speaker of the National Assembly in 1996, Max Sisulu asserted that parliamentarians, as the elected representatives of the people, were the link between the electorate and the government. Sisulu contended that this unique position presents parliamentarians with opportunities to be change agents through their representational, oversight and legislative roles.

Various reports of the Parliament of South Africa, such as its annual reports and strategy documents, note that the institution's focus in the 15 years post-apartheid was to ensure the transformation of South Africa's legislative landscape, in compliance with the Constitution of the Republic of South Africa, 1996. As a result of the heavy legislative workload, Parliament's oversight function received far less attention.

The Constitution, 1996 states that parliamentary oversight entails the monitoring and reviewing of actions of the executive and organs of state. Parliamentary oversight is therefore understood to entail the formal and informal vigilant, strategic and structured scrutiny exercised by legislatures in respect of the implementation of laws, the application of the budget, and strict observance of statutes and the Constitution.

The South African Parliament's internal review processes in 2009 revealed that among the institution's current challenges is the imperative to ensure the implementation of legislation, sound governance and effective service delivery by the executive. The National Development Plan (NDP), which was tabled in Parliament in February 2012, is a 20-year road map for addressing the identified systemic socio-economic challenges facing South Africa.

The NDP Diagnostic Report (2012:5) posits that *"...the economy has failed to create jobs at the pace necessary to reduce extremely high unemployment, and the education system has failed to ensure that equalised public spending on schooling translates into improved education for black children"*

According to the NDP Diagnostic Report (2012), government's failure to implement policies, as well as a paucity of broad partnerships, is the main reason for the slow progress in meeting the country's developmental goals. The NDP (2012:25) highlighted nine primary challenges to be addressed using inter-sectoral methodologies:

- Too few people work;
- The quality of school education for black people is poor;
- Infrastructure is poorly located, inadequate and under-maintained;
- Spatial divides hobble inclusive development;
- The economy is unsustainably resource intensive;
- The public health system cannot meet demand or sustain quality;
- Public services are uneven and often of poor quality;
- Corruption levels are high; and
- South Africa remains a divided society.

In addition to outlining the challenges that the state should address to make more meaningful socio-economic progress, the NDP outlines a range of actions that government has to take to reduce poverty and inequality. In a presentation of the NDP to Parliament in August 2012, Minister Trevor Manuel, Chairperson of the National Planning Commission, asserted that the *"NDP is a*

plan for South Africa”, and that the plan provides “*a broad strategic framework to guide key choices and actions*”. Minister Manuel cautioned at the time that the plan’s success would depend on all South Africans, led by the President and Cabinet, taking responsibility for it.¹

1.1 Rationale

Parliaments are an integral part of a national governance system. The Inter-Parliamentary Union (IPU), *Global Parliamentary Report* (Power, 2012) asserts that parliaments remain the only bodies that exist specifically to “... *collate and articulate the interests...*” of a nation as a whole. The report further posits that there are certain strategic roles that parliaments alone can perform, such as passing and repealing laws and calling government to account.

The UNECA Report on African Governance (UNECA, 2005:127) notes that in terms of its mandate “... *of enacting laws, debating national issues, checking activities of government and in general promoting the welfare of people, these duties and obligations are rarely performed with efficiency and effectiveness in many African parliaments*”. Within the South African context, the Bill of Rights in the Constitution of 1996 provides that the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of rights in respect of, amongst others, housing, health care, food, water, social security, education, and the environment. Guided by the principles and values of the Constitution, 1996 it is the remit of Parliament to ensure that at the very least the provisions in the Bill of Rights are carried through by the executive.

¹ Handover of the NDP. Speech by Minister Trevor Manuel, 15 August 2012, National Assembly, Parliament of the RSA.

A key premise therefore of the democratic contract in South Africa is that citizens have the right to expect government to deliver basic services, and to hold leaders accountable for their actions. To this end, the strategic vision of Parliament, for the period 2009–2014, emphasised the need to build an effective people’s parliament that is responsive to the needs of the people, and is driven by the ideal of realising a better quality of life for all South Africans.

The first three terms of Parliament between the periods 1994 to 2009 were devoted to processing and passing legislation. During the fourth term of Parliament (2009–2014), the focus of the institution shifted to that of being a ‘change agent’ to ensure that government delivers quality services, and reduces poverty and inequality.

In recent years, the South African Parliament has been questioned about its ability to effectively hold government to account for its actions and has often been labelled as a ‘rubber stamp of government’. In addition, the NDP, which emanates from the National Planning Commission, Department of the Presidency, asserts that concerns have been raised about whether Parliament is fulfilling its role in building an accountable and responsive state (NDP, 2012:428).

The South African Parliament is not alone in facing such criticism. Literature produced by the Inter-Parliamentary Union (IPU) reveals that public pressure on and expectations of parliaments worldwide are increasing. The IPU *Global Parliamentary Report* (Power, 2012:4) notes three dominant pressures facing parliaments. These common challenges are:

- information and influence in parliamentary work;
- accountability and responsiveness to public concerns; and
- delivery of services to meet citizens’ needs.

The NDP outlines the actions which government has to take to ensure improved outcomes pertaining to service delivery and the quality of life of the people of South Africa. In general, the NDP has been welcomed and accepted in principle across the political spectrum.

Currently, space exists for government and Parliament to restore public faith by ensuring that the NDP is implemented and that those targets and actions set out in the Plan will be met. Restoring public faith, and becoming relevant and responsive to the needs of its citizenry, of course requires Parliament to place the NDP firmly on its legislative and oversight agenda.

The Constitution, 1996 enjoins Parliament to monitor, legislate and oversee government action. Given this role, what are the necessary strategies that Parliament has to develop to ensure that government is held accountable for its actions or lack thereof. The NDP places significant emphasis on building capabilities in all spheres of government, and emphasises strategic alliances and inter-sectoral collaboration with different stakeholders across various programmes and sectors (NDP, 2012:45). The challenge for the South African Parliament is to ensure that it upholds and strengthens its constitutional mandate and, in so doing, holds government accountable for the implementation of the NDP, whether it is successful or not.

The study will examine the strategies that Parliament has to develop and adopt to ensure that the NDP is integrated into the core business of the National Assembly, and that the executive is held accountable for the implementation of the National Development Plan.

1.2 Research methodology and approaches used in the study

1.2.1 *Purpose and significance of the research*

The purpose of the research is to assess and recommend strategies that the National Assembly could develop and adopt to integrate the NDP into its core mandate, which is that of monitoring, conducting oversight and passing legislation.

The NDP is the roadmap for the next 20 years, and to ensure its successful implementation, Parliament has to hold the executive accountable for its implementation. It is crucial therefore, that Parliament incorporates the NDP into its oversight activities. The study therefore contributes towards the strategic and operational alignment of the core business of Parliament for 2014 and beyond. The findings of the study could also, where appropriate, be used as a basis for other assessments and reviews that might be initiated in future in Parliament.

1.2.2 *Research objectives*

The purpose of the study is to contribute evidence and analysis that structures of Parliament, such as portfolio committees, can make use of in their oversight activities, to ensure the successful implementation of the NDP. The study therefore endeavours to shed light on the current oversight practices of the National Assembly with regard to the implementation of the NDP.

The study findings therefore contribute to recommendations and alternative strategies and institutional arrangements that can deliver improved outcomes with regard to the implementation of the NDP.

Objective 1:

To provide a detailed description of the relationship between policymaking and implementation.

Objective 2:

To describe the overall purpose, strategic intent, performance, targets outputs and outcomes as well the purpose of Parliament.

Objective 3:

To investigate the level of congruency between the strategic plan of Parliament and implemented programme of the institution.

Objective 4:

To investigate how Parliament has responded to the various gaps encountered in policy implementation.

1.3 Research design and methodology

Mouton and Marais (1990:155) describe the quantitative approach to research in the social sciences as more highly formalised and more explicitly controlled, with a range that is more exactly defined, and which, in terms of the methods used, is relatively close to the physical sciences.

In contrast, Mouton and Marais (1990:155) describe qualitative research approaches as procedures which are not strictly formalised, while the scope is more likely to be undefined and a more philosophical mode of operation is adopted. Heppner, Kivlighan, and Wampold (1999:246) assert that qualitative research examines behaviour in context and emphasise that the interpretation of the context is the most important process to be studied.

To date, very little data exist on how Parliament has integrated the NDP into its broad responsibilities. Charmaz (2006:130) asserts that following a qualitative method of study opens up the space for participants to answer the questions, "how and why meaning and action is constructed in specific situations". The approach followed in this study is thus qualitative in nature, as the qualitative method of enquiry allows for the extraction of the data necessary for this study.

The sample comprised parliamentary chairpersons of the economic and social clusters. The Speaker, Deputy Speaker, and House Chairpersons of Committee, support personnel which include committee advisors, researchers, and departmental liaison officers in government. The chosen sample represents the stakeholders who are directly involved in setting or influencing the working agenda of committees.

Semi-structured recorded interviews were conducted with the presiding officers of Parliament, chairpersons of portfolio committee clusters, committee advisors, and researchers attached to the relevant committees studied, as well as departmental liaison officers. Semi-structured interviews are understood to constitute open-ended questions in which *“either the concrete issue is defined and the response is left open or, the reaction is defined and the concrete issue is left open”* (Flick, 2009:150).

Further, semi-structured interviews provided much more flexibility as the researcher had the space to explore questions until they were better understood.

A focus group discussion was conducted with a sample of the participants to test, support or verify the qualitative findings; this constituted supplementary evidence in support of the primary research study. Erkut and Fields (1987:74) maintain that focus group discussions are valuable as they provide an atmosphere of spontaneity, originality and synergy.

Direct observation through regular attendance of selected portfolio committee proceedings and meetings also took place as a means to elicit further information about and understanding of the work of committees. Direct observation is a useful method that allows the researcher to compare that which is being said in interviews with that which actually happens in practice.

The research is supported by a comprehensive literature review which includes national and international books, journals, articles, speeches, legislation, research reports, internal parliamentary documents, magazine and newspaper articles.

1.3.1 *Data analysis*

Hatch (2002:148) describes data analysis as:

[A] systematic search for meaning. It is a way to process qualitative data so that what has been learned can be communicated to others. Analysis means organizing and interrogating data in ways that allow researchers to see patterns, identify themes, discover relationships, develop explanations, make interpretations, mount critiques, or generate theories.

Data analysis is a fluid, intuitive and ongoing process. In this regard, Stake (1995:71) maintains that there is no exact moment for the researcher to begin the data analysis process.

This study followed Creswell's (2009:185-189) seven steps of data analysis procedures:

- Organise and prepare the data for analysis;
- Read through all the data. Gain a general sense of the information and reflect on the overall meaning;
- Conduct analysis based on the specific theoretical approach;
- Generate a description of the setting or people and identify themes from the coding; Search for theme connections;
- Represent the data within a research report; and
- Interpret the larger meaning of the data.

The steps outlined are, however, not linear and were repeated iteratively.

1.3.2 Expected outcomes and results

It is envisaged that the findings of the study could be used by Parliament to strengthen its monitoring, oversight and legislative functions. The findings of the research could also be utilised by officials in Parliament in future assessments and reviews.

1.3.3 Ethical considerations

Upholding ethical standards has been a primary consideration since this study was initiated. The required ethical guidelines as outlined by the Cape Peninsula University of Technology were followed.

- i. Authorisation was obtained from the officials of Parliament where the research was undertaken.
- ii. The researcher liaised with the participants in the study to inform them of its objectives and its possible advantages for Parliament.
- iii. The researcher secured the further involvement of the participants to verify the information and findings, since focus groups constituted an element of the research methodology.
- iv. Where requested to do so, the researcher treated the information as confidential.
- v. The data was reported honestly and with integrity, without manipulation of the findings.

1.4 Scope

The focus of the study is limited to the core business of the National Assembly, namely oversight, legislation, and institutional support. The study determined the extent to which Parliament has integrated the National Development Plan into its core business, and the strategies the institution has to develop to ensure that it strengthens its mandate. The findings will be used in future strategic processes of Parliament.

1.5 Delimitation

This study did not examine the work of the second chamber of Parliament, which is known as the National Council of Provinces (NCOP).

1.6 Summary

The chapter presented the introduction and background to the study. It delineated the problem, and outlined the purpose and relevance of the study. It also provided a description of the methodology and the ethical guidelines for the study.

CHAPTER TWO

CONCEPTUAL FRAMEWORKS EMERGING FROM THE LITERATURE REVIEW

2. INTRODUCTION

The chapter and the next identify and clarify distinctive themes emerging from a study of the South African Public Service and Administration and the South African Parliament. In this chapter, the concept of accountability and the constitutional mechanisms that give effect to the accountability injunctions are discussed.

2.1 Public accountability

2.1.1 *Defining accountability*

This section explores the conceptual terrain of the term 'accountability'. A hallmark of democratic states is the imposition of checks and balances or accountability mechanisms to ensure good governance.

The accompanying analysis of the term 'accountability' underscores that it represents a broad concept, which includes oversight, monitoring, auditing, control, exposure and punishment (Schedler, Diamond and Plattner, 1999:4).

Literature on public accountability reveals it to be a contested concept, yet integral to the political and public service discourse. Mulgan (2003:8) notes that the concept accountability "*has come to stand as a general term for any mechanism that makes powerful institutions responsive to their particular publics*".

Bovens (2005:2) describes accountability as an elusive concept which means different things to different people. Despite a diversity of approaches, common threads can be drawn from the plethora of definitions pertaining to accountability.

In its narrowest form, Pollitt (2003:89) describes accountability as “*an obligation to explain and justify conduct*”. Roberts and Scapens (1985:447) refer to accountability as “*giving and demanding of reasons for conduct*”. Gray and Jenkins (1993:55) maintain:

Accountability is an obligation to present an account of and answer for the execution of responsibilities to those who are entrusted with those responsibilities. On this obligation depends the allocation of praise and blame, reward and sanction, so often seen as the hallmarks of accountability in action.

The South African Parliament’s policy document, the Oversight and Accountability Model (South Africa. Parliament, 2009a:7) refers to accountability as “institutionalized practices of giving account of how assigned responsibilities are carried out”.

2.1.2 Distinguishing public accountability

In recent times, the terms ‘horizontal and vertical accountability’ have been used to refer to a specific form of accountability. O’Donnell (1998) is widely credited with coining the terms ‘horizontal and vertical accountability’ to distinguish different forms of accountability.

Horizontal accountability, according to O’Donnell, refers to formal relationships within the state itself, whereby one state actor has the formal authority to demand an explanation or impose penalties on another. Its focus is on internal checks and oversight processes.

Vertical forms of accountability, according to O'Donnell (1998), in turn refer to relationships in which citizens and their associations play a direct role in holding those in power to account. Vertical accountability also refers to mechanisms such as voting during elections, and complaints procedures.

Within the public sphere both horizontal and vertical accountability are at play. Within public service discourse, the term 'public accountability' is often used and referred to. To clarify what is 'public' about public accountability, Bovens (2005:9) identifies the following aspects. Firstly, 'public' should be understood to mean "an account that is open to the public; is widely accessible and judgment is broadcast to the general public".

In the second instance, Bovens (2005:9) denotes 'public' as referring to "the object of the account to the rendered" (Bovens 2005:9). From the explanation advanced by Bovens, it can be deduced therefore that transparency or openness is an important variable in the public accountability discourse. Scott (2000:41) maintains that public accountability in the main refers to matters situated in the public domain, such as the spending of public funds, the exercise of public authority, or the conduct of public institutions.

However, public accountability is not limited to public organisations, but can extend to private bodies that exercise public privileges or receive funding. A simplistic definition of public accountability would constitute public accountability in and about the public domain (Bovens, 2005:10).

In literature related to accountability, the term 'transparency' is often used interchangeably with the term 'accountability'. Fisher (2004:504) maintains that accountability is not just about transparency, because it only accounts for the element of 'publicness' in public accountability, for the disclosure of information or the disclosure of the judgement, and not for the element of answerability.

According to Fisher (2004:504), the act of public reporting does not constitute public accountability. Harlow (2002:185) and Mulgan (2003:21) maintain that in many instances accountability is often blurred with responsiveness and participation. Bovens (2005:11) argues that responsiveness to a broad range of stakeholders and to forms of consultation and participation is an important process to enhance political legitimacy, but does not constitute accountability. These processes provide proactive input into the policy process and should be classified and studied separately for what they are: forms of consultation and participation. They lack the element of justification, judgement and sanctions (Bovens 2005:11).

2.1.3 *Purpose of accountability*

In the literature on accountability, its purpose, according to Aucoin and Heintzman (2000:45), is to:

- provide a democratic means to monitor and control government;
- prevent the development of the concentration of power; and
- enhance the learning capacity and effectiveness of public administration.

In addition, Bovens (2005:11) makes the critical point that the purpose of accountability is not only control; it is also about prevention of abuse. The executive body, in carrying out its tasks, whether by implementing legislation or policy, acquires considerable power, such as the ability to influence or determine a person's conduct. A condition of the exercise of that power in a constitutional democracy is that the administration or executive is checked by accountability to an organ of government distinct from it. This notion is inherent in the concept of the separation of powers, which simultaneously provides for checks and balances on the exercise of executive power, making the executive more accountable to the legislature.

Accountability is designed to encourage open government. It serves the function of enhancing public confidence in government and ensures that the government is close and responsive to the people it governs.

The Constitution, 1996, provides that the executive should justify its policies and decisions to the South African Parliament and is one of several mechanisms to ensure accountability and transparency. These mechanisms are found in Section 33(2) of the Constitution, 1996, which requires, amongst others, that officials provide written reasons for their decisions, and opens up administrative action to judicial review.

2.1.4 *Relational aspect of accountability*

Bovens (1998:26) asserts that accountability does not occur in isolation but in relation to other people and institutions. From the literature reviewed it becomes apparent that accountability is a fluid process, which can be “*occasional, contingent, or informal*” (Bovens, 2005:12).

Strøm (2006:59) maintains that within representative democracies, accountability takes place along the chain of principal-agent relationships. In relationships such as these, the electorate delegate their power to popular representatives, such as parliamentary democracies, who in turn delegate a major part of their powers to cabinet ministers. The ministers delegate many of their powers to their civil servants or various, more or less independent, administrative bodies. It is parliamentarians, however, as the elected representatives of the people, who are ultimately accountable to the voters, especially during elections.

In terms of the apex of accountability, ministers are individually and collectively accountable to Parliament. The extent to which they are held accountable for their performance, good or bad, is, however, an intensely political question. The conduct of civil servants resorts under the Public Finance Management Act (Act 1 of 1999). Accounting officers such as the heads of department or CEOs of institutions found guilty of having committed offences are punishable by either a fine or imprisonment.

Public accountability relations are often institutionalised and captured in rules, standing practices, and fixed routines, or the accountability process is laid down in fixed forms, values and instruments (Bovens, 2005:12).

2.2 The South African Constitution on accountability

A reading of Section 55(2) of the Constitution, 1996 reveals that the National Assembly must take steps to ensure that the executive organs of state in the national sphere and those directly responsible to it must be held accountable under Section 55(2).

Section 55(2) of the Constitution states:

The National Assembly must provide for mechanisms –

- a) to ensure that all executive organs of state in the national sphere of government are accountable to it; and b) to maintain oversight of –
 - (i) the exercise of national executive authority, including the implementation of legislation; and
 - (ii) any organ of state.

The Constitution assigns individual and collective responsibility to the executive.

Section 55(2) (b) (1), together with Section 92, provides as follows:

- i. The Deputy President and Ministers are responsible for the powers and functions of the executive assigned to them by the President.
- ii. Members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions.
- iii. Members of the Cabinet must act in accordance with the Constitution.
- iv. Members of the Cabinet must provide Parliament with full and regular reports concerning matters under their control.

Clearly, Section 92(2) entrenches the principle of ministerial responsibility. Ministers are individually responsible for the conduct of that part of the executive resorting under their sphere of operations. The collective responsibility of the Cabinet implies that Ministers are jointly responsible for the conduct of government in the sense that they are obligated to support government policy.

2.2.1 Mechanisms to ensure accountability

Within Parliament, there are several mechanisms in place to ensure that members hold the executive to account. These include the budget vote, the power to summon members of the executive and the public to appear before parliamentary committees, public hearings in committees, parliamentary question time (oral and written), and parliamentary debates (South Africa. Parliament, 2008).

The annual budget vote is one of the most direct tools that Parliament uses to enforce accountability. Each year Parliament has to approve the annual budget of the government. Since 2009, Parliament has also had the power to amend the budget. It has to date, however, not done so.

Another way in which Parliamentary committees are able to enforce executive accountability is through their power to summon members of the executive bodies to explain their actions. This power is entrenched in Section 56 of the Constitution of South Africa (Act 108 of 1996), as well as the Powers and Privileges of Parliament Act² (Act 91 of 1963).

Rule 52(1) (c) states:

A portfolio committee shall ... monitor, investigate, enquire into and make recommendations relating to any aspect of the legislative programme, budget,

² Short title.

rationalization, restructuring, policy formulation, or any other matter it may consider relevant, of the government department or departments falling within the category of affairs assigned to the committee ... and may for that purpose consult or liaise with such department or departments.

2.2.2 *Answerability and enforcement*

Schedler et al. (1999:15) hold that political accountability involves more than the generation of data and the interplay of arguments.

An ongoing debate that has intensified in recent years has been the extent to which Members of Parliament, particularly those belonging to the majority party, the African National Congress (ANC), have been able to scrutinise the executive below the surface or *“the generation of data and the interplay of arguments”*.³ The issue of political accountability also comes to the fore as a concern and is powerfully articulated in the NDP (2012:45) as follows:

Accountability is essential to democracy. There are several weaknesses in the accountability chain, with a general culture of blame shifting. The accountability chain has to be strengthened from top to bottom. To begin with, parliamentary accountability is weak, with Parliament failing to fulfil its most basic oversight role.

For Parliament to scrutinise the executive more robustly, it has to take account of what Schedler et al. (1999:14) identify as the two pillars on which accountability rests: answerability and enforcement. Answerability refers to the obligation of the executive or public officials to inform about and explain their actions. This process also includes the provision of reliable facts; this is called the informational dimension of accountability and entails the obligation to release all the requisite details. In this instance, the exercise of accountability includes both elements of monitoring and oversight.

³ Researcher's own emphasis and observation.

Enforcement entails the imposition of negative sanctions by the legislature “... *that accountable persons not only tell what they have done, and why, but bear the consequences for it*” (Schedler et al., 1999:14-15).

2.2.2.1 Examples of enforcement within the South African context

In Chapter 5, Section 89 of the Constitution, 1996, it is stated that power is granted to the National Assembly to remove the President from office by a two-third majority of its members, on the grounds of:

- serious violation of the Constitution or the law;
- serious misconduct; or
- inability to perform the functions of office.

Section 102 of the Constitution, 1996 provides that the National Assembly, by a two-third majority, may pass a motion of no confidence in the Cabinet, excluding the President; or may pass a motion of no confidence in the President, leading to his/her resignation along with that of the Cabinet.

A Code of Conduct with Regard to Financial Interests of Members and Senior Staff has been compiled. The penalties for the breach of the Code include, amongst others, a reprimand; a fine not exceeding 30 days' salary; a reduction of salary or allowances not exceeding 15 days; a suspension of privileges; or a Member's right to a seat in parliamentary debates for 15 days (South Africa. Parliamentary Monitoring Group, 2014).

With regard to the implementation of recommendations and resolutions taken by Parliament in respect of the executive and departmental operations, strategic plans, and the implementation of legislation and regulations, the institution, however, does not have the power to enforce its decisions. It can merely recommend.

2.3 Separation of powers

The Constitution, 1996, in Sections 43, 85, and 165 respectively, gives expression to the principle of separation of powers by recognising the functional independence of the three branches of government. However, the South African parliamentary system of government does not give full expression to the notion of separation of powers, owing to the unavoidably close links between the legislature and the executive.

In the American presidential system, Cabinet Secretaries are not members of Congress, as in parliamentary systems. Therefore in theory, a complete separation is created (Calvert, 2012:42).

In the case of South Africa, the executive is drawn largely from the members of the legislature who are also members of the majority party. A strong proportional, electoral system, in which public representatives are accountable to their political parties instead of the nation's constituencies, prevails.

During the research, a Member of Parliament reflected on the impact of the proportional representation electoral system, and the impact it has on the imposition of accountability, by concluding:

“... it has distanced us from our people. Party political embeddedness impacts on effective oversight because MPs fear being seen as disloyal, or, even, for fear of being expelled from the party and the loss of parliamentary position, they side-step their responsibility to call government or the leadership of their party to account. What can we do? (Interview with Member of Parliament).”

2.4 The role of institutions supporting democracy (Chapter 9'S)

The Constitution, 1996, in Chapter 9 establishes six key institutions, namely the Public Protector, the South African Human Rights Commission, the Commission for Gender Equality, the Auditor General, the Electoral Commission, and the

Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, to entrench and strengthen constitutional democracy in the new South Africa. These institutions are accountable to the National Assembly, and must report on their activities and the performance of their functions to the Assembly at least once a year (South Africa, 1996, 181 (5)).

It was envisaged at the time of negotiating the Constitution that these institutions would support constitutional democracy by, amongst others, the following precepts:

- i. Restoring the credibility of the state and its institutions in the eyes of the majority of citizens.
- ii. Ensuring that democracy and the values associated with human rights and democracy flourish.
- iii. Ensuring the successful re-establishment of, and continued respect for the rule of law.
- iv. Ensuring that the state became more open and responsive to the needs of its citizens and more respectful of their rights (South Africa. Parliament, 2007:3).

The Constitution, 1996, in Clause 181(2) guarantees the independence of these Chapter 9 institutions, thereby protecting them from undue influence and interference. These institutions of democracy are considered an additional check or accountability mechanism on government. Further, institutions of democracy are fundamentally important to South Africa's democracy as they are empowered to act on behalf of the voiceless, marginalised and economically excluded sectors of society.

It is widely acknowledged that institutions of democracy have come to play a crucial and anchoring role in the unfolding narrative of development and consolidation of South Africa's democracy. Delivering the National Assembly's Budget Vote (2) in Parliament on 11 June 2013, the then Speaker, Max Sisulu, commented on the role of institutions supporting democracy as follows

(Unrevised Hansard. National Assembly, Budget Vote, 11 June 2013 Max Sisulu, 11 June 2013).

“I wish to express our gratitude to the Chapter 9 and associated institutions for their contribution to embedding democracy and accountability in our country. Please continue to carry out your work in support of Parliament’s oversight role with passion and integrity.”

During the Third, Fourth and Fifth Parliament, the constitutional authority of Chapter 9 institutions, particularly that of the Public Protector, as well as the status of reports, and whether or not findings constitute Recommendations vs. Injunctions, was contended. This debate has been heightened by the investigation and findings of the Public Protector in respect of the security upgrades at President Zuma’s family home, Nkandla.

In brief, the Public Protector found that President Zuma had breached the Executive Members Ethics Code contained in the Executive Members Ethics Act 82 of 1998, by his *“failure to act in protection of state resources [which] constitutes a violation of paragraph 2 of the Executive Ethics Code and accordingly, amounts to conduct that is inconsistent with his office as a member of Cabinet, as contemplated by Section 96 of the Constitution”* (Public Protector of SA, 2014:65 (j) (6) 5)).

The Public Protector’s 2014 report on Nkandla brings to the fore a number of challenges that Parliament has to deal with. Firstly, Parliament has to take an unambiguous position on how it deals with the issue of accountability by members of the executive, without fear, favour or prejudice.

Secondly, Parliament has to find a balance between the findings and recommendations of the Public Protector’s report and its consequent enforcement. Parliament’s role is clear: it cannot stand idly by without acting decisively on the matter. As the institution that is at the apex of the accountability chain, by comprising the elected representatives of the people, and the custodians of the Constitution, it stands to reason that it has to act decisively and

in the interest of “*public reasoning*” to uphold the principle of accountability and the letter of the Constitution. Accountability and responsiveness are, after all, at the heart of democracy, especially a young democracy crafting its own unique path.

2.5 International practice

Within the Westminster system, ministerial responsibility is the cornerstone of accountability.

A brief review of the experiences of comparable constitutions, such as those in commonwealth countries, reveals interesting nuances with respect to the practice of accountability. In the United Kingdom, as part of the responsibility of Ministers of Parliament, the convention of impartial, non-political civil servants who are not directly accountable to Parliament is enforced. In this instance, accountability takes place through the Minister concerned.

With regard to executive agencies, the Public Service Committee of the House of Commons has stated that a Minister’s duty to give an account can be delegated to the chief executive authority of the agency in question, but that the Minister would however have to answer to Parliament (Great Britain. Parliament. House of Lords, 1998: Part 5, Section 299). Consequently, civil servants can refuse to answer questions about advice to Ministers on policy or their opinions on policy (Turpin, 1989:53-65).

However, the realisation that policy and policy-making are difficult to separate from administration has led to increased efforts to hold civil servants responsible. The Canadians follow the same model as that of Westminster, and have established the principle of political neutrality of civil servants and ministerial responsibility. By convention, civil servants remain anonymous in the sense that they should not be criticised personally or otherwise be held accountable in Parliament (Hogg, 1992:237).

The inheritance of the British model in Australia means that civil servants cannot easily be held accountable. In particular, civil servants have at times, when questioned or asked to produce documents, successfully invoked the public interest immunity when appearing before committees (Evans, 1997:455ff). One of the most important ways in which ministerial accountability takes place is during Parliament's plenary sessions, especially through the institution of question time, draft resolutions, interpolations, special debates and budgetary approval.

In 2009, the South African Parliament introduced new mechanisms to improve its oversight and accountability practices (South Africa. Parliament, 2009a). The new model – the Oversight and Accountability Model – was introduced in recognition of the challenges that existed with respect to Parliament's oversight and accountability performance.

The Oversight and Accountability Model makes provision for the establishment of a Joint Parliamentary Oversight and Governance Assurance Committee to deal with all transversal and cross-cutting issues, and to pursue all assurances, undertakings, and commitments given by Ministers on the floors of the Houses, and the extent to which these assurances have been fulfilled.

In addition, the Oversight and Accountability Model also proposes the establishment of the following structures:

- A tracking and monitoring unit to address decisions in the House and at committee level, issues that arise from the floor of the House and Committee reports that were tabled.
- An advisory unit to identify issues from sectoral parliaments (women, youth, disability), and to ensure compliance with international protocols, treaties and conventions, and local petitions.

Despite the good intentions of the South African Parliament to strengthen its oversight and accountability capacity, four years after its adoption, the Oversight and Accountability Model has not been implemented fully. It is,

however, instructive that the Oversight and Accountability Model refers specifically to the imposition of “*political will*”.

Effective oversight requires the political will on the part of the individual members of parliament to optimally utilize the oversight mechanisms and the array of tools at their disposal (South Africa. Parliament, 2009a:35).

Given the number of accountability crises in recent years such as the arms deal, ‘Guptagate’, and Nkandla, the provoking thesis advanced by Schedler et al. that ultimately the purpose of accountability is to subject those in power not only to the rule of law but also to the rule of reason, especially public reason, is worthy of consideration (Schedler et al., 1999:15).

2.6 Summary

Members of Parliament are answerable to both the electorate and the party that nominates them to Parliament. Parliament is a key stakeholder in the chain of accountability, along with the judiciary. However, political accountability exists in a state of tension, and debates about what accountability means and how it should be applied in practice are perennial, causing fissures and apprehension in society and in Parliament.

CHAPTER THREE

REGULATORY FRAMEWORK OF THE PUBLIC SECTOR

3. INTRODUCTION

Democracy hinges on the development and maintenance of well-structured and efficiently functioning public institutions such as the public service and administration, and the legislatures, amongst others.

The Twenty Year Review (1994–2014) of the South African government (South Africa. The Presidency, 2014) notes that the new democratic order inherited a governance system that needed to be reformed for it to be inclusive and owned by all South Africans. According to the review, the legacy of apartheid had to be dismantled, and the public service had to be modernised, and re-oriented towards a people-centred, efficient, and effective system of governance.

This chapter explores the governance framework and the theoretical perspectives that have sought to shape these public institutions since 1994 in order for it to comply with its transformative role and responsibilities.

3.1 Regulatory framework of the public service and administration

Post-1994, the public sector was significantly recast following the introduction of new principles and paradigm shifts introduced by the ruling party and the new democratic state. The starting point for these shifts is anchored in the Constitution, which was adopted in 1996.

Chapter 10 of the Constitution, 1996, stipulates the basic values and principles that govern public administration.

Section 195(1) of the Constitution states that public administration must be governed by the democratic values and principles enshrined in the Constitution, 1996 including the following principles:

- Efficient, economic and effective use of resources must be promoted.
- Public administration must be development oriented.
- People's needs must be responded to, and the public must be encouraged to participate in policy making.
- Public administration must be accountable.

South Africa's Constitution, 1996, sets the tone for the kind of public service that the post-1994 democratic government envisaged and notably refers to the need for it to be development oriented. In its practical application, this injunction sets the tone for all public servants to act as agents of change or drivers of development.

The *White Paper on the Transformation of the Public Service* (South Africa. Department of Public Service and Administration, 1995) established the necessary policy framework to “*guide the introduction and implementation of new policies and legislation aimed at transforming the South African public service*” (South Africa. Department of Public Service and Administration, 1995: Chapter 1).

Chapter 1 of the *White Paper on the Transformation of the Public Service* of 1995 posits that the public service has a major role to play in the processes of reconciliation, reconstruction and development. In Section 5.1, the vision and priorities for the public service are outlined as follows (1995:39):

- Rationalisation and restructuring to ensure a unified, integrated and leaner public service.
- Institution building and management to promote greater accountability and organisational and management effectiveness.
- Representativeness and affirmation action.

- Transformation of service delivery to meet basic needs and redress past imbalances.
- The democratisation of the state.
- Human resource development.
- Employment conditions and labour relations.
- The promotion of a professional service ethos.

In recognition of the complexities related to the transformation of the public service, the White Paper provided time scales of up to two years for transformation, but left the transformation of the public service open-ended by acknowledging that the process of reform would be on going (South Africa. Department of Public Service and Administration, 1995:1.2).

In the foreword to the *White Paper on Transforming Public Service Delivery* (South Africa. Department of Public Service and Administration, 1997), the then Minister, Zola Skweyiya, asserted that one of government's most important tasks was to build a public service capable of meeting the challenge of improving the delivery of public services to the citizens of South Africa. (South Africa. Department of Public Service and Administration, 1997:5).

In pursuance of this ideal, according to the White Paper of 1997, eight principles – also known as the *Batho Pele* principles – were identified for the public service to adopt and apply according to their own unique circumstances. The *Batho Pele* principles were identified as the following (South Africa. Department of Public Service and Administration, 1997):

- Consultation; Service standards; Access; Courtesy; Information; Openness and transparency; and Redress and Value for money

3.2 Theoretical perspectives influencing public service and administration in South Africa

There has been much written and debated on how best to define public sector reform, and how it should be implemented.

At the 50th Session of the United Nations, General Assembly, in 1996, it was recognised that *“effectiveness of government requires an efficient and effective public administration that is responsive to the needs of the people, promote social justice, ensures universal access to quality services and creates an enabling environment for sustainable people-centered development”* (United Nations, 1996).

Lynn (2006:1) contends that effective management of public organisations, which include departments, agencies, bureaus and offices, is critical to the success of government programmes, policies, and regimes, and essential to democracy. According to a plethora of literature on the evolution of public sector management, a number of factors were the catalyst for the changes within this field. These changes in thinking in the field of the management of public sector institutions came to be known collectively as new public management. Denhardt (2011:141) maintains that new public management has its origins in the practical developments that unfolded in public administration worldwide. Common (1998:65) asserts that new public management has its origins in Western liberal democratic states, such as the United States and the United Kingdom.

Lynn (2006:1) provides the following factors as reasons for the transformation of the public sector:

- The 1970s and 1980s’ global economic crisis opened up disconcerting gaps between government outlays and revenues and therefore suggested the need for more tight-fisted management of public agencies.
- Heightened expectations for effective government by citizens after the end of the Cold War.

- The growing influence of globalisation and its impact on national economies.
- The increasing adoption of neo-liberal practices, specifically related to business and market-oriented ideologies, policies and political programmes to reduce the scale, scope and fiscal spending of governments.

Van der Waldt, Van Niekerk, Doyle, Knipe, and Du Toit, (2002:19) outline the defining features of the new public management approach as the following:

- Responsive public service, which entails the public service meeting the needs of citizens or business.
- Efficient, high-quality public service, which centres on excellence, innovation, shared good ideas and practices, as well as control costs.
- Information-age government, which entails the use of technology to improve public service delivery.
- A culture of innovation and improvement in the public service.

The characteristics of the new management approach are, amongst others:

- continual improvements in quality;
- emphasis on devolution and delegation;
- appropriate information systems;
- emphasis on contracts and markets; and
- increased emphasis on financial control such as audits, inspection and performance management.

The literature review on the transformation of the South African Public Service reveals that the public service is a melting pot of different influences and theoretical discourse. In particular, three dominant influences are prevalent and interwoven throughout the public service. These include New Public Management (NPM); Path Dependency Theory and Development Theory.

3.2.1 *New Public Management (NPM) in South Africa*

Ewalt (2001:16) notes that NPM relates to the specific types of management tools which operate within the propositions of governance. According to Larbi (1999:iv), NPM refers to management techniques and practices which are drawn from the private sector, and shifts the emphasis from traditional public administration to public management. Key elements of NPM include various forms of decentralisation management (budgets and financial control), increasing use of markets and competition in the provision of services, and increasing emphasis on performance, outputs and customer orientation. (Labardi: 1999:iv)

Fraser-Moleketi (2006:15) argues that there was never a deliberate strategy to adopt NPM as an embodiment of a benchmark for public sector reforms to be pursued uncritically. Fraser-Moleketi (2006:15) further contends that the African National Congress (ANC) government was focused on building an effective public administration and good and effective governance in pursuance of the establishment of a developmental state.

Fraser-Moleketi (2006:63) and Cameron (2009:27-30) respectively argue that as the South African public service was in need of transformation and modernisation, certain elements of NPM would benefit areas of the South African reform agenda.

A critical analysis of the influences pervasive throughout the public service and administration even post-1994 clearly point to the dominance of NPM. In this regard, Fraser-Moleketi (2006) and Cameron (2009) maintain that certain practices such as those related to transversal issues, and human resource and financial management practices associated with the NPM discourse, were incorporated into the public service.

Fraser-Moleketi (2006:63) cites the influence of NPM on the government's emphasis on issues of output and outcomes under the label of 'performance management', and identifies certain elements such as transversal administrative arrangements, and human resource and financial management practices, which were adopted in the public service as characteristic of the NPM discourse in South Africa.

Fraser-Moleketi (2006:63) posits that the *"introduction of these tools in the South African setting was primarily motivated by the desire to improve public service delivery and the reputation of government"*. The decision to incorporate most of the elements of the NPM into the public service and administration discourse has, however, proved to be costly and major efforts have been underway to rectify such erroneous policy selections.

3.2.2 *Path dependency theory*

The Path Dependency theoretical framework has been a strong influence evident in the public service and administration discourse. According to David (2000:2), Path Dependency refers to *"a property of contingent, nonreversible dynamical processes, including a wide array of biological and sociological processes that can properly be described as evolutionary"*. Sydow et al. (2005:8-10) describe path dependency as involving behaviour that is influenced by a specific historical setting, but note that behaviour is subjective and therefore cannot be fully anticipated.

Another dimension of path dependency theory involves 'increasing returns' and 'lockins' (Sydow et al., 2005:6). In its simplest form, the term 'increasing returns' refers to positive feedback, or self-reinforcing processes with *"a spiral of dynamics that is beyond the control of the individual actor and may ultimately lead to a lock-in"* (Sydow et al., 2005:6). According to Sydow et al. (2005:6) and Arthur (1989), a lock-in occurs when alternatives are no longer available or possible.

Fraser-Moleketi's (2006:15) analysis of the transformation of the public sector suggests that Path Dependency Theory is a useful framework to apply or to explain organisational change in South Africa. Further, Fraser-Moleketi (2006:15-16) posits Path Dependency Theory as a framework in which *"the past runs as a thread through and influences the direction of implementation in the present"*. Fraser-Moleketi (2006:44) further maintains that in the South African context, the past (threads) from both the liberation movement and the apartheid regime informed the history of the present day.

Friedman (2014:2) argues that twenty years into democracy, the threads of the past *"remain a core element of the South African reality"*. Friedman (2014) further contends that path dependency manifests in both positive and negative ways in the country.

By way of example, a positive thread of influence is the collective bargaining system, which originates from the Industrial Conciliation Act, No. 11 of 1924, and was adapted to include black workers. *"While workers do enjoy more rights now, the contours of the system have remained much the same over 90 years"* (Friedman, 2014:2).

A negative consequence of path dependency is the systemic racial inequality that South Africa continues to experience and which is strangling sustainable development efforts. A failure to own the means of production, as the Johannesburg Stock Exchange illustrated in 2010, with a mere 18% of black South African investors owning the available share capital in the top 100 listed companies, is another example listed by Friedman (2014:2).

Friedman posits that the advent of democracy had mixed results, but, overwhelmingly, the patterns of the past have not changed significantly (Friedman, 2014:3). The new democratic order chose the path of co-option and absorption of sections of the black middle class and emerging elites, rather than bringing about fundamental structural change, and thus continuing the past into the present.

3.2.3 *Development theory*

International political economy scholars characterise a developmental state as having strong state intervention, as well as extensive regulation and planning (Johnson, 1982; Leftwich, 1995).

According to Leftwich (1995:400-427), the notion of a developmental state was first conceptualised by Chalmers Johnson in 1982. Johnson (1982) defined a developmental state as one that is focused on economic development and that takes the necessary policy measures to accomplish that objective.

Leftwich (1995) asserts that some of the best examples of economic growth in the 1980s and 1990s were found in east and south-east Asia, and identifies Japan, China, Malaysia, India, Thailand, the Philippines, Vietnam and Taiwan as best-practice examples. These countries, Leftwich argues, were able to double their economies every ten years.

This occurrence was in stark contrast to Great Britain, which took 60 years to double its economy when the Industrial Revolution began, and the United States of America, which took about 50 years in the late 19th century.

3.3 The South African developmental state

South Africa is profoundly influenced by development policy discourse. Chapter 10, Section 195(c) of the Constitution of South Africa, provides for public administration to be development-oriented, thus, *inter alia*, a developmental state.

The ANC at its 52nd National Congress (ANC, 2007b), as per resolutions 188 to 193, stipulated the attributes that should be prevalent in the South African public service and in specialised institutions such as the judiciary, police, intelligence agencies and defence force. The following attributes were identified as critical to the creation of a developmental state.

The first attribute (ANC Resolution 188) focuses on the state's strategic orientation. In particular, there is the need for such an approach to be people-centred and people driven, emphasising sustained development based on high growth rates, as well as the restructuring of the economy and socio-economic inclusion.

The second attribute (ANC Resolution 189) of the developmental state refers to the state's capacity to lead in the definition of a common national agenda as well as mobilising all citizens to participate in its implementation.

The third attribute (ANC Resolution 190) relates to the state's organisational capacity. This is an attempt at ensuring that its structures and systems facilitate the realisation of a common agenda. These include permutations among policy and implementation organs within each sphere, allocation of responsibilities across the spheres, effective inter-governmental relations, and stability of the management system.

Fourthly (ANC Resolution 191), there is reference to the state's technical capacity, specifically its ability to translate broad objectives into programmes and projects to ensure their implementation. The importance of leadership, proper training, the acquisition of skills, and the ability to retain skilled personnel is emphasised.

ANC Resolution 92 refers to the importance of on-going transformation of the state to ensure that it attains its capabilities. Processes to identify weaknesses and to correct them would be intensified. Representation and the inclusion of formerly disadvantaged citizens such as Black South Africans, women, and people with disabilities in the apparatus of the state were also identified as requirements for transformation.

The dominant motive of the NDP is the achievement of developmental outcomes.

The NDP emphasises the necessity for a developmental state that is capable of driving the country’s development (NDP, 2012:409). In particular, the NDP suggests that deliberate interventions, resources and investments to build state capacity at all levels are required to deliver improved socioeconomic outcomes.

“A capable state does not materialise by degree, nor can it be legislated, or waved into existence by declarations. It has to be built, brick by brick, institution by institution, and sustained and rejuvenated over time” (NDP, 2012:44).

The NDP also outlines the elements needed to build and sustain a capable developmental state: among these are leadership, sound policies, skilled managers, appropriate systems, and consistent and fair application of the rules. These are clearly policy challenges that have to be taken on board to induce improved outcomes. The figure below is a graphic depiction of the elements needed in the attainment of a fully functional and effective developmental state as suggested by the NDP.

Figure 1: Cycle of Development.



Source: NDP (2012:26)

3.4 International examples of developmental states

The high levels of economic growth that were experienced by East-Asian economies such as Japan, South Korea and Taiwan from the 1950s to the 1980s are referred to as the 'East-Asian Miracle'.

Lindsey and Lukas (1998) assert that 'revisionist economists' regarded the capitalist developmental state as a 'third way', or as an alternative to the orthodox free-market economies of the time. During the 1980s to 1990s, Japan was considered the leading industrial nation in the world, and was touted as a successful example of a capitalist developmental state. During this period, Japan enjoyed high levels of employment and high literacy rates, and significantly reduced inequality.

Chalmers Johnson (1982:68), in his seminal work, *MITI and the Japanese Miracle: The Growth of Industrial Policy, 1925–1975*, attributed Japan's remarkable economic growth to a combination of factors, with which he anticipated students of economics would be preoccupied in the next century.

Johnson (1982:26) posits that "*within a developmental state there is a contention for power among bureaucrats, however, the center that creates and implements industrial policy exerts the greatest positive influence*". In the case of Japan's success, Johnson (1982:315) maintains that the Ministry of Trade and Industry (MITI) was instrumental in turning the government's goals into sustainable industrial policy. Notably, Johnson (1995) identified an effective and professionally senior bureaucracy as a key ingredient for economic development.

Lindsey and Lukas (1998), in their analysis of Japan's success, maintain that the Japanese government sought to stimulate economic growth through market intervention to support Japanese companies to improve their chances of success. Intervention by the state included, amongst others, direct subsidies, import protection, and manipulating the flow of private capital towards promising industries.

3.4.1 *The European Recovery Programme*

In 1948, the United States Congress passed the *European Recovery Act*, eponymously known as 'The Marshall Plan', after its architect, George C Marshall.

The Marshall Plan was in force from 1948 to 1952 and was concerned with rebuilding the economies and confidence of Europe. In broad terms, the main thrust of the Marshall Plan centred on stimulating economic growth, promoting trade, and improving socio-political structures in participating countries as well as the socio-political structures and living standards of Europeans.

The Marshall Plan emphasised principles such as self-help, resource sharing and the integration of Germany into the European mainstream. Sixteen nations, including Germany, participated in the programme.

Between 1948 and 1952, the European economies grew at an "*unprecedented rate*". The Marshall Plan was the catalyst for trade relations that led to the formation of the North Atlantic Alliance. The coal and steel industries helped to shape what was to become the European Union (Morella, 2008). The introduction of the Marshall Plan contributed towards the containment and spread of communism by emphasising and strengthening political stability in Europe. The Marshall Plan, with its emphasis on self-help principles, has been described as laying the foundation for future foreign aid policies in the 20th century and beyond.

3.5 Summary

The chapter provided an overview of the governance framework and theoretical perspectives that have shaped the public institutions that are ultimately responsible for bringing about transformation in South Africa. However, the dialectic between the intent of policy, and that ultimately practised, does not always conjoin successfully.

Pieterse (2002:14) draws attention to Polidano, Hulme and Minogue's (1998) caveat, that researchers studying governance refrain from only focusing on conceptual issues at the expense of that which happens in reality. Kiggundu (1998) goes for the jugular in the assertion that the civil service has achieved limited impact, as policy tends to peter out in the process of implementation.

CHAPTER FOUR

CONTEXTUALISING PUBLIC POLICY AND REFLECTING ON PAST POLICY POSITIONS

4. INTRODUCTION

The chapter explores the conceptual terrain of public policy, as the making, implementation and overseeing of policy is considered the core business of government. The chapter also provides a discussion of the latest analytical tools such as the Government-Wide Monitoring and Evaluation Tool that was introduced as the catalyst to obtain efficient and effective service delivery outcomes.

4.1 Defining public policy

Policy making, according to Hanekom and Thornhill (1993:62), relates to the formal articulation, statement or publication of a goal that government intends to pursue. Notably, Hanekom and Thornhill (1993:62) distinguish between decision making and policy making, referring to decision making as a continuous process during which deliberate choices are made among alternatives.

A simplified definition of public policy is offered by Dye (1998:2), who contends that public policy, is “*whatever governments choose to do or not to do*”. Van der Waldt, van Niekerk, Doyle, Knipe, Du Toit (2002:165) hold that the purpose of policy is to provide a comprehensive and goal-orientated framework for action.

Hanekom and Thornhill (1993:63) describe policy as the link between political and administrative processes. Dye (1998:15) maintains that policy only becomes a public policy once it is adopted, implemented and enforced by some government institution.

Van der Waldt et al. (2002:166) contend that public policy occurs at different levels.

Dye (1998:15) argues that government institutions give public policy three distinctive characteristics:

- Government lends legitimacy to policies and these policies can be regarded as legal obligations.
- Government policies are universal and therefore extend to all citizens in a country.
- Government monopolises coercion in society through the imposition of sanctions, such as imprisonment.

4.2 Stakeholders in policy making

Within the South African context, Policy in South Africa, policy is formulated or initiated by the executive branch of government. It should also be pointed out that public policy in South Africa is informed by the policies of the ruling party, the African National Congress (ANC). However, law making or the processing of legislation, which is the output of a particular policy, is the purview of Parliament (Fox, Bayat and Ferreira: 2006:30-38).

The Constitution of South Africa, 1996 in Section 85(2) stipulates that the President, together with other members of the Cabinet, exercises this executive authority. The President and Cabinet are also enjoined in Section 85(2) (a) of the Constitution to implement national legislation, in 85(2) (b) to develop and implement national policy, and in 85(2) (d) to prepare and initiate legislation.

Murray and Nijzink (2002:5) assert that law making by the South African legislature takes place through the consideration of Bills initiated by the executive. The Constitution of South Africa, 1996 stipulates that national legislative authority is vested in Parliament and, in Section 44(1) 9a) (1),

confers on the National Assembly the power to pass legislation with regard to any matter.

Section 55(1) (a) of the Constitution confers on Parliament the power to consider, pass, amend or reject any legislation before the Assembly. Section 55(1)(b) of the Constitution, 1996, provides that Parliament may initiate or prepare legislation. However, Members of Parliament have been reluctant to use their constitutional provision to initiate legislation. This provision was used once before in the year 2000 in respect of floor-crossing legislation.

With respect to the participation of the citizenry in the policy-making process, the Constitution is instructive. The Constitution in Section 42(3-4) provides for participatory democracy, and enjoins Parliament to serve as “a national forum for the public consideration of issues”. Once a Bill is tabled in Parliament, the decision-making process, in theory, is handed over from the executive to the Members of Parliament, as well as to the citizenry who participate through written submissions and oral hearings in the public participation processes.

In practice, however, ANC Members of Parliament very rarely amend Bills substantively without “*permission*” of the member of the executive”.⁴ In recent years, Parliament has been criticised and taken to court by civil society for failing to take the views of the public into consideration when amending legislation. In this regard, the Constitutional Court, for example, found in two cases that Parliament had not facilitated and provided adequate public participation. The submission of the Aids Law Project with respect to the importance of public participation goes to the heart of the challenge of meaningful public participation in South Africa.

⁴ Opinion based on the observations of the researcher, who has worked with the committees on Health and Social Development and Office of the Speaker from 1996 to 2014.

“The quality and effectiveness of public participation cannot rest on simply providing a space for submitting comments. For legislation to be informed, responsive, rational and legitimate, constructive debate and engagement with the drafters is necessary” (South Africa. Parliament, 2009b:57).

4.3 Effectiveness in public policy

Denhardt (2011:130) maintains that students of public policy have to be attentive to the effectiveness of policy decisions and of the actions taken to implement those decisions.

With respect to policy implementation, Denhardt (2011:133) argues that simply declaring a policy by legislative decree is not enough. Denhardt (2011:133) further states: *“Just as policies are not made in a vacuum, they are not carried out in a vacuum. Rather, a complex set of environmental factors affects the execution of public policies.”*

Pressman and Wildavsky (1973:143) explain policy implementation as the means to carry out, accomplish, fulfil, produce, and complete policy. Ewalt (2001:6) designates policy implementation as the actions which happen after policy makers have decided to do something new, do something different, or stop doing something, and before the impact of this action.

The implementation of public policy and therefore the provision of services for the citizens of South Africa have been contentious issues. The increasing number of service delivery protests across the country calls into question the effectiveness and reach of public representation as well as issues of responsiveness and accountability, at all levels of government. Research undertaken by the Social Change Unit at the University of Johannesburg in 2013 shows that community protests increased from 162 incidents in 2008, to 314 incidents in 2009 and 470 in 2012 (Alexander, Runciman and Ngwane:2013).

Fakir (2014) and Friedman (2014) respectively, caution against imposing a reductionist analysis on the “tone and substance” of the protests. Fakir posits that increasingly the protests centre on communities’ demands for “*accountability, better governance and responsiveness*”. Friedman suggests that these public protests centre around a demand by the poor for “*public service, not merely service delivery*”.

Setting aside the merits of the arguments above, the protests clearly underscore the deficit in what citizens hope for or expect when they vote and that which is delivered by public representatives and officials in government.

4.4 The ‘5-c’ protocol

Cloete, Wessink, and De Coning (2006:209-210) underscore that the policy implementation process is complex and dynamic. Cloete et al. (2006:182-210), and Ile et al. (2012:10-12) argue for the necessity to “*unravel*” the complexities and dynamics underlying the implementation process in an attempt to improve policy implementation and accountability. The 5-C Protocol is proposed as an analytical lens through which to analyse policy implementation (Cloete et al., 2006:182-210).

The 5-C Protocol is underpinned by the following variables (Cloete et al., 2006:182):

- The content of the policy itself: What it sets out to do; how directly it relates to the issue; how it aims to solve the perceived problems.
- The nature of the institutional context: The corridor through which policy must travel, and by whose boundaries it is limited, in the process of implementation.
- The commitment of those entrusted with carrying out the implementation at various levels to the goals, causal theory, and methods of the policy.
- The administrative capacity of implementers to carry out the changes desired of them.

- The support of clients and coalitions whose interests are enhanced or threatened by the policy, and the strategies they employ in strengthening or deflecting its implementation.

The above 5-C Protocol framework illustrates that policy implementation is a dynamic and political process and therefore

“... cannot be seen as an activity to be carried out according to a carefully predetermined plan; rather it is a process that, at best, can only be managed and lessons must be learnt as one proceeds through the different implementation stages (Cloete et al., 2006:210).”

Brynard (2005:21) points out that when applying the 5-C Protocol to policy implementation, it is worthwhile to remember that *“all five variables act together – often simultaneously and synergistically; any change in one producing changes in all the others”*.

If policy making and policy implementation is a dynamic process, the expectations and focus of all stakeholders involved in the process has to alter throughout the implementation chain. This suggests that the overseers of policy – such as the legislatures – have to change or adjust how they go about their oversight of policy. In so doing, legislatures become drivers of implementation and agents of change.

Cameron (2009:27-30) asserts that the South African public service has to date had mixed results with respect to service delivery.

The service delivery failures are described by Cameron (2009:27) as being related to:

- lack of organisational culture; poor skills levels within the public service;
- affirmative action and political appointments;

- high levels of vacant posts and staff shortages; defection of staff from the public service to the private sector and to foreign countries;
- rapid mobility of staff or 'dragging up' of staff within the public sector; and
- long-time lapses before staff are selected and recruited.

4.5 Past policy positions relating to economic growth and service delivery post 1994

Argyris (1962:207,213) observes that reality-centred leadership is a manager's capacity to observe a situation, diagnose what is actually happening, and learn from the experience.

For this study, it was necessary to examine past policy positions advanced by the post1994 government, as well as their successes and failures. The National Planning Commission in its diagnostic report noted that policy instability was a concern, and related the cause of the identified instability to persistent policy changes (NDP, 2012:23).

Three major policy positions have been advanced by the South African Government since 1994, namely the Reconstruction and Development Plan (RDP), the Growth, Employment and Redistribution Programme (GEAR), and the National Development Plan (NDP). In addition, a number of subsidiary policies were developed to address the socio-economic challenges prevalent in the country. This section is only confined to the three major policy positions.

The table that follows provides a synopsis of the significant policy shifts undertaken by the South African government since 1994.

Table 1: Various development initiatives undertaken through policy since 1994.

Policy/Strategies	Objectives
Reconstruction and Development Plan (RDP)	<ul style="list-style-type: none"> Meeting basic needs , developing human resources, Building the economy and Democratising the state and society
Integrated Sustainable Rural Development Programme (ISRDP)	<ul style="list-style-type: none"> Accelerate rural development, create economic opportunities in rural areas, decrease levels of poverty and unemployment
Urban Renewal Programme	<ul style="list-style-type: none"> Accelerate urban renewal, create economic opportunities in 21 nodal areas of poverty, decrease levels of poverty and unemployment, implement access to free basic services (water, sanitation, and electricity) and to housing
Accelerated and Shared Growth Initiative for South Africa (ASGISA)	<ul style="list-style-type: none"> Halve unemployment and poverty, improve the capacity of the state, reduce the regulatory burden on small and medium enterprises (SMEs), etc.
Joint Initiative on Priority Skills Acquisition (JIPSA)	<ul style="list-style-type: none"> Improve skills base required by the economy for accelerated growth and focus on scarce and critical skills, etc.
New Growth Path	<ul style="list-style-type: none"> Employment creation
National Development Plan (NDP)	<ul style="list-style-type: none"> Eliminate poverty and reduce unemployment, improve the quality of school education. Deconstruct the spatial patterns of the apartheid system Reduce unemployment from 27% to 14% by 2020 and to 6% by 2030, the level of inequality, as measured by the Gini coefficient, should decrease from 0.7 in 2007 to 0.6 in 2030 Become a less resource intensive economy, adopt sustainable development practices, etc.

Source: Statistics South Africa, 2013 pages 18-19

4.5.1 *Reconstruction and Development Plan (RDP), 1994*

In 1994, the White Paper on Reconstruction and Development was introduced, which set out the policy framework for integrated and coherent socio-economic progress, for a post-democratic South Africa (South Africa, 1994:7).

The RDP was introduced after a broad consultation process between the African National Congress and its alliance partners, the South African Communist Party, the Congress of South African Trade Unions, non-governmental organisations (NGOs), and research and academic institutions. Lehloesa (2000:4) notes that the RDP was truly a people's document as it enjoyed the popular support and endorsement of the People's Forum, which the ANC convened throughout the length and breadth of the country during the run up to the first democratic election campaign in 1994.

Based on the principles of a democratic, non-racial and non-sexist society for South Africa, the RDP set out as its overall purpose:

- Developing strong and stable democratic institutions.
- Ensuring representativity and participation.
- Ensuring that our country becomes fully democratic, non-racial, and non-sexist.
- Creating a sustainable and environmentally friendly growth and development path.

The five major programmes of the RDP (ANC, 1994) included:

- meeting basic needs;
- developing the human resources of the country;
- building the economy; democratising the state and society; and
- implementing the RDP.

The ANC maintained that the RDP was introduced in response to a number of systemic challenges that had manifested in the country. These challenges were identified as violence, lack of housing, lack of jobs, inadequate education and health care, and a failing economy (ANC, 1994).

Significant in the RDP is the introduction of a new approach to rebuilding the economy and society at large. The RDP advanced a position that supported the simultaneous growth of the economy as well as development.

To ensure the implementation of a developmental approach to growth and development, the RDP emphasised the importance of the state as driver and central to the implementation of the RDP plan of action. According to the RDP policy document (South Africa, 1994:12), *“every office of government, from the smallest village council to the largest national department, will have to be restructured to take forward the RDP”*. Despite the significance of the overwhelming support the RDP received among stakeholders, the RDP remained the South African government’s policy position for only two years (1994–1996), before it was scrapped.

According to Visser (2004:7), the RDP achieved *“remarkable results”*. Visser cites as examples of this success, the provision of social security; the provision of free health care for children under the age of six; free maternal care for pregnant women; and the introduction of school nutrition programmes. Terreblanche (1999) argues that from a social justice point of view, there was little wrong with the RDP, except that it was too ambitious and the timelines in which the set goals were to be achieved were too short or unrealistic.

Lewis (2001:3), in his analysis of the RDP, contends that the challenges related to the implementation of the RDP were indicative of *the “balancing act that would be demanded from government.”* Terreblanche (1999:3) identified the public service, which in 1994 was predominantly white and inefficient, as the major obstacle to the success of the RDP. Chipkin (2002:59) underscores the point that officials were hostile to the RDP and not familiar with the new ethos.

Terreblanche (1999:3) asserts that the main problems related to the RDP were related to the implementation of the programme. In particular, three serious constraints were identified: fiscal, organisational and governmental.

That the predominantly white public service was not 'oriented' towards new programmes, coupled with the introduction of affirmative action, were further reasons for the inability of the state to implement the RDP (Terreblanche, 1999:3). Previously disadvantaged appointees to the public service did not have the training, expertise and professionalism to build an effective public service at the time. Various scholars have maintained that the implementation of the RDP was hampered by the state machinery's lack of capacity (Terreblanche, 1999:3; Lehloesa, 2000:4; Visser, 2004:7).

Chipkin (2002:59), however, claims that it was the business sector that exerted undue pressure on government to change to 'export-oriented markets' instead of the 'supply side model' of the RDP.

4.5.2 *GEAR (Growth, Employment and Redistribution) 1996*

In June 1996, the Ministry of Finance introduced the Growth, Employment and Redistribution (GEAR) macroeconomic policy that was to replace the RDP. The main thrust of GEAR, according to National Treasury, was to grow the economy by 6% by the year 2000; drive inflation down to less than 10%; and create the necessary conditions through a competitive economy that would be the catalyst for job growth of 400 000 new jobs per year. In addition, GEAR was complemented by the Accelerated and Shared Growth Initiative for South Africa (ASGISA) (South Africa. Department of Finance, 1996:44).

Lehloesa (2000:7) contends as a central argument that GEAR was a 'home grown', structural adjustment programme that failed to reduce the high incidence of poverty, and constrained the delivery of basic services.

Lewis (2001:4) asserts that GEAR was the South African Government's attempt to *“build upon the strategic direction of the RDP by committing government to specific macro-targets; and by including a phased reduction plan that was more ambitious than [that of] its predecessor”*.

The Congress of South African Trade Unions (COSATU) was the fiercest critic of GEAR. At the 6th National Congress of COSATU (COSATU, 1997), it was asserted that GEAR and the RDP could not be considered compatible and that the objectives of the RDP could not be met by GEAR.

COSATU consistently maintained that GEAR had to go beyond the emphasis on macro-economic issues and should also address socio-economic challenges such as sustainable growth, job creation and poverty reduction.

Despite the introduction of GEAR and attempts to re-orientate governmental departments from the outset in the implementation of the policy, the outcomes of GEAR have been described as disappointing. For example, according to COSATU's 1997 report on GEAR, there was low growth, and formal employment continued on a downward slope, while the objectives of poverty reduction and service delivery remained the Achilles' heel of government.

4.5.3 *The National Development Plan (2012)*

The NDP is the newest policy position that has been advanced by government and was unveiled in August 2012. The NDP is an ambitious and forward-looking blueprint to systematically achieve democratic accountability and reduce poverty and inequality in South Africa.

An analysis of the National Development Plan (NDP) reveals it to be an infusion of different policy perspectives, influences and participatory developmental approaches. In the overview chapter of the NDP (2012:25), the case is made for a *“multi-dimensional framework to bring about a virtuous cycle of development, with progress in one area supporting advances in others.”*

In particular, the NDP highlights a number of areas of focus, which are interlinked, aimed to address poverty and inequality in South Africa (NDP, 2012:35). In addition, the NDP builds on the Government's New Growth Path Strategy, which targets 5 million new job opportunities by 2020.

Further, the NDP imposes what many critics, such as Bond (2013) and Coleman (2013), have termed 'ambitious targets' to reduce the unemployment rate in the country from 25% in 2011 to 6% by 2030, creating 11 million new job opportunities. To increase and expedite the twin issues of both employment creation and economic growth, the NDP proposes eight specific interventions, which include:

- Increasing the size and effectiveness of the country's innovation system, and ensuring closer alignment with companies that operate in sectors that fit in with the growth strategy.
- Improving the functioning of the labour market to help the economy absorb more labour, through reforms and specific proposals concerning dispute resolution and discipline.
- Supporting small business through better coordination of the activities of small business agencies, development finance institutions, and private and public incubators.
- Improving the country's skills base through better education and vocational training.
- Increasing investment in social and economic infrastructure in order to lower costs, raise productivity and bring more people into the mainstream of the economy.
- Reducing the regulatory burden in sectors where the private sector is the main investor, such as broadband Internet connectivity, to achieve greater capacity and lower prices.
- Improve the capacity of the state to implement effective economic policy.

Importantly, in a push to implement the NDP successfully, the National Planning Commission identified a number of critical factors that have to be addressed during the implementation process. These (NDP, 2012:58-61) include:

- Focused leadership to ensure policy consistency.
- Broad support across all sectors of society.
- Building institutional capability.
- Resource mobilisation and agreement on trade-offs.
- Sequencing and willingness to prioritise.
- Clarity on responsibility and accountability.

4.5.3.1 Critique of the National Development Plan

Since the tabling of the NDP in Parliament on 15 August 2012, various civil society formations such as the trade union movement, COSATU, and grassroots organisations such as the Progressive Economics Network, as well as academia, have criticised the NDP for its lack of policy detail, its lack of substance, and its ‘vacuousness’ (Reddy, 2013:2).

Bond (2013:16) contends that the National Development Plan (NDP) fails to appreciate the systemic economic dangers that confront South Africa. Bond (2013:8-16) further argues that the NDP duplicates the errors of GEAR, the most obvious of these being the outflow of corporate capital, and the rising foreign debt from \$25 billion in 1994 to \$135 billion in 2013. Bond (2013:14) further maintains that South Africa’s labour market is in dire straits as it is “*too flexible*”, and too many workers still find themselves easy targets for dismissal, as the 2009–2010 job terminations attest.

To address the economic shortfalls in the NDP, Bond (2013:14-15) suggests a number of policy changes:

- The imposition of exchange controls, lower interest rates, control of illicit capital outflows and trade.

- The adoption of industrial policy aimed at import substitution, social needs and ecological sustainability.
- The increase of state social spending paid for by higher corporate taxes and more domestic borrowing.

Coleman (2013:21) of COSATU argues that the areas of challenge with regard to the NDP have been clustered around the policies concerning the economy and the labour market. Coleman (2013:21) concedes although COSATU was involved in the discussions on the broad vision of the NDP at the ANC Mangaung Conference in 2012, the failure to discuss the detail of the NDP has proved to be problematic. Specifically, Coleman (2013:23) isolates six primary weaknesses in the NDP's economic vision and strategy: These are:

- The NDP's employment plan is unsustainable and problematic.
- It fails to pursue the New Growth Path (NGP) and Industrial Policy Action Plan (IPAP) vision of re-industrialising the economy.
- The NDP undermines worker rights and pursues a low wage strategy, follows a 'business as usual' macroeconomic stance and accepts the persistence of high levels of inequality. Further, the figures provided on poverty and employment in the NDP are riddled with errors and therefore its policy conclusions are called into question.

Coleman predicts that these weaknesses will cause targets not to be achieved. At its 6 June 2013 Political Commission, COSATU proposed further engagement with government and adopted a resolution that stated:

“[The] NDP needs to be realigned with the ANC and Alliance agreed position, namely that the main content of the second phase of South Africa's transition must be a radical economic shift, that needs to be reflected in the National Development Plan (COSATU, 2014:48).”

Muller (2013:20) argues that far more detail is required by government on how the NDP policy and action will be conjoined to ensure effective implementation by the state. Muller (2013:17-20) asserts that two specific issues in the NDP are critical to the success and development of South Africa: a professional and competent public service and effective education system.

Muller (2013:18-19) contends that though the NDP gives 'due consideration' to the development of a more effective and competent public service with ample protection from political interference, the legislation since produced by the Department of Public Service and Administration (DPSA) does not align itself with the stated objectives found in the NDP. For example, Muller (2013:19) asserts that the Public Administration Management Bill (B55 of 2013), neither creates an administrative head of the civil service as stated in the NDP, nor does it adequately deal with the issue of protecting civil servants against political interference, but rather makes it easier for civil servants to be 'redeployed'.

With respect to improving the quality of education as outlined in the NDP (2012), Chapter 9, *"Improving Education and Training and Innovation"*, Muller (2013:19-20) asserts that the NDP falls short of providing any research supporting why incentives will be directed at schools rather than at individual teachers. Muller (2013:20) unambiguously states that a failure to "meaningfully justify or substantiate" policy positions in the NDP could lead to the implementation of "ill-conceived solutions" to poorly conceived policies.

4.6 Government monitoring and evaluation framework

Put simply, monitoring and evaluation involves the gathering and use of information to improve accountability and service delivery outcomes. The Ten Year Review of South Africa's democracy identified policy implementation as a stumbling block to meaningful transformation.

The Review suggests that:

“... the state has made reasonable progress in improving policy co-ordination both within and across spheres of government, but these efforts need to be further consolidated with greater attention being focussed on implementation (South Africa. The Presidency, 2003:107-108).”

In 2009, during the first term of President Zuma, the Government-Wide Monitoring and Evaluation (GWME) system was introduced. Amongst others, the GWME tool covers validation and verification systems, early-warning mechanisms, data generation, quality analysis, decision-making and reporting. The GWME programme is driven by the Department of Monitoring and Evaluation in the Presidency, and has to ensure that the approach is mainstreamed across national, provincial and local spheres of government (Ile et al., 2012:12-13). According to the South African Government, monitoring involves collecting, analysing and reporting data on inputs, activities, outputs, outcomes and impacts, as well as on external factors that support effective management. The aim of monitoring is to provide managers, decision makers and stakeholders with regular feedback on progress and implementation, results and early-warning indicators that need to be corrected (South Africa. The Presidency, 2007:1).

Evaluation is defined as a time-bound and periodic exercise to provide credible and useful information to answer specific questions to guide decision-making by staff, managers, and policy makers. Evaluation assesses relevance, efficiency, effectiveness, impact, sustainability, and social learning (South Africa. The Presidency, 2007:2)

The objective of the GWME is to contribute towards improved governance and thus improved service delivery to ensure, amongst others (Ile et al., 2012:13):

- Transparency: All findings in monitoring and evolution processes to be publicly available; exceptions are permitted in compelling circumstances.

- Accountability: Use of resources by public officials is open to public scrutiny.
- Participation: The historically marginalised should be heard; and
- Inclusion: Interest groups traditionally excluded are represented throughout the monitoring and evaluation processes.

Other attributes of the GWME include that it is rights based, development oriented, undertaken ethically and with integrity, methodologically sound, and operatively effective (Ile et al., 2012:13-14). The following eight key guiding principles underpin stakeholder implementation plans (South Africa. The Presidency, 2007:19-26):

1. The implementation plan should be clearly linked with prior public sector reform initiatives.
2. As far as possible, the GWME framework should incorporate and consolidate existing M&E initiatives in the three spheres, aligning them with the overall aims of government.
3. Roles and responsibilities of each stakeholder should be clearly defined and related to their mandate.
4. The implementation plan should adopt a differentiated approach across spheres and sectors.
5. The administrative burden of compliance across government should be minimised.
6. Where M&E systems are supported by IT solutions, the emphasis will be on systems integration and ease of data interchange.
7. Monitoring and the development and enforcement of statistical standards are important pre-conditions for effective evaluation.
8. There should be regular review of the implementation plan against milestones.

At the time of conducting the research, it was revealed that Parliament and the Department of Monitoring and Evaluation held a two-day workshop in 2013 for chairpersons of committees and members.

On the need for Parliament to regularly engage departments (more specifically the Department of Monitoring and Evaluation) they oversee and to enhance their oversight, a senior staff member responsible for training commented as follows:

“The M&E Model is scientific and does not fit into how Parliament does oversight. We have been doing oversight for years. The M&E Model has nothing to do with us; we can’t use the information. Parliament has an Oversight Model in place, to guide how we do oversight (Interview, senior official).”

The extract above is instructive as it demonstrates a lack of understanding of how the public service implements and keeps track of services. It also points to conceptual weaknesses in the legislative sector, specifically in the way that it oversees policy. Moving the National Development Plan towards implementation requires a big push from Government. On 8 August 2014, in Parliament, Minister in the Presidency, Jeff Radebe, announced the detail of the Government’s Medium-Term Strategy Framework (MTSF, 2014–2019), which is Government’s action plan to implement the NDP. The MTSF is considered the performance agreement between the President and the Ministers. The MTEF identifies 14 priority outcomes, which correspond with the priority areas in the NDP, namely:

- Quality basic education.
- A long and healthy life for all South Africans.
- Safety, and a sense of safety, for all people in South Africa.
- Decent employment through inclusive growth.
- A skilled and capable workforce to support an inclusive growth path.
- An efficient, competitive and responsive economic infrastructure network.
- Vibrant, equitable, sustainable rural communities contributing towards food security for all.
- Sustainable human settlements and improved quality of household life.
- A comprehensive, responsive and sustainable social protection system.
- Responsive, accountable, effective and efficient local government.

- Protected and enhanced environmental assets and natural resources.
- An efficient, effective and development-oriented public service.
- A diverse, socially cohesive society with a common national identity.
- A better South Africa contributing to a better Africa and a better world.

According to an address in the National Assembly by the Minister in the Presidency on 8 August 2014,

“Cabinet will consider progress reports for each of the outcomes at least three times a year, and these progress reports will be made public through the Programme of Action website managed by the Department of Planning, Monitoring and Evaluation in the Presidency. We will use our monitoring and evaluation work to inform improvements to our plans and programmes as we implement the MTSF (researcher’s field notes; Jeff Radebe’s statement on 8 August 2014, National Assembly).”

The MTSF (2014–2019) offers Parliament and the public a basis from which to monitor the implementation of the NDP over the next five years, thereby holding the Executive accountable. Parliament therefore has an obligation to familiarise itself with the Government-Wide Monitoring and Evaluation mechanism as well as the key indicators which have been identified by the Executive in order to hold the Executive accountable for its implementation.

4.7 Summary

The chapter explored the significance of public policy as well as the major policy shifts that have taken place in South Africa in the last 21 years post-apartheid. The various policy shifts show that the production of policy in itself is not sufficient to bring about substantive change in society; it is the application or implementation of policy that effects change – good or bad. The insights of Bond and Khosa (1999:62), in their audit of the implementation of the RDP, remain relevant to other policies advanced by government since 1996 as well.

In public administration and political science, there are four capacity-related reasons for divergence between the promises and reality: lack of political will, lack of financial/fiscal resources, lack of administrative capacity, and logistical difficulties.

The introduction of the Government-Wide Monitoring and Evaluation (GWME) tool is an important innovation to accelerate policy implementation. Ultimately, however, it is the role of Parliament to hold the Executive accountable for the implementation of policy. In practice this implies greater political will and greater focus on the implementation of policy than that currently prevailing.

CHAPTER FIVE

RESEARCH DESIGN AND METHODOLOGY

5. INTRODUCTION

The chapter provides an account of the objectives of the study and the research methodology used to achieve the objectives of the study. In particular, the chapter describes the methods of data collection and analysis applied to the study. The findings arising from the qualitative analysis study is presented in terms of the Policy Implementation 5-C Protocol. In addition, the limitations of the study as well as the challenges encountered by the researcher are discussed.

5.1 Problem statement

There are two important aspects to this study. The first is that the policy environment is continuously changing and therefore results in policy uncertainty.

The second is that the problem with the slow delivery of services (implementation problems), or the apparent gaps between policy and implementation, is related to the manner in which policies are implemented.

Parliament as the overseers of the Executive has to ensure that policy is implemented and that ultimately services are delivered to the citizens of South Africa.

5.1.2 *Research objectives*

The purpose of the study is to contribute evidence and analysis that structures of Parliament, such as portfolio committees, can make use of in their oversight activities, to ensure the successful implementation of the NDP. The study

therefore endeavours to shed light on the current oversight practices of the National Assembly with regard to the implementation of the NDP.

Objective 1:

To provide a detailed description of the relationship between policymaking and implementation.

Objective 2:

To describe the overall purpose, strategic intent, performance, targets outputs and outcomes as well the purpose of Parliament.

Objective 3:

To investigate the level of congruency between the strategic plan of Parliament and implemented programme of the institution.

Objective 4:

To investigate how Parliament has responded to the various gaps encountered in policy implementation.

5.2 5-C Protocol: critical variables

The study utilised the 5-C protocol conceptual framework as a research technique. Brynard and De Coning (2006:180) assert:

Policy implementation is a multifaceted concept, attempted at various levels of government and pursued in conjunction with the private sector, civil society and NGOs. In this partnership, strategy generation, and planning are vital ingredients in the policy implementation interface.

Brynard and De Coning (2006:182) further argue that though a common theory on policy implementation as yet has to be constructed, convergence exists on the critical explanatory variables related to policy implementation. As this study dealt with Parliament's role in ensuring policy implementation, the

researcher found the 5-C Protocol an invaluable analytical template to guide the study.

The five interlinked variables within the 5-C Protocol which guided the study can be summarised around five central ideas (Brynard & De Coning, 2006:182):

1. The content of the policy itself – what it sets out to do; how directly it relates to the issue; and how it aims to solve the perceived problem.
2. The nature of the institutional context – the corridor or standard operating procedures through which policy must travel, and by whose boundaries it is limited in the process of implementation.
3. The commitment of those entrusted with carrying out the implementation at various levels to the goals, causal theory, and methods of the policy.
4. The administrative capacity of implementers to carry out changes desired of them.
5. The support of clients and coalitions whose interests are enhanced or threatened by the policy, and the strategies they employ in strengthening or deflecting its implementation.

5.3 Research design

The study was qualitative in nature. Welman, Krugman and Mitchell (2010:188) emphasise that qualitative research can be described as a research approach rather than a design or a set of techniques. Welman et al. (2010:188) further maintain that qualitative research is expansive in nature and covers a variety of interpretive techniques, which, amongst others, describe, translate, decode, and “*otherwise come to terms with the meaning of that which occurs in the world*”.

5.4 Qualitative research inquiry – methods of data collection

Data collection employed a variety of methods to maximise the depth and richness of the data to address the stated research objectives. McMillan and

Schumacher (2001:395) claim *“interactive qualitative research is an inquiry in which researchers collect data in face-to-face situations by interacting with selected persons in their settings”*.

Teddlie and Tashakkori (2009:6) describe qualitative data analysis as a *“narrative of the data using a variety of different inductive and iterative techniques, including categorical strategies and contextualizing (holistic) strategies which typically result in themes”*. The methods used in this study are outlined below:

According to Teddlie and Tashakkori (2009:230), interviews, using the open-ended format, though traditionally face-to-face, may also take place over the telephone and via the Internet.

Face-to-face, and telephonic semi-structured in-depth interviews, as well as questions via email, with the presiding officers of Parliament, chairpersons of committees and senior personnel of the administration, as well as representatives from civil society, were conducted. The interviews were recorded and later transcribed by a transcribing agency.

Observational research strategy entails the recording of interactions occurring in a defined social situation, based on visual examination/inspection of that situation. (Teddlie & Ashakkori, 2009:218). The observational strategies utilised are set out below:

- Participant observation, through attendance and participation at training workshops organised by Parliament such as on the induction of new members, Budget Review Recommendation Reports (BRRR), the National Development Plan and strategic policy processes.
- Direct observation, which included attendance at and tracking of the activities of specific committees over time, specifically the Portfolio Committees on Trade and Industry, Education, and Environmental Affairs. Tracking included budget votes of departments, Parliament, the Presidency, debates, questions and statements in the National Assembly.

Observations were recorded by taking extensive field notes and by analysing the documents distributed in the Committees.

- Desk research, including academic literature, policy documents, speeches and formal evaluations, and strategic plans.
- Media analysis of newspapers on the effectiveness of Parliament. Initiating a roundtable, on policy priorities and the role of Parliament, and how implementation of policies could be enhanced.

5.5 Data analysis

Leavy (2014:109) asserts that data analysis should stay true to the data without losing sight of the rationale and the conditions under which it was created. The purpose of data analysis is to discern the best possible options for bringing newly generated insights to the attention of those who might benefit from them (Leavy, 2014:109).

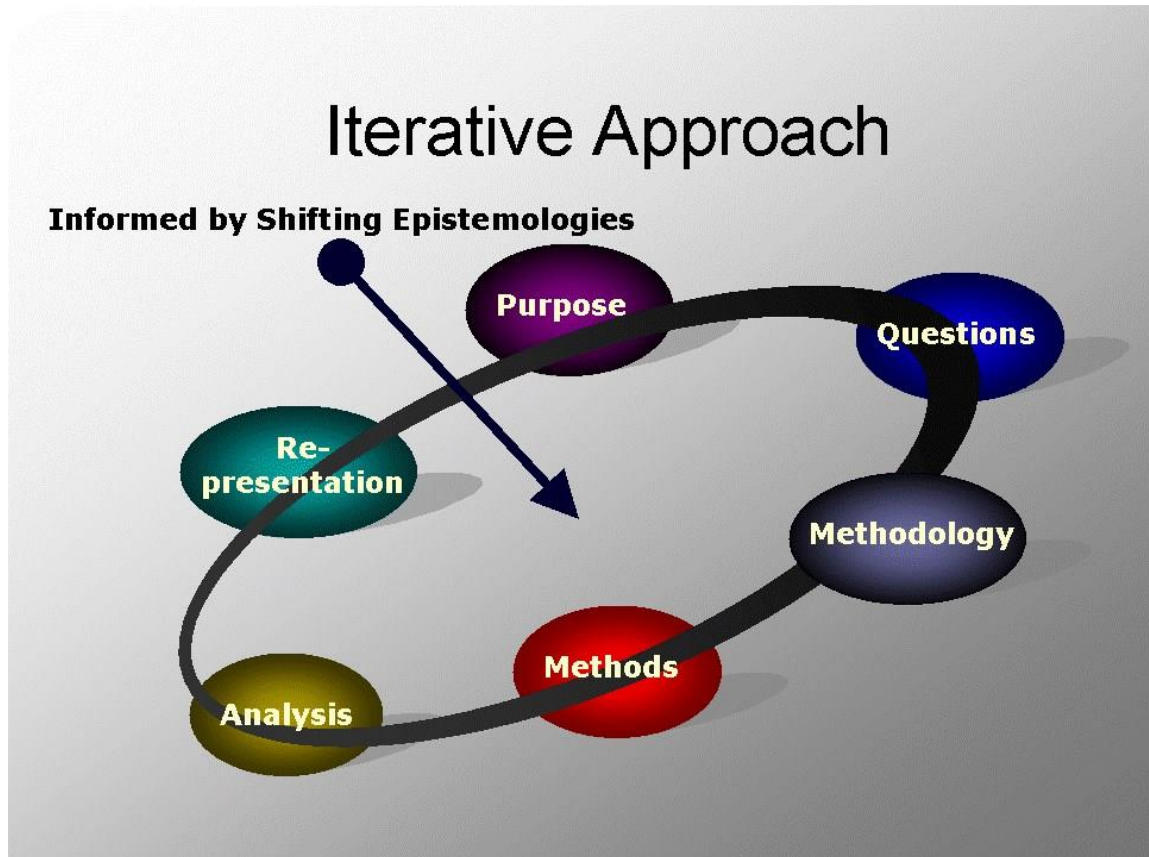
In this study, the content of the data was analysed by following an iterative (repeating steps) approach. Content analysis is defined by Stemler (2001:137) as a *“systematic, replicable technique used for compressing many words of the texts into fewer categories”*.

The data was grouped into themes, which emerged organically as the study unfolded. Taylor-Powell and Renner (2003) suggest that once themes have been identified, it is useful to group data into thematic groups in order to analyse the meaning of the themes and relate them to the research question(s). This was duly undertaken in this study.

The process of grouping the data into themes proved to be an intensive process, involving continual re-reading of the data to arrive at cogent themes.

The figure that follows is a graphic description of Cresswell’s data analysis procedures that were followed in the study.

Figure 2 Creswell's (2009:185-189) steps in data analysis



5.6 Interview process

The 5-C Protocol was used as a template during semi structured interviews. The researcher considered the 5-C Protocol a useful tool to guide the research questions and to eliminate any bias, as the research setting has been the researcher's place of employment for a number of years.

In this study a total of 45 interviews were conducted. The breakdown of interviews is as follows:

- Presiding Officer (1); House Chairpersons (3); Chairpersons of Portfolio Committees (8) Senior Managers (8); Content Advisors; (6) Researchers (10); Departmental Staff Liaison Officers (3); Civil Society (5).

The interviews were fully transcribed but, due to time constraints, the researcher sought the assistance of a reputable company to transcribe the recorded interviews. Overall, the quality of the transcriptions was good. Two interviews were not transcribed, as they were not sufficiently audible. In this case, use was made of the written notes which were meant to serve as a backup. Prior permission was sought from the participants in the study to commence with the transcription of the interviews. Confidentiality was also obtained from the company that transcribed the interviews.

5.7 Reporting on key findings and validation process

Towards the mid-point of the study, the preliminary findings were shared with the participants in the study. This process was valuable, as emerging findings were validated and, through discussions with the participants, additional insights were uncovered which provided additional depth to the findings of the study.

Towards the completion of the study a further exchange of information on the findings of the study was shared with the leadership of Parliament as well as a Working Group responsible for the development of Parliament's strategic plan for 2015–2019, of which the researcher was also a member. Overall, the study's findings were favourably received.

5.8 Quotations

The reader will find the use of verbatim quotations throughout the text of the study. The use of verbatim quotations is a useful technique to substantiate, highlight or illustrate an argument or finding. These quotations were taken from the transcribed texts. The researcher sought prior permission from the participants for the inclusion of quotations in the text. Three participants refused permission, citing a fear of being identified through their verbatim quotations. The researcher complied with their requests.

5.9 Ethics

Consent for the study was sought from the institution before the study was conducted. In addition, individual consent for observation and interviews was also sought from the participants in the study: chairpersons of committees, members, members of Parliament, and personnel.

5.10 Limitations of study

The study was confined to the National Assembly and not to the second House of Parliament, namely the National Council of Provinces (NCOP).

5.8.1 Difficulties

- The study straddled the end of the last Parliament and the beginning of the Fifth Parliament, which led to numerous disruptions in the flow of the study. This had a direct bearing on the interview schedule and impacted on the timeframe in which the research study was to be concluded. For example, five committee chairpersons were not returned to Parliament by their political party.
- The leadership of the Fourth Parliament was also completely changed and the Fifth Parliament ushered in new leadership, which required of the researcher to establish new relationships.
- The timetable of the beginning of the Fifth Parliament was packed with full-day training programmes for members which made their availability extremely difficult. The interview times were thus constantly adjusted to accommodate the availability of the participants in the study.
- On three occasions, the time constraints under which Members of Parliament work resulted in telephonic interviews being conducted with certain members, as they were not available to meet face to face.
- The research process also uncovered the difficulty of tracking the uptake of committee recommendations by the Executive, as Parliament has no formal tracking mechanisms in place, and thus no record exists of whether

or not departments implement Parliament's recommendations. A tracking tool was proposed in the study.

5.11 Summary

The chapter discussed the problem statement, research objectives and the methods that were followed to conduct the research study. The chapter also provided the rationale for selecting qualitative research methods of data collection. In essence, the research was conducted in a highly political environment and therefore sensitivity such as protecting the identity of participants was a requirement. The chapter also discussed the difficulties or unforeseen events which occurred during the course of the study.

CHAPTER SIX

ANALYSIS, INTERPRETATION AND FINDINGS

6. INTRODUCTION

The chapter sets out the analysis, interpretation and findings of the research study into thematic sections and proposes a number of recommendations related to the findings of the study. The data was analysed qualitatively, by repeatedly reading through all the data collected, identifying patterns, and organising the raw data according to the themes, after which the content of the findings was analysed and interpreted.

The objective of the study was to outline strategies that Parliament could draw on to strengthen its core mandate and therefore its ability to oversee the implementation of the National Development Plan. Strategies, according to Wheelen and Hunger (1997:6), refer to a set of decisions and actions that determines the long-run performance of a corporation. The NDP (2012:428) states that concerns exist about whether Parliament is fulfilling its role in building an accountable and responsive state. Furthermore, the NDP states that at both national and provincial level more could be done to support public representatives, but cautions that these measures will not be successful unless legislatures show a genuine will to hold the executive to account (NDP, 2012:428).

6.1 Analysis and interpretation

An analysis and interpretation of the findings and recommendations related to each theme that emerged during the study are presented below.

The themes which emerged are namely: Institutional Agenda Setting; Elevate Accountability within Parliament; Strategic Use of the Chamber (House) for Questions and Debates; Towards Effective and Enhanced Oversight; Legislation; The Budget Process as a Powerful Tool; Towards Responsive Public Participation; Fostering Enhanced Cooperative Governance and Intergovernmental Relations; Constituency Offices as Gauges for Development; and Relevance Through the Use of External Expertise.

6.2 Institutional agenda setting

The institutional agenda of Parliament is crafted at the highest level, by the Executive Authority (the political leadership of Parliament), which determines the policy priorities for the institution at the start of a new term.

Committees of Parliament, under the guidance of their chairpersons and content advisors, develop individual five-year strategic plans, as well as annual work programmes which set out the priorities and responsibilities upon which they will have to base their activities. Committees are also compelled to table their strategic plans in Parliament, which “locks the respective committees into a five-year programme”. (Interview with senior content advisor).

The administrative arm of Parliament, which is led by the Secretary to Parliament, produces a strategic plan for the duration of a parliamentary term. In addition, annual operational plans are produced by individual business units to support the work of Members of Parliament. (Interview with senior official of Parliament) The strategic objectives of the Fourth Parliament, 2009–2014 (South Africa. Parliament, 2009a:14) were articulated, as noted below, to:

- strengthen the oversight function and establish a strong culture of overseeing executive action;
- increase public involvement and participation and build a responsive people’s Parliament;

- strengthen co-operative government and foster improved co-operation and relations;
- improve and widen the role of Parliament in international co-operation and participation; and
- build an effective and efficient institution.

6.2.1 *Analysis and findings*

With regard to the institutional agenda setting of Parliament, a number of anomalies were observed.

Firstly, owing to three different planning processes, a lack of continuity and purpose was evident among the highest levels of the institution, committees and the administration of Parliament. Within Parliament, the practice was to keep the policy development process closed off from Members of Parliament and the broader administrative arm of the institution. As a result, no processes are in place to ensure that policies are collectively determined and cascaded within the institution.

Secondly, though Parliament had developed a policy on institutional planning called the Interim Performance Information Framework, this was not fully implemented. It was observed that the operational plans of Parliament, committees and the various business units, in most instances, did not relate logically or directly to Parliament's policy imperatives. At best, the strategic plans of committees were vaguely aligned with that of the broader strategic plan of Parliament. In addition, though committees were clustered around the strategic priorities of the Executive, these cluster-specific committees had no cluster-specific strategic priorities that encouraged coherence around a common purpose or goal.

Thirdly, it was observed that the various stakeholders had a preference for what Ile et al. (2012:116) refer to as “*first-level*” results – which are outputs or activities – rather than “*higher-level*” results that are outcomes and impact-driven indicators. By way of example, Parliament’s strategic objectives for 2009 to 2014, related to “*increasing public participation*”, referred to “*increasing the number of platforms for the public to participate*” and the number of calls for public submissions and notices of public hearings.

Stopping at the outputs level in the results chain ignores issues of quality and the meaningfulness of the public engagement process, substantive issues on which the Constitutional Court has found Parliament’s processes deficient.⁵ The emphasis on outputs is underscored by the insights of a senior official of Parliament. “We tend to focus on activities rather than on what our role should be in deepening democracy. This is most unfortunate, as quality suffers in the process.” (Interview with senior official)

Fourthly, it was observed that Parliament’s monitoring of its institutional performance was weak. It was found that no formal systems were in place to ensure data collection, analysis and assessment of the work completed. It was also found that Parliament had no baseline data or the capacity from which to measure, monitor and evaluate performance of the institution quarterly, bi-annually and annually, despite this being a requirement of the Financial Public Management Act (FPMA). As a result of these weaknesses, the institution had difficulty in detecting problems early on and adjusting its focus to implement corrective actions.

⁵ Doctors for Life International v Speaker of the National Assembly and Others (CCT12/05) [2006] ZACC 11; 2006 (12) BCLR 1399 (CC); 2006 (6) SA 416 (CC) (17 August 2006).

In this regard, Parliament was taken to task by the Auditor General (AG), who cautioned “*management did not perform an adequate review of the annual performance plan for the periods 2013/14–2014-15 to ensure that all the performance targets are well defined, measurable and relevant*” (researcher’s notes as per the AG’s briefing to senior managers, on the Financial Management of Parliament, 14 October 2014).

Fifth, as a result of the limitations of Parliament’s strategic planning process, it was found that little scope existed to accommodate oversight and alignment of issues that may straddle a number of departments. Committees in particular found it difficult to collaborate with one another on issues that had inter-sectoral implications:

We continue to work in silos, as we cannot accommodate each other in our programmes. You will find that a day after a committee went to do oversight in a province, another committee will go to the same area to look at the same issues, and it’s such a waste of time and resources. (Interview with senior official)

Sixth, it was observed that the role of the Chief Whip of the Majority Party – who drives the policy agenda of the majority party – is absent from the formal process. This means that the policy priorities determined by the administration are often guesswork bereft of the input of the majority party’s political priorities.

The section that follows outlines strategies aimed to improve the institutional agenda setting and planning of Parliament.

6.2.2 *Recommendations*

In keeping with the 30-year National Development Plan, it is necessary for Parliament to consider articulating a long-term outcomes-based vision for the institution, beyond the five-year election term. In this regard, a key institutional requirement is a focused and co-ordinated programme that must be owned by all entities in Parliament.

Parliament must adopt a vigorous integrated planning paradigm, which includes all stakeholders to ensure the alignment of its strategic vision with that of committees, instead of pursuing individual or sectional interests of a committee or chairperson.

Successful developmental states pivot on strong organisational capacity. Parliament has to ensure that it has the necessary human capabilities and instruments to oversee the impact of the country's long-term growth and development.

Ile et al. (2012:116) posit that paying attention to outcomes results validates the usefulness of developmental interventions, and showcases that intended programmes are delivering intended benefits. Given that the role of Members of Parliament is to represent the will of the people and improve the quality of life of the people they represent, it is essential that Parliament should focus primarily on effectiveness, outcomes and impact, rather than solely on efficiency. Outcomes and impact results are important levers that should be placed firmly on Parliament's oversight agenda.

6.3 Elevate accountability within parliament

It is widely accepted that legislatures are the primary vehicles through which the Executive, on behalf of citizens, is held accountable between national and local government elections.⁶ Notably, as the elected representatives of the people, Parliament has to reflect and articulate the aspirations and concerns of the people it represents in all its diversity.

⁶ IPU, Universal Declaration on Democracy, at its 161st session, 16 September 1997, Cairo; and UN General Assembly Resolution A/RES/62/7, 8 November 2007.

The nature and design of a country's chosen electoral system, however, have a significant impact on the manner in which Members of Parliament animate democratic accountability. South Africa adheres to a Proportional Representational System (PR), which allows parties seats in Parliament according to the percentage of votes they received in an election.

The PR brings to the fore the complexities of the dual role of public representatives. Within this reality, individual parliamentarians have to balance their personal policy commitments against the reality that, if they become too critical of party leadership, they may be disadvantaged at election time. As a result of their subordination to their respective political parties, Parliament has been rendered weak and, in many instances, ineffective in the performance of its oversight activities.

South Africa has a vibrant political party system, with a multiplicity of political parties. After the May 2014 elections, 13 political parties won seats in the National Assembly. The ruling party lost the most votes in the last elections, leading to opposition parties increasing their seats in Parliament.

In addition, new political formations such as the Economic Freedom Fighters (EFF), the African Independent Congress (AIC) and Agang South Africa (Agang) have entered the parliamentary fold and have changed the character of Parliament significantly. There is a broad view that this lends itself to a more vibrant and accountable Parliament.

The Speaker, Baleka Mbete in her address to the South African National Editors' Forum (SANEF) on 23 September 2014, remarked "even though we have our challenges, the EFF and other parties have brought a renewed interest to Parliament, which I think is good for our democracy" (researcher's field notes as per speech delivered by Baleka Mbete, 23 September 2014, Johannesburg). The table below depicts the respective political parties who won seats in the general elections in 2014, and who are subsequently represented in the National Assembly.

Table 2: The number of political parties represented in Parliament.

Party		Number of Seats
1.	African National Congress (ANC)	249
2.	Democratic Party (DA)	89
3.	Economic Freedom Fighters (EFF)	25
4.	Inkatha Freedom Party (IFP)	10
5.	National Freedom Party (NFP)	6
6.	Freedom Front Plus (FF +)	4
7.	United Democratic Movement (UDM)	4
8.	African Christian Democratic Party (ACDP)	3
9.	African Independent Congress (AIC)	3
10.	Congress of the People (COPE)	3
11.	Agang South Africa (Agang)	2
12.	African People's Convention (APC)	1
13.	Pan Africanist Party (PAC)	1
	Total	400

(Source: National Assembly)

6.3.1 *Analysis and findings*

Exacting party loyalty and discipline is regulated in the codes of conduct of political parties and is intended to act as a deterrent when individual Members of Parliament disobey the party line. For example, the ANC code of conduct for ANC members of Parliament, states:

Failing, refusing or neglecting to execute or comply with any ANC Policy, Standing Order, Rule, Regulation or Resolution adopted or made [will result in disciplinary action] (ANC, 2012: 6).

After failing to vote along the party's line on the contentious State of Information Bill in November 2011, veteran ANC Member of Parliament, Ben Turok, was reprimanded and faced a disciplinary hearing, which was later withdrawn after intervention by senior members of the ANC. Jackson Mthembu, the ANC national spokesperson at the time, asserted that "the conduct of Ben Turok in raising [his] objections by abstaining ... smacks of ill-discipline and will be handled internally by the ANC". Turok explained his position publicly on the radio station SAFM, stating " I made this decision as a matter of principle. I felt I could not participate in this voting" (Ben Turok on SAFM 23 November 2011).

The expectation of party discipline and cohesion is, however, not only limited to the ANC. In November 2013, the Democratic Alliance (DA) in the National Assembly voted in support of the Employment Equity Amendment Bill, a historic first for the party. DA leader Helen Zille, however, intervened and stated that the DA would amend the Bill in the National Council of Provinces, or oppose the Bill when it returned from the NCOP to the National Assembly.

As a result of departing from the official policy stance of the party, the DA leader in Parliament, Lindiwe Mazibuko, was forced to backtrack on the Bill. This incident resulted in the reshuffle of the leadership of the DA in Parliament.

“We will then also vote against the Bill when it returns to the National Assembly. We should have done this from the get-go because this Bill will harm rather than promote redress” (SAPA, 2013).

In contrast to the majority party, opposition parties have to look for a balance between having an impact on government policies, and opposing these policies to provide the electorate with an alternative approach at the next election.

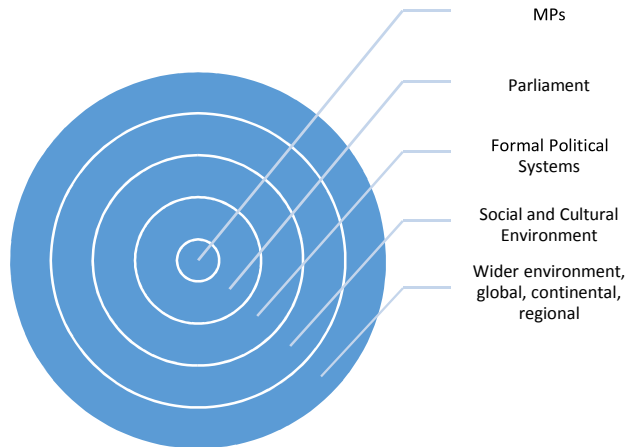
Firoz Cachalia (professor in the Wits School of Law) contends that it is the role of the ruling party to defend government policy and action and that of opposition parties to oppose government (Researcher’s notes, 14 January 2015, Office of the Speaker Workshop on the NDP, Cape Town). Cachalia’s view is underscored by the comment below:

“Parliament is a place of opposition parties opposing the ANC and uncovering its flaws and faults. It is a place of counter-propositions, and better alternatives and standing up for the people” (Maimane, 2014b).

In 2013 and 2014, the complexities of this dual and often irreconcilable mandate of Members of Parliament were laid bare through a range of events that took place in Parliament. All of these have led to difficult questions about the impact of Parliament as an institution on government, and of various groups within Parliament and on Parliament.

The figure below depicts the levels of embeddedness which public representatives have to navigate daily in the execution of their responsibilities. A discussion on this embeddedness follows in the section below.

Figure 3: Depiction of Parliament & Parliamentarians' Embeddedness



(Hudson & Wren, 2007:21)

The role of Parliament according to the Constitution, 1996, is to exact accountability in the exercise of public power and control over public resources. In 2013 and 2014-15, the role of Parliament as overseers of the Executive came under scrutiny. The case studies which follow are illustrations of Parliament and Parliamentarians' political embeddedness. Suttner, states that Nkandla, and Guptagate, can be tackled in a number of ways: accountability; constitutionalism; public spending and other questions related to good governance" (SAPA 2015).

6.3.2 Security upgrades at Nkandla

In 2014, the Fifth Parliament re-established a special parliamentary committee to scrutinise President Jacob Zuma's response to Public Protector Thuli Madonsela's report and other investigations on the upgrades to his private home at Nkandla.

The Public Protector found that "[The president's] failure to act in protection of state resources constitutes a violation of paragraph 2 of the Executive Ethics Code, and accordingly, amounts to conduct that is inconsistent with his office as a member of Cabinet, as contemplated by Section 96 of the Constitution (Secure in Comfort. 2013:439)".

The Public Protector recommended that President Zuma take steps, *“with the assistance of the National Treasury and the South African Police Service, to determine the reasonable cost of the measures implemented by the Department of Public Works (DPW) at his private residence that do not relate to security, and which include the visitors’ centre, the amphitheatre, the cattle kraal and chicken run, and the swimming pool”*. And also that he *“pay a reasonable percentage of the cost of the measures as determined with the assistance of National Treasury, also considering the DPW apportionment document”* (Secure in Comfort Report. 2013. 14: 442).

The ANC argued that the recommendations of the Public Protector were advisory and therefore not binding or enforceable on other organs of state. The ANC asserted that the procurement system of government had failings and that officials, instead of President Zuma, should be held liable for the excessive expenditure on Nkandla. Former Chief Whip of the Majority Party, Mathole Motshega, and member of the ad hoc committee argued that the President should not be penalised for the unauthorised expenditure at his residence.

“The omissions or commissions of the officials, which enhanced security upgrades without the knowledge and consent of the President, should not and cannot be translated into an offence or a transgression by the President” (Researcher’s notes, National Assembly, Mathole Motshega, Parliament, 30 September 2014).

In addition, the ANC was also unwilling to heed the opposition’s demand, in terms of Rule 138 of the National Assembly Rules, that President Zuma appear before the ad hoc committee to answer questions relating to the upgrades at Nkandla, questioning *“why the President must be called and embarrassed before the ad hoc committee”* (Researcher’s field notes. Doris Dlakude, ad hoc committee, 30 September 2014, Parliament).

In contrast, the opposition stood united and held that the Report of the Public Protector was superior to all other reports and that the Public Protector's Report, "*Secure in Comfort*", stated remedial actions.

"The Public Protector, the highest independent investigation and remedial entity in South Africa, has held President Zuma personally liable, and that he must therefore comply. President Zuma must pay back what he owes South Africa" (Statement by the opposition, Parliament, 8 October 2014).

As a result of divergent positions, the ad hoc committee did not reach consensus on the modus operandi to be followed and thus the opposition withdrew their participation from the ad hoc committee.

Politically, the key issues that emerged from this issue revolved around the personal accountability of the President for the excessive expenditure on upgrades of his personal residence, as well the status of the Public Protector's proposed remedial actions versus that of Parliament. Important accountability issues were raised during this saga, which have to be settled either via the courts or via Parliament.

6.3.3 *Commercial aircraft landing at national key point – "Guptagate"*

On 30 April 2013, a private commercial aircraft landed at Waterkloof Airforce base, which is a strategic national key point. This incident caused an outcry and was deemed a national security incident and, as a result, Parliament was requested to intervene and obtain answers in respect of the incident.

On whether or not the President should be held accountable on the matter, the ruling party and the opposition held conflicting views. The opposition argued that Parliament had the constitutional right and duty to investigate the president's violations of the Executive Code of Ethics and asked the Speaker to establish an ad hoc committee to investigate the matter (Maimane, 2014a).

As a result of pressure by the opposition parties, the Speaker, Max Sisulu agreed to debate Guptagate under motions of national interest. The DA also demanded that the President attend the debate. The ANC firmly opposed the President's accountability in the House, asserting that "... *the topic which the Speaker approved states clearly that the debate is about the controversial Waterkloof Military airport landing, not about 'summoning the President to account on the Waterkloof landing'*" (Researcher's field notes, National Assembly, Chief Whip ANC, Mathole Motshekga, Parliament, 21 May 2013).

During the debate, the ANC maintained that the officials who allowed the aircraft to land should be held accountable and not the President. Directly opposing this view, the leader of the Democratic Party in Parliament, argued that by "using officials as scapegoats in this appalling incident ... this ANC government has made a mockery of the concept of accountability. It has made a mockery of our police service, a mockery of our defence force" (Researcher's notes, Lindiwe Mazibuko, National Assembly, 21 May 2013, Parliament).

The thread that weaves through the case studies discussed above is the accountability deficit that prevails in Parliament. The respective case studies are illustrations of the dual contestations at play, which Members of Parliament are expected to navigate in the execution of their mandate. The consequence of the embeddedness of party political influence in the institutional machinery undermines the role of Members of Parliament, as representatives of the people, as overseers of the Executive, and as champions of good governance. Above all else, the role of Parliament is to exact political accountability from the Executive and Government to improve and entrench the quality of democracy on behalf of the people.

Accountability requires that Parliament should not only secure explanations from the Executive, but also influence Government decisions. Therefore, accountability by the Executive in its many forms relies on MPs' ability to enforce both the spirit and the letter of the Constitution.

Effective oversight is achieved when the actions of the Executive and the public service are thoroughly scrutinised by a vigilant Parliament, which is willing and able to use the powers at its disposal. Effective oversight rests on Parliament's becoming more effective, and being seen to be more effective in scrutinising the Executive. The NDP holds that accountability is essential to democracy and that the accountability chain should be strengthened from top to bottom" (NDP, 2012:45). The study shows that there is an obvious need for Parliament to take the lead in strengthening the accountability chain.

The study further illuminates that Members of Parliament hold contrasting understandings of parliamentary accountability, which affects the extent to which the Executive is held accountable and how oversight is conducted in Parliament. Parliament has been significantly weakened by the dominance of the executive, as well as the lack of understanding among Members of Parliament of their role. The ultimate objective of Parliament is to be not only the people's representative **by** the will of the people but, most importantly, **for** the people. [Author's emphasis.]

The need exists for Parliament to protect its constitutional role and, in pursuance of its mandate; it has to become much more effective and assertive in doing so. If Parliament fails in its constitutional duty to hold the Executive accountable, the discussion and decisions related to that accountability will be held outside of Parliament. *"The media, individuals and commentators, thus become the key role players in holding the executive to account. With social media these discussions become widespread and thereby cause serious reputation damage to Parliament"* (interview Registrar of Ethics, Parliament). The authority to make decisions lies with the executive, the check on such right is that Parliament holds the executive to account for its decision-making. This is at the heart of democracy and at the core of good governance.

The National Development (2012) holds that *"overcoming corruption and lack of accountability in society, requires political will, sound institutions a solid legal foundation, and an active citizenry that holds public officials accountable"*.

In this regard, strategies to elevate accountability in Parliament has been identified and these recommendations follow below.

6.3.4 Recommendations

Good governance and strong parliaments are reliant on the willingness of parliamentarians to engage with and hold the government accountable for its actions. The commitment of Parliament to carry out its constitutional mandate equally, is uneven, and a disjuncture in the way public accountability is pursued is evident. In this regard, it is recommended that:

- Parliament adopts clear rules on accountability, and simultaneously addresses the political constraints under which Members of Parliament have to carry out their responsibilities. Ultimately, the effectiveness of Parliament as the representative of the people depends on the willingness of MPs to use their power effectively, and this means securing a balance between their partisan and oversight roles.
- Parliament reflects on and reviews its role in ensuring good governance, accountability and enforcement, and brings its practices into alignment, with the prescripts of the Constitution. Failing to do so will only further diminish Parliament's reputation, power, and the developmental goals and aspirations of the people of South Africa.

Judge Sachs cautions as follows:

"[A]ccountability, responsiveness and openness are, by their very nature, ubiquitous and timeless. They are constants of our democracy, to be ceaselessly asserted in relation to ongoing legislative and other activities of government.

*Thus it would be a travesty of our Constitution to treat democracy as going into a deep sleep after elections, only to be kissed back to short spells of life every five years."*⁷

⁷ Doctors for Life International v Speaker of the National Assembly and Others (CCT12/05) [2006] ZACC 11; 2006 (12) BCLR 1399 (CC); 2006 (6) SA 416 (CC) (17 August 2006).

6.4 Strategic use of the chamber (house) – questions and debates

The Constitution in Section 92 (South Africa, 1996:57) stipulates that members of the Executive are individually and collectively accountable to Parliament for the exercise of their functions and performance. To give effect to this constitutional provision, debates and deliberations in the Chamber of Parliament are subjugated to the rules and procedures of Parliament.

In terms of the Rules of the National Assembly (South Africa. Parliament, 2008:27), a Member of Parliament may propose a subject for discussion, or draft a resolution for approval of the House. Individual Members of Parliament or a party may also request the Speaker to place a matter of “public importance or a matter of urgent public importance” on the Order Paper for discussion. The final decision on debates of national importance, however, rests with the Speaker.

Members of Parliament are also allowed to put oral and written questions to the Executive, the Deputy President, and the President. In terms of the National Assembly (South Africa. Parliament, 2004:191), the President is expected to answer six questions, once per term, and the Deputy President four questions every second week (South Africa. Parliament, 2004:191).

In addition, Members of Parliament are allowed to make a brief statement on any matter and the minister to whom the statement is directed or any other minister may briefly respond to the matter. Members of the Executive are also allowed to make factual or policy statements relating to government policy. Following the statement, each political party may comment on the minister’s statement (South Africa. Parliament, 2008: 32-34).

Debates and deliberation on issues are central to the work of parliamentarians. Ideally, the Chamber of Parliament (House) should be utilised as the space in which to deliberate, debate, educate and to bring the concerns and perspectives of citizens to the fore, and, importantly, to suggest solutions that could best serve the people that members represent. The

checks and balances available to members of the National Assembly, if utilised effectively, are powerful tools to exact accountability and responsiveness to the citizenry from the Executive.

6.4.1 Analysis and findings

Among the participants in the study, the strong view held was that the potential of the Chamber was not fully optimised, and therefore opportunities were lost to fully hold the Executive accountable for what they did or failed to do. Specifically, it was found that the issues that members addressed in the Chamber (business) were not adequately linked to issues of national interest, nor to constituency or committee work of Members of Parliament.

Participants in the study expressed concern about the value and effectiveness of this form of parliamentary oversight. Members of Parliament also indicated that the Rules and Procedures applied in the Chamber were too formal, and stifled rather than encouraged debate. The Rules, which apply to debates, motions, and questions, did not create an environment conducive to members to make meaningful connections with the electorate, as the style of engagement was too formal and thus excluded large sections of the population.

With regards to Questions in the Chamber, the view was held among participants that these remained an important source of information for Members of Parliament, as they offered a means to directly hold the President and Executive to account on issues without following lengthy bureaucratic processes, which in any event, are normally answered by technocrats.

Members of Parliament also expressed their frustration at the lack of opportunity to debate issues of national interest. For example, in the Fourth Parliament, only 13 debates, spanning five years, were debated on issues of national importance.

It was observed that most of the debates in the Chamber were either ceremonial, such as Africa Day, Women’s Day, Youth Day, or lengthy debates were held on legislation which could be debated in Extended Parliamentary Committees (EPCs), as was the practice with the Budget Votes. It was also highlighted that the business in the Chamber did not sufficiently accommodate reports of committees, which were the primary tool that committees used to monitor, evaluate and recommend to the executive on expenditure, policies, service delivery and the administration of government departments.

A review by the researcher of the Announcements, Tablings and Committee (ATC) reports shows that on average it took up to four months for committee reports to be tabled and debated. This time lag has serious oversight implications, as the extract below illustrates.

“By the time a report of a Committee comes before the House, the issue is stale and the situation has either worsened or everyone has moved on from the issue” (Chairperson of Trade and Industry Committee).”

The section that follows provides recommendations related to the strategic use of the House, for Members of Parliament to better connect with citizens.

6.4.2 Recommendations

The Chamber of Parliament remains an important vehicle through which Members of Parliament can articulate the concerns of the electorate and hold the Executive to account for the promises it makes, especially those promises expressed in policy documents such as the National Development Plan, and the targets set by the Medium Term Strategic Framework (MTSF), and the Budget.

The Chamber of Parliament has the potential to become an important connecting point with the people whom Members of Parliament represent. In this regard, the following recommendations are proposed:

Firstly, the Rules and Procedures of Parliament need to be adapted to allow for more flexibility and spontaneous forms of debate. In addition, more regular, shorter and topical issues of immediate concern to citizens should be scheduled.

Secondly, the timetable of the business in the Chamber should allow for weekly briefings or updates on progress per cluster on the National Development Plan and all undertakings by the Executive should be recorded with a system in place to track the undertakings made in the Chamber. This will ensure more accountability by the Executive, especially related to the implementation of the NDP.

Thirdly, the business in the Chamber needs to be structured in such a way to link committee and constituency work to the business in the chamber. In this way, Members of Parliament will have more opportunities to highlight issues that emanate from their oversight activities, specifically related to the implementation of the National Development Plan.

Fourthly, instead of debating Bills in the Chamber, these should be debated in Extended Parliamentary Committees (EPCs), where the purpose and intended impact of these Bills could be distilled into a statement by the chairperson of a committee and the whips of a particular committee.

6.5 Towards effective and enhanced oversight

As per the injunction of the Constitution, in Sections 42 and 55 (South Africa, 1996), the National Assembly must provide for mechanisms to ensure that all organs of state in the national sphere are accountable to it.

Such mechanisms would allow the National Assembly to maintain oversight over the exercise of national executive authority, over any organ of state, and over the implementation of legislation.

In addition, Members of Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions. Members of Cabinet must also provide Parliament with full and regular reports concerning matters under their control (South Africa, 1996, Section 92).

Accountability is defined in Parliament's Oversight and Accountability Model as:

"... a social relationship where an actor (an individual or an agency) feels an obligation to explain and justify his or her conduct to some significant other (the accountability forum, accountee, specific person or agency) (South Africa. Parliament, 2009a:16)."

The functions of parliamentary oversight are explained in the Oversight and Accountability Model (South Africa. Parliament, 2009a:16):

- To detect and prevent abuse, arbitrary behaviour or illegal unconstitutional conduct.
- To hold the government to account in respect of how taxpayers' money is used. It detects waste within the machinery of government and public agencies. Thus it can improve the efficiency, economy and effectiveness of government operations.
- To ensure that policies announced by government and authorized by Parliament are delivered. This function includes monitoring the achievement of goals set by legislation and the government's own programmes.
- To improve transparency of government operations and enhance public trust in the government, which is itself a condition of effective policy delivery.

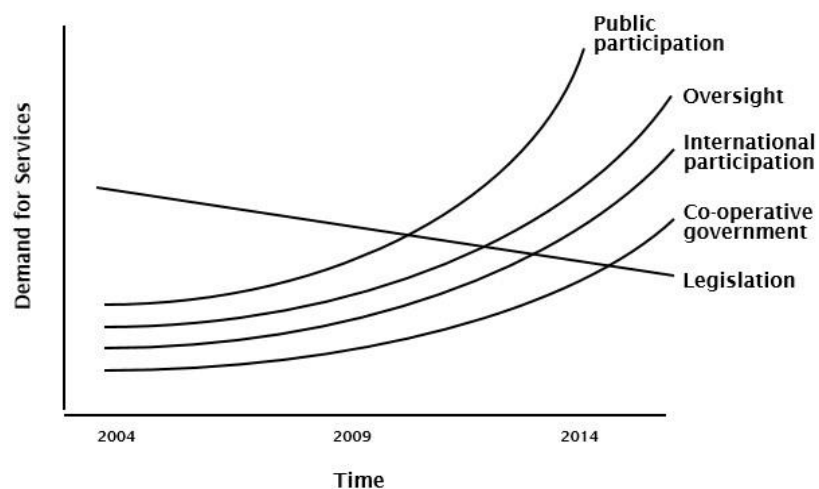
According to the Oversight and Accountability Model, the appropriate mechanism with which to conduct oversight of the organs of state would be through parliamentary committees (South Africa. Parliament, 2009a:16). Committees are understood to be an extension of the National Assembly and

thus perform their functions on behalf of the institution. They are also considered the primary vehicles for oversight and increasing public participation in the legislative and related process of Parliament.

In the Fourth and Fifth Parliament, a total of 39 Portfolio Committees was established in the National Assembly to shadow and oversee the work of departments, agencies and the Executive. Significantly, as the democratic state matures, so do the foci of successive parliaments. In the Third and Fourth Parliament, the demand for legislation had declined, and, as a result, Parliament was increasingly focused on oversight activities such as oversight briefings, hearings, oversight study visits, as well as the implementation of legislation.

The figure below illustrates the demand side of Parliament’s workload since 1994 to 2014.

Figure 4: Demand side of services.



Source: H Burger

6.5.1 Analysis and findings

The study finds that, notwithstanding Parliament’s increased focus on oversight activities and its allocation of resources (R464 million in 2013 and R493 million in 2014) and to carry out the task, it is questionable whether all

the frenzied outputs have brought about significant outcomes for the poor and the marginalised in society (South Africa. National Treasury, 2013:13; 2014:11). While the extensiveness of policy discussions and the passage of legislation have been strengths of Parliament, their impact has been questioned as those activities have not been able to ensure that the Executive has converted its development objectives into improved service delivery for the people of South Africa.

By way of example, South Africa continues to be overwhelmed by the triple challenges of poverty, unemployment and inequality. Figures produced by Statistics South Africa in 2014 clearly underscore the fact that, as far as inequality is concerned, the gap has not narrowed significantly over the last 20 years. The Gini coefficient – which includes income per capita, including salaries, wages and social grants – decreased marginally from 0,72 in 2006, to 0,70 in 2009, and to 0,69 in 2011.

In 2015, Statistics South Africa recalculated the poverty baseline, from R443 to R501. This recalculation shows that the percentage of the population who live in poverty has increased from 32% in 2011 to 53% (16 million) in 2015. (Statistics South Africa, 2014:14). Reducing the inequality gap is clearly a challenge which parliamentarians have not found a way to address adequately, but which should remain visible on the institutions oversight radar (Statistics South Africa, 2014). The table below provides a statistical illustration of the pervasive levels of poverty that continue to persist in the country.

Table 3: National Poverty Lines 2000–2014

Year	Food Poverty Line	Lower- Bound Poverty Line	Upper-Bound Poverty Line
2000	141	209	308
2001 (September)	148	219	323
2002	166	241	352
2003	197	280	401
2004	199	282	403
2005	202	288	413
2006 (March)	210	300	431
2007	227	321	458
2008	259	360	507
2009(March)	305	416	577
2010(March)	307	424	594
2011(March)	321	443	620 > 779
2012(March)	351	479	666 > 837
2013(March)	370	506	704 > 885
2014(March)	400	544	753 > 946

(Source: Statistics South Africa, 2014)

“The role of Parliament is to ensure that our people see and feel the benefits of democracy in their lifetime (Researcher’s field notes, Max Sisulu, speech on inclusive growth at IPU, Geneva, March 2014).”

The research study reveals that, to a large extent, Parliament has performed poorly in identifying the failures of the executive and exacting the necessary punitive measures where this may be necessary. Committees, which are considered the ‘engine rooms’ of Parliament, have, according to Speaker Mbete (Cape Town, 14 January 2015), *“not performed as well as we had hoped in respect of their oversight activities”*.

By way of example, an analysis of the 2012/13/14 performance targets of the departments of Social Development, Police, Co-operative Government and Traditional Affairs, Transport, and Defence and Military Veterans, which received the largest percentage of the budget, failed to achieve 80% of their outputs, despite spending their budgets. For 2012/13/14, only 15% of departments achieved 80% of their targets, with 21 departments achieving 49% of their performance outputs. The below par performance of departments raises questions about the ability of departments to implement their strategic plans on the one hand, and the ability of Portfolio Committees to hold departments accountable for their expenditure and concomitant performance.

The Auditor-General (AG), in a presentation on the performance of departments, recommended to Parliament to *“hold people accountable for poor performance and transgressions. This will demonstrate that such behaviour is not tolerated and will encourage responsible, accountable and transparent administration”* (Field notes as per briefing by the AG on 27 November 2015, Parliament). Committees of Parliament are largely autonomous, and as such follow very different approaches in the performance of their core tasks. For example, direct observation revealed that the Portfolio Committees on Trade and Industry, and on Police, paid attention to how targets were chosen and the suitability of the chosen targets to achieve favourable delivery outcomes.

Notably, these two committees also scheduled quarterly departmental progress briefings into their oversight programmes and were thus more successful in highlighting the gaps and bottlenecks of scrutiny in their respective departments. In contrast, the Portfolio Committee on Rural Development was less assertive in its oversight of the department’s performance and the expenditure of national and provincial departments. The committee, for example, failed to call the department to account for the massive fiscal dumping in provinces and municipalities.

The Portfolio Committee on Water and Sanitation consistently wavered in its ability to hold the Department of Water and Sanitation accountable. This occurred despite a plethora of information available to the committee to use as a basis for testing the responses of the department. For example, information by the Department of Performance Monitoring and Evaluation revealed that the Department of Water and Sanitation had sufficient resources to effectively deal with the challenges around access to water and sanitation in South Africa, yet serious delivery concerns persisted. The Portfolio Committee mentioned its concerns in its Legacy Report 2014, but failed during its oversight activities to address critical issues such as the co-ordination of resources at national and provincial level as well as the poor management of these at municipal level.

It was noted that the committee cluster system introduced as far back as the Third Parliament (2004–2009) to specifically tackle inter-sectoral issues, has not yielded the desired results. To a large extent this state of affairs was related to the fact that committees did not share a common understanding of the issues needing to be examined or the level of action required. The dearth of joined-up oversight resulted in duplication and wastage of resources, and weakened the ability of Parliament to deal with multi-layered issues effectively. The case study that follows is but one example, showing the manner in which oversight is conducted.

Interviews, analysis of committee reports, and participant observation revealed that though committees spent a considerable amount of time doing oversight, the outcomes of these activities were poorly thought through, and, as a result, members spent their time “*asking questions of clarity*” (Strategic planning session, 21 October 2014, chairperson of committee). Members of Parliament therefore missed the opportunity to systematically and rigorously engage departments on their overall performance and strategy and, where performance was poor, to extract lessons which could be integrated into future processes of learning.

For example, had the Portfolio Committees on Public Enterprises, Energy and Transport, exerted sustained pressure and oversight on the Executive to meet its targets of turnaround strategies in relation to Eskom and the South African Airways, issues of bailouts, which have resulted in billions lost to the fiscus and load shedding, could have been addressed earlier or avoided.

The research also revealed that committees followed different approaches to public engagement in their respective processes. Those committees that proactively sought expertise outside the parliamentary domain were more successful in enhancing the quality of the legislation, or their oversight findings and reports.

For example, the Portfolio Committee on Health has worked closely with the Health Systems Trust (HST), which consists of a range of experts on health systems, on the policy discussions related to the proposed National Health Insurance (NHI) system, as well as on Bills that require strengthening twenty years into democracy. The Portfolio Committee on Social Development has been successful in collaborating with advocacy groups, amongst others the Children's Institute at UCT, in the formulation of the Children's Act (Act 38 of 2005), and the adequacy of the yearly provincial budget of the Department of Social Development related to the implementation of the Children's Act.

Considerable time during the study was spent on ascertaining how committees tracked or followed up on their previous oversight activities as well as on the commitments or undertakings made by the Executive or departmental officials. The participants in this study conceded that Parliament, and committees in particular, did not spend sufficient time on rigorous follow-up of issues related to their oversight activities.

These glaring weaknesses impacted on the efficacy of Parliament as an overseer of the Executive. This was an area in which Parliament as an institution and committees in particular were found wanting, as the cases below illustrate.

In 2013, the Portfolio Committee on Education requested the Department of Basic Education to provide the committee with a turnaround strategy and action plans to address the Auditor-General's audit findings, which recurred again in 2014 and included, amongst others, the following (submission by the Auditor General to the Portfolio Committee on Basic Education, 16 September 2014, Parliament):

1. Variation in responsibilities and authority of districts, despite promulgation of a national policy.
2. Vacancies in critical district/field worker posts.
3. Weak performance management systems and accountability measures.
4. Inappropriate appointments across all levels of the district, including in subject advisory posts.
5. Critical skills gaps across the various levels of the district.

The audit findings underscore the fact that the portfolio committee responsible for monitoring implementation throughout the year to ensure that spending was on track and consistent with priorities failed dismally in its oversight function. The committee proved to be weak on follow-through, failing to schedule quarterly progress briefings and perform further follow-up oversight of the department's turnaround strategy as requested (Department of Basic Education BRRR Report, 2013).

It was observed during the study that committees did not adhere to a systematic method of choosing oversight subjects when conducting oversight. The content advisors and researchers who participated in the study attributed this haphazard way of conducting oversight to the fact that committees covered too many topics and therefore lacked a systematic oversight focus.

"We cherry pick. We move from one topic to the next very quickly; there is not enough time to follow up on issues. A lot of issues fall through the cracks like this." (Interview content advisor).

More generally, the institution has found it difficult to follow up on the hundreds of resolutions adopted by Members of Parliament both in the National Assembly and the National Council of Provinces. This challenge is related to the fact that Parliament does not have a system in place to log recommendations or track, monitor or evaluate the performance of the Executive or departments. This deficiency has had a major impact on the efficacy of Parliament. The comments below illustrate the point above.

“The Secretary to the National Assembly writes a letter to the Minister indicating the recommendations that were adopted but this is as far as it goes. It’s really left to chance. Who knows whether they implement or not, we do not check. (Interview committee chairperson). We must take equal responsibility for the implementation failure in the country. Why? Because we have failed to hold departments and ministers sufficiently accountable.” (Interview content advisor)

It was also found during the study that *the “ultimate force of accountability [which is] enforcement”* (Ocampo & Gómez Arteaga, 2014:9) and which is an integral dimension of accountability, was a missing link in the way in which Parliament applied its accountability responsibilities. In part, it can be argued that this is due to the Constitution, which does not explicitly relate enforcement to accountability.

Within Parliament’s Oversight and Accountability Model as well, the linkage between accountability and enforcement is omitted. As a consequence of applying this narrow application of accountability, Parliament has not been in a position to impose remedial action on the Executive, other than through persuasion. This omission is clearly a weakness in South Africa’s accountability framework, which needs to be corrected, as the test of accountability is contingent on results.

“We do not have the teeth to force behaviour change. We can recommend and hope that the executive takes us seriously.”
(Interview, chairperson of committee).

The timetable of parliament was also studied in the research process, as it is the mechanism used by the presiding officers to structure the work of the institution. In this regard, committee chairpersons in the study were particularly critical of the scheduling of parliamentary business, arguing that insufficient time was allocated to oversight work in committees. The norm has been for committees to convene three days per week in the mornings only, with afternoons set aside for plenary sessions. A chairperson of a committee asserted that the programme of Parliament was not structured to allow for meaningful oversight over the longer term. As a result, committees were forced to do desktop oversight, or oversight “via remote control”, which was wholly ineffective. Committee chairpersons also indicated that the programme of parliament was not sufficiently structured to enable the assessment of legislation by committees.

6.5.2 Case study

The case study that follows below depicts a number of anomalies which were observed in respect of committee oversight, during the research study.

PORTFOLIO COMMITTEE (PC) ON BASIC EDUCATION OVERSIGHT TO JOHN TAOLO GAETSEWE (JTG) DISTRICT, KURUMAN, NORTHERN CAPE.

On 5 June 2014, the non-delivery of services, and a lack of infrastructure and development, sparked community protests. The protest action led to 17 000 learners having no access to schooling for six months, including 469 Grade 12 learners who were not able to write their trial examinations. On 22–24 September, nearly three months after the protest began, the PC on Basic Education embarked on an oversight visit to ascertain the cause of the protest action.

According to the Committee’s oversight report, the Community Road Forum, which was mandated to act on behalf of the community, asserted that the poor state of the roads had an impact on the provision of education and inter-

related issues, which included, amongst others, a lack of any emergency and rescue services.

The Committee's oversight visit also uncovered a number of emerging concerns raised by community members, in particular water and sanitation issues that threatened to spill over into further protest action. The case study highlights a number of deficiencies in the manner in which committees approach their oversight.

First, in terms of being responsive to citizens, the PC on Basic Education waited nearly three months before investigating the cause of the community's protest action.

Second, emerging concerns, such as water and sanitation issues that threatened to spill over into further protest action, were never arrested. The records of Parliament and confirmation from the Committee Clerk reveal that the PC on Basic Education did not report their findings to Parliament formally, inform the Ministers responsible of their concerns, or confer with the PC Committees on Water and Sanitation, Roads and Transport, and Health.

Third, the disconnect between members and communities is also evident. Had the Members of Parliament who had constituency officers in that particular district been more active in or responsive to their constituencies, the service delivery failures that sparked the protest could have been highlighted and arrested timeously, with the responsible stakeholders.

Fourth, the issues that sparked the protest action in the Northern Cape were clearly cross cutting. Therefore, a cluster of committees dealing with roads and transport, education, and water and sanitation, amongst others, should ideally have been part of the oversight visit in an endeavour to respond to the challenges raised and to oversee the promises that were made by the various departments to the community during mediation processes.

Fifth, by November 2015, two months after the Portfolio Committee's oversight visit, no further interaction had taken place with the community visited nor was any feedback communicated pertaining to the Committee's findings, nor was there follow-up on the promises made to the community by the Minister of Basic Education.

The section below advances strategies for Parliament to enhance its oversight and accountability role.

6.5.3 *Recommendations*

The NDP (2012:428) states that concerns exist about whether Parliament is fulfilling its role in building an accountable and responsive state. It is therefore incumbent upon Parliament to address the glaring gaps in its oversight methods, as this would improve the performance of the institution and accountability of the executive. In this regard, the following strategies are proposed:

- In particular, Parliament has to address the deficiencies that have emerged in the institution's Oversight and Accountability Model – specifically those deficiencies related to accountability, as the model is silent on this critical issue.
- In addition, Parliament has to implement the mechanisms in the Oversight and Accountability Model related to the monitoring and tracking of issues.
- Furthermore, Parliament should also consider the implementation of methods to deal with cross-cutting issues and the commitments made by the Executive in the Chamber.

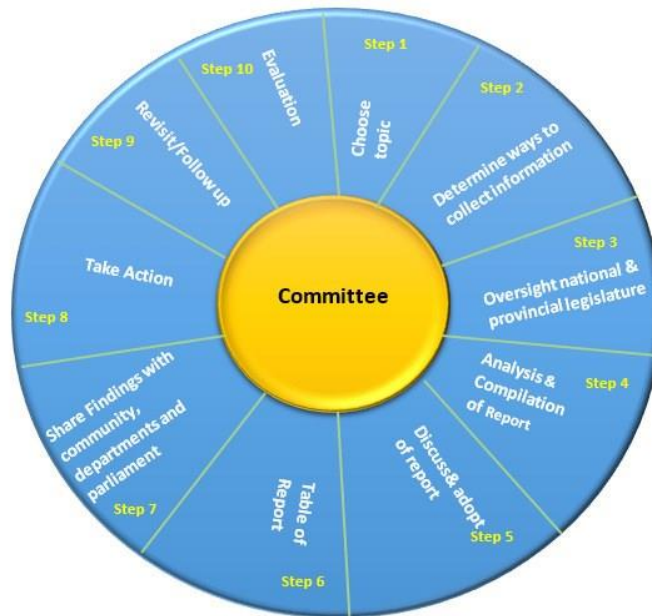
The ability of Parliament to hold government to account and to improve on its performance also depends on the technical capacity it has at its disposal.

- As such, the administration of Parliament has to improve the quality of the services it provides to Members of Parliament by, amongst others, concentrating on building its own staff capacity and developing and building monitoring and evaluation tools and innovative learning methods into its operational practices.
- A skills audit is also necessary to ascertain the baseline skills levels available in the institution and to further develop and implement a capacity plan with clear timeframes.
- The efficacy of Parliament is also dependent on the provision of suitable and on-going training for Members of Parliament and staff. Such on-going training is fundamental in the endeavour to shift the culture in Parliament.

In this regard, collaboration with institutions of higher learning is highly recommended, specifically on issues related to policy, analysis, monitoring and evaluation, and project management, amongst others.

The diagram that follows is the researcher's proposal in respect of parliamentary oversight. The proposal endeavours to address a number of shortcomings which were identified in the research, with respect to parliament's current oversight practices.

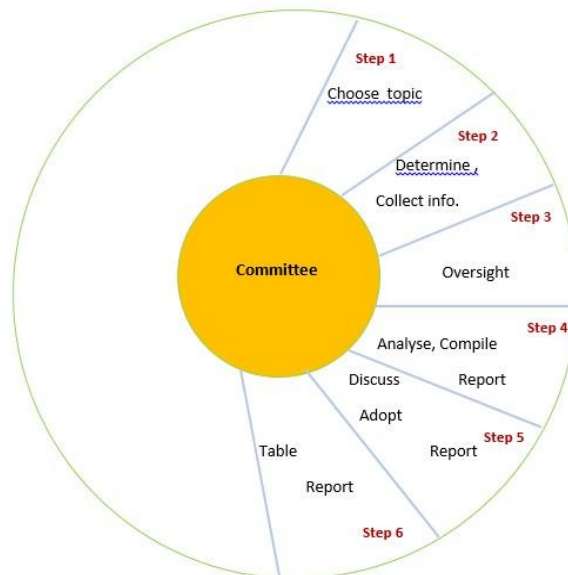
Figure 5: Proposed Approach to Oversight.



Source: Researcher constructed

The figure below is a visual illustration of the various steps Portfolio Committee's follow, when oversight activities are undertaken.

Figure 6 Current Approach to oversight.



Source: Researcher constructed

6.6 The budget process: a powerful oversight tool

The Money Bills Amendment Procedure and Related Matters Act came into effect in 2009 (Act 9 of 2009). The Act is a potentially a powerful tool, one which enables Parliament to perform its oversight role more effectively.

The Money Bills Amendment Procedure and Related Matters Act essentially gives practical effect to Sections 42 (3) and 77 of the Constitution (South Africa, 1996). Importantly, the Money Bills Amendment Procedure and Related Matters Act prescribes certain preparatory procedures for Parliament and the National Assembly in particular, should it wish to consider amendments to a specific budget. These include a structured review of departmental budgets to be carried out by portfolio committees and an overall assessment of budget projections by the respective standing committees.

Section 5 of the Money Bills Amendment Procedure and Related Matters Act provides that the National Assembly, through its committees, annually assess the performance of each national department. In this regard, committees are required annually to submit Budgetary Review and Recommendation Reports (BRRRs) to the Assembly – after the adoption of the budget but prior to the adoption of the report on the Medium-Term Budget Policy Statement (MTBPS). As these BRRRs may include recommendations on the future use of resources, they form one critical part of Parliament’s engagement with the Budget (i.e. the main appropriation) the following year.

Another critical part is the reports on the MTBPS, which may make recommendations on the fiscal framework and the proposed division of revenue of the following year. When the Budget is introduced, together with the fiscal framework, the Division of Revenue Bill and the Appropriation Bill, the Minister of Finance must report on how previous resolutions in respect of the BRRR and the MTBPS have or have not been taken into account.

National Treasury has also added a new annexure in the Budget Review, published with the Budget each year, titled “Report of the Minister to Parliament”, which presents the Minister’s responses. These procedures relating to the BRRRs were fully implemented in 2010. Noteworthy too, is that the Act also provides for public participation during the legislative phases of the budget oversight processes.

6.6.1 *Analysis and findings*

Although Parliament has the necessary powers and instruments to exert more influence over the Executive’s budget and spending patterns, it has not been able to do so effectively to date.

Despite the wide-ranging powers that the Money Bills Amendment Procedure and Related Matters Act confers on Parliament, none of the portfolio committees have used their power to amend the Budget. From the interviews it was gleaned that the contribution of Parliament was constrained by both internal and external factors. The internal constraints include issues related to the structure, procedures and capacity of Parliament.

The external factors are related to the lopsided power relations between the Executive and Parliament:

“I have been a Minister in government and now I am here; I see now how strong the Executive is. For Parliament to amend the Budget it has to be strong too, otherwise we will continue to do oversight by asking questions of clarity instead of digging deeper.” (Interview chairperson of committee)

Data gathered from tracking portfolio committee oversight processes on the Budget in 2013 and 2014 respectively, as well the Budget training for Members of Parliament is instructive, and reveals a number of deficiencies in the current system. Currently processes such as the BRRR are not effective and it appears as if they are being carried out for compliance purposes as per the stipulation in the Money Bills Act (2009).

It was observed during the budget hearings of committees that, in most instances, government departments were allowed to report to portfolio committees on historical spending patterns. In other words, departments reported on the funds spent as appropriated and not the changes that were brought about with the funds. This form of reporting on the budget has been ineffective, as outcomes have remained concealed from deeper scrutiny.

The reports of departments are actually useless; they come and say the same things year in and out. It's just figures that tell us nothing of delivery. I hate that time of year the most, when we have to do the budget. (Chair of committee, Fourth Parliament)

None of the top five priority departments achieved 80% of their outputs in the 2102/2013 financial year, despite spending most of their budgets. The Department of Social Development achieved 61% of its outputs; Police (70%); Co-operative Governance and Traditional Affairs (43%), Transport (53%); and Defence and Military Veterans (79%).

This raises important questions about the allocation of state resources, and whether wasteful spending should be met with lower budget allocations. These departments clearly demonstrate that increased allocations did not translate into increased efficiency. As the overseers of the government's budgets, these are issues that portfolio committees have to highlight in their oversight. The budgets of departments are meant to reflect the commitment of government to the NDP. However, if departments are failing to reach their targets, implementation of the NDP will be in jeopardy. It is the role of Parliament to do rigorous oversight to ensure that departments deliver (November 2014, Report to Portfolio Committee on Appropriations, Parliament, by the Public Service Commission).

The ineffectiveness of portfolio committees to engage in rigorous and systematic oversight of the Budget is further compounded by the way in which the Auditor-General reports on budget expenditure of departments.

Chairpersons of committees have been particularly critical of the Auditor-General's reports, which, they have argued, are limited to indicating whether or not the funds were appropriated as planned and whether or not misappropriation occurred.

"It cannot be that our standard instrument of measurement is the Auditor-General's report, as this report deals with the misappropriation of funds, and tells us nothing about the quality of service, of the tangible outcomes of the resources that were used to ensure a better life for our people, especially the poor." (Interview with Max Sisulu)

With the new mechanisms and procedures, the Act has also led to changes, both to the Parliamentary Programme Framework generally – in terms of session and committee periods – and the National Assembly Programme particularly. Parliament's processes have, however, not been sufficiently adapted to merge with the budget development cycle of the executive. In this regard, a former Member of Parliament noted: "We are still dealing with the Budget in the old way, only adding BRRRs. We cannot amend the Budget in February. Parliament makes its inputs too late to make a difference."

For Parliament to respond to the budget more meaningfully, the institution has to structure its programme more strategically so that it is able to make substantive inputs at the appropriate times during the Executive's budget development processes. In principle, the BRRR process is a positive step in the right direction for Parliament, but more attention needs to be paid to the quality of the BRRR reports produced. An analysis of the BRRR reports shows that portfolio committees were in the main reporting descriptively and regurgitating the findings of the Auditor-General.

These practices clearly point to limited technical capacity and deficient information, as well as a reluctance (lack of will) by committees to assert themselves on issues related to budgetary oversight.

“Do you know how much flack some of the BRRR reports received just before the elections? At the time of the BRRR, some of the chairpersons withheld the BRRR reports or asked for the recommendations to be toned down because they were too critical of the executive.” (Interview with senior official)

Effective oversight of the Budget depends not only on acquiring the relevant information, but also on securing the requisite capacity to perform effective oversight, and on the willingness of chairpersons of committees to allow themselves and members to express strong views on government performance. These are critical features of attempts to hold the Executive to account. Parliament has to address a number of challenges in respect of its oversight of the Money Bills. This includes, amongst others, addressing the lopsided power relations between the Executive and Parliament.

“We have to address the power relations between Parliament and Treasury. Parliament has the power to amend a Money Bill, yet Parliament has to negotiate its own budget with Treasury, a department that it oversees. Something is clearly wrong. In addition, government, especially the Ministry of Finance, has to absorb the extent of Parliament’s powers in respect of the Money Bills Act.” (Interview with Executive Director of the Parliamentary Budget Office)

In the Budget Review of 2014, the Minister of Finance reported as follows:

“A number of committees also recommended that additional budget allocations be made available for certain programmes, sub-programmes or other budget items. Where these recommendations are supported by the relevant departments when weighed against other priorities, they will be taken into account in future budget discussions.” (South Africa. National Treasury, 2014a; 2014b:110).

The Ministers’ response to the request by several committees to increase the budgets of certain programmes reveals the tension and the power relations at play in the determination of the budget allocations. It also reveals Parliament’s inability to enforce recommendations.

6.6.2 *The Parliamentary Budget Office (PBO)*

Explaining the rationale for the establishment of the Parliamentary Budget Office (PBO) at its launch in February 2013, Max Sisulu asserted:

“It is clear that for Parliament to meaningfully engage with and amend budgets, it must have sufficient institutional capacity and specialised personnel, including procedural and administrative staff, researchers and economists.”

Section 15 (1) of the Money Bills Act required of Parliament to create a new agency, a Parliamentary Budget Office, with a mandate to undertake research and analysis of all budget proposals and provide independent advice, principally, but not only, to the Standing Committees of Finance and Appropriation in the National Assembly and the National Council of Provinces (Interview with senior official, PBO). The Act also stipulates that there must be a co-operative relationship between the Budget Office and other research structures in Parliament.

To ensure that the Parliamentary Budget Office will operate efficiently and meet the expectations of members of Parliament and the public, the work of the office must be underpinned by a common understanding between different stakeholders within Parliament – an understanding reinforced through appropriate institutional policies and protocols. The role of the Parliamentary Budget Office has been strongly contested among political parties and, as a result, the rollout of the Budget Office was significantly slowed down because of this contestation.

“The role of the Budget office is nothing more than technical support to the committees of Parliament. The only way that the Budget Office is going to succeed is when people see it has the technical ability to deliver. No other thing. Not playing political games, etc., but delivery.” (Interview with senior official)

The section which follows sets out a number of strategies in relation to the role of Parliamentarians in respect of budgetary oversight.

6.6.3 Recommendations

The powers of Parliament to amend the Budget provide Members of Parliament with the opportunity to directly influence policy choices and corresponding budget allocations. Success in this regard would not only depend on political conditions, but also require experienced and financially literate MPs as well as a well-resourced Parliamentary Budget Office – conditions and requirements which are not yet all in place.

The implementation of the NDP depends on Members of Parliament being willing to go beyond the superficial gaze of what currently passes for oversight in an endeavour to redefine the role of oversight, so that services to citizens are suitably rendered, and progress is measurable against criteria that are set objectively. In this regard, rigorous and systematic approaches to budgetary oversight by Parliament are essential to achieve the developmental outcomes that are advanced in the National Development Plan and in other policy documents and instruments.

The Budget is not merely a technical tool, but a profoundly political tool that ought to ensure development, and as such should be contextual as well. Members have a very powerful role to play in budgetary oversight of the executive and other organs of state.

In this regard, the following recommendations are proposed:

- Parliament must engage the Auditor General (AG) on the redesign of the method of reporting to Parliament to ensure that the information produced by the AG has more depth, and is more outcomes focused. This will make Parliament more effective.
- Adapt the Programme of Parliament to allow for synchronisation with the Executive's development of the Budget.
- In this regard, the Leader of Government Business and the Minister of Finance have to be engaged on these matters.

- The timing and entry points at which Parliament should make its inputs need to be addressed, if it hopes to make any meaningful contribution to the Budget allocation process. In terms of the timetable of the Budget, international experience suggests that a minimum of three months is required for meaningful legislative analysis and scrutiny and that the Budget should be tabled sufficiently in advance of the fiscal year to which it relates.
- Build capacity of Members and staff to produce reports that describe, analyse and measure effect of allocations.
- Identify strategic resources and stakeholders outside of government and collaborate to enhance committee oversight processes.
- Strengthen the Budget Office and fast-track rollout.

6.7 Legislation

“Because we are a constitutional state, all laws must pass the test of constitutionality. We must ensure that at all times, the laws we make are in keeping with the letter and spirit of the Constitution.” (Max Sisulu, roundtable, Cape Town, April 2014)

Parliament is empowered to initiate and pass legislation and to oversee its implementation. This role also includes the approval of the Budget, or the Main Appropriation Bill, which includes the Budget Votes of individual departments. From 1994 to 2014, Parliament passed 1357 pieces of legislation. During Parliament’s Budget Vote in the National Assembly in June 2013, Speaker Max Sisulu noted that, in the first ten years of the new dispensation:

“The focus of the First and Second Parliament was on changing the entire legal edifice to root out apartheid legislation and its legacy. This involved the passing of ground breaking and progressive laws at a rapid pace.”

Notably, in the Third and Fourth Parliament the introduction of legislation had slowed down significantly, as the graph below illustrates.

Figure 7: Demand side of legislation



Source: Neil Bell, Committee Section, Parliament of the RSA

Section 44(4) of the Constitution provides *that “when exercising its legislative authority, Parliament is bound only by the Constitution, and must act in accordance with, and within the limits of, the Constitution.”* (South Africa, 1996).

6.7.1 Analysis and findings

During the Fourth Parliament (1999-2014), 5 Bills (12 in total since 1998) were returned by the President for correction as mandated by the Courts, as these Bills were deemed to be unconstitutional. For example, in the Western Cape High Court of Public Prosecutions versus Prins (11 May 2012, A134/08), it was found that 29 sexual offences listed in the Sexual Offences and Related Matters Amendment Act (Act 32 of 2007), did not contain a penalty clause. This meant that an accused found guilty of those offences could not be sentenced. These 29 offences included various types of rape as well as many sexual offences against children. The case above underscores the imperative for Parliament to pay more attention to the constitutionality and the quality of the legislation it passes, as legislation has a massive impact on people’s lives.

“The judgment of the Cape High Court of Public Prosecutions, Western Cape versus Prins, highlights and reiterates that the legislation that we pass has a huge impact on our citizens. We must take the utmost care to ensure that the law shields and protects the most vulnerable in society (Max Sisulu, Budget Speech, National Assembly, 29 May 2012).”

Considering the amount of legislation that had been passed by Parliament, it can be argued that the institution has performed well in the area of processing legislation received from the Executive. The study, however, reveals that Parliament's approach to legislation has been largely stilted. Despite the Constitution in Section 55 1(b) conferring on Parliament the power to, amongst others, initiate legislation, it has only used this power on two occasions. The Floor-Crossing Legislation in 2000, and the Money Bills and Procedure and Related Matters Act in 2009 were the two occasions when Parliament effected major policy change (Interview, official, Office of the Leader of Government Business).

As far as assessing the impact of more than a thousand pieces of legislation, this study finds that Parliament has not carried out a formal impact analysis of the legislation the institution has passed since 1994. Further, an assessment of the reports of Portfolio Committees shows that none of the 38 Committees had managed to initiate or to propose legislation relevant to the implementation of the National Development Plan.

During the study, a significant amount of time was committed to unpacking the reasons why committees were not engaged in the initiation or review of legislation. Members of the majority party cited as reasons the need for more capacity to support members in the legislative process as well as the fact that the ANC was the legitimate government in power, and therefore pursued party policies through its party structures, via the National Working Committee and the National Executive. (Interviews with chairpersons of committees)

Reinforcing this perspective, the Deputy Speaker of the National Assembly stated:

"We must stop being apologetic. We are the majority party in government; the policies and legislation emanate from the party. We presented a manifesto to the people, and they expect us to deliver on this manifesto (Field notes as per Strategic Session, Parliament, 20–21 October 2014)."

Following a historic judgment by the Constitutional Court of South Africa on 9 October 2012, in the matter of MG Oriani Ambrosini MP vs. Speaker Max Sisulu, it was held that individual Members of Parliament had the right to initiate or prepare legislation and introduce Bills in the National Assembly (Constitutional Court Case no. CCT16/12). Since the introduction of Private Members Bills (PMBs) in 2012, 11 PMBs have been initiated by opposition parties. However, none of the 11 Private Members Bills were passed, and either lapsed or were withdrawn (Legislation and Bills Office in Parliament 2013/2014). Although the ANC welcomed the introduction of PMBs in Parliament, it has held the view that it was not comfortable with piecemeal legislation, as *“legislation should fall within the ambit of the priorities identified by the executive.”* (Interview with chairperson of committee).

In a submission to the Portfolio Committee on Trade and Industry on 3 September 2014, former Member of Parliament, Ben Turok, expressed his concern about the reductionist approach Members of Parliament followed in relation to policy and legislation.

“I was in Parliament for 20 years. People want to say that policy is the business of the Executive and legislation is the business of Parliament. We must not allow this. Legislation demands a careful examination of policy (Field notes, 3 September 2014, Parliament).”

On policy implementation and the role of Members of Parliament, the chairperson of the Portfolio Committee on Trade and Industry noted:

“We are responsible for the implementation of policy and legislation. We have to make sure that policy and legislation is [sic] implemented. The people fought for the right to dignity, we must make sure that through the delivery of services, the people’s dignity is restored.” (Joan Fubbs, MP; field notes taken 3 September 2014, Parliament).

Parliament is mandated by the Constitution in Section 59(1)(a), to facilitate public involvement in the legislative and other processes of the Assembly.

Public participation in the legislative process is an important factor that contributes towards strengthening democracy. Parliament's record with regard to making its processes open and accessible to the public has been praised and has been cited as a best practice example by the Inter-Parliamentary Union. Deeper scrutiny of the impact of civil society on the legislative process, however, shows mixed results. In particular, Members of the majority party in Parliament have been reluctant to fully exert their independence in the legislative process.

"If we were to look at the substance of the amendments, we would find that it mostly [constitutes] minor amendments, which do not change the substance of a Bill. Committees normally do not alter the original thinking of a department." (Interview with senior law advisor)

The House Chairperson responsible for Committees in Parliament argues, *"...civil society has on occasion managed to change government policy and compel the delivery of tangible benefits to the people, through the legislative process."* (House Chairperson, Cedrick Frolick, field notes, 11 February 2014). Mark Heywood, a veteran of the civil society movement in South Africa, concurs that civil society has been successful on a number of occasions in influencing Bills substantively and for the better. In this regard, legislation dealing with social grants, the provision of cheaper access to medicines, and the provision of anti-retrovirals to people living with HIV/Aids are cited as best practice examples (Heywood, 2014).

On balance however, Heywood argues that, despite a limited number of successes, civil society has not achieved the impact that it had hoped for. Referring to the inefficacy of Parliament's consultative processes, Heywood asserts:

"Parts of civil society have been co-opted into propping up inefficient consultative institutions or programmes. There is not enough critical discernment, so time is wasted in endless processes that are offered up as a sop to participation but which often deliver nothing." (Heywood, 2014).

During Parliament's Budget Vote debate in July of 2014, opposition parties were scathing in their attack of the majority party, contending that they were relegating the legislative process to 'rubber stamping'. In the debate on the Transport Laws and Related Matters Amendment Act, 2013, to legalise e-tolling of the Gauteng Freeway Improvement Project, member of the Democratic Alliance, Ian Ollis, referred to the e-tolls as the "world's most expensive toll-collection system" (Field notes, 6 March 2013, National Assembly). The majority party's alliance partner, COSATU, also added its concerns in respect of the haste in which the Bill was passed through Parliament, noting:

"This bill ... is a matter of great public concern, and there should have been proper parliamentary hearings into the matter. We demand that the National Council of Provinces rectifies this by holding public hearings and does not rubber-stamp the legislation." (Patrick Craven, COSATU spokesperson, 6 March 2013).

The section below provides a number of strategies in respect of legislation that are consistent with the findings of the study.

6.7.2 Recommendations

The second transition of South Africa's democracy necessitates that Parliament plays a leading role in, amongst others, determining the unintended consequences, and the impact and efficacy of legislation on citizens' lives. The second transition also necessitates that Parliament provides not only the space but also more meaningful opportunities for civil society to contribute more substantively to legislation that affects citizens.

Based on the findings of the study, the following strategies are recommended to strengthen Parliament's legislative mandate. Parliament must: conduct an impact assessment on the relevance, efficiency, effectiveness, impact and sustainability of legislation passed since 1994;

- identify and activate processes to pass legislation required for the implementation of the NDP;
- identify legislation where implementation has been slow or ineffective;
- identify gaps and bottlenecks in policies and legislation that prevent the effective implementation of the NDP;
- review the parliamentary programme based on legislation volumes;
- build Parliament's capacity to initiate legislation;
- ensure that it scrutinises departmental regulations before a Bill is assented to by the President, thus allowing members to play a more proactive approach to overseeing delegated legislation; and
- consider adopting the French model as a best practice approach.

Below follows an explanation of the approach the French Parliament adopted in the exercise of its oversight mandate. The study suggests that the South African Parliament could take a closer look at the French Parliament's approach to policy oversight.

In the French Assembly, the monitoring of the implementation of laws has been coupled with an assessment of the effects of legislation and has been integrated into the parliamentary oversight activities. Since 2004, all standing committees have been compelled to assess the implementation of laws, six months after their coming into force. In this regard, two members of a committee, of whom one must belong to an opposition party, has to present to a relevant committee a report on implementation of said law. These reports must include, amongst others, 1) a description of the regulations and decrees which have been issued in order to implement the Act, and 2) an indication of the provisions which have not been subject to the necessary implementation instruments (Assemblée Nationale, 2013).

6.8 Towards responsive public participation

The Constitution (section 42(3)) explicitly provides that the National Assembly is elected to represent the people under the Constitution and does this by

providing a forum for public consideration of issues, by passing legislation and by scrutinising and overseeing executive action (South Africa, 1996, Chapter 4). The National Development Plan (2012:427) calls for a paradigm shift to a state that is more responsive to public concerns and which harnesses the energy and experience of citizens.

6.8.1 Analysis and findings

Despite the processes of Parliament being reasonably accessible to the public, Members of Parliament have, however, not been particularly responsive to the substantive issues that the public might have raised during these public participation processes.

On 17 August 2006, Doctors for Life successfully challenged Parliament in the Constitutional Court by arguing that Parliament had failed to fulfil its constitutional obligation to facilitate public involvement on four health Bills before they were passed.

In this landmark judgment, the Constitutional Court found that:

“All parties interested in legislation should feel they have been given a real opportunity to have their say, that they are taken seriously as citizens and that their views matter and will receive due consideration at the moments when they could possibly influence decisions in a meaningful fashion ... An appropriate degree of principled yet flexible give-and-take will therefore enrich the quality of our democracy, help sustain robust deliberative character and, by promoting a sense of inclusion into the national polity, promote the achievement of the goals of transformation⁸ (Judge Sachs).”

From the interviews conducted in the study, it was observed that there was an appreciation among members of the various parties for the need to find ways

⁸ Doctors for Life International v Speaker of the National Assembly and Others (CCT12/05) [2006] ZACC 11; 2006 (12) BCLR 1399 (CC); 2006 (6) SA 416 (CC) (17 August 2006).

of restoring trust and improving public participation of the institution. In June 2014, after several public consultative processes were undertaken, Parliament unveiled a new Public Participation Framework for the South African Legislative Sector. This new Public Participation Framework is meant to *“address the gap between the actual practice and aspiration. We are very concerned that the request from the public to be involved in Parliament’s public participation processes has declined.”* (Interview with House chairperson).

The research underscored that there was recognition among Members of Parliament that deeper political factors had diminished the public’s trust in parliament. At the ANC’s parliamentary *legkotla* in July 2014, it was observed that, in particular, strengthening accountability and the impact of Parliament were flagged as issues that required urgent attention in the Fifth Parliament (Field notes as per the ANC *legkotla*, July 2014, Parliament).

As a Member of Parliament stated:

“The May 2014 elections were a wakeup call. Our people need to see tangible differences on the ground. They want to see that we are serious in dealing with corruption, no matter the rank of the public official. “

The next section advances a number of proposals for Parliament to consider to strengthen its critical constitutional injunction, namely, public participation.

6.8.2 Recommendations

“Democracy requires that citizens should be continuously engaged in governance through interaction with those who make decisions. Marking a ballot box once every few years is an important element of democracy, but it is only one step in the process of building a society that genuinely serves the interest of all its people.” (Frene Ginwala, Parliament, Hansard: 113-114, 2006).

Public Participation, including responsiveness towards the citizenry, is an important component of democracy. In this regard, the following recommendations are proposed:

- Constituency Officers need to be substantively strengthened and act as a bridge to facilitate grassroots interaction between members of the public and Parliament.
- Feedback to stakeholders who participated in Public Participation processes in Parliament must be prioritised and, in so doing, will encourage greater accountability and transparency.
- Innovative methodologies need to be considered to encourage participation of the public in Parliament's processes. In this regard, Parliament should consider creating collaborative spaces that enable both the community and Members of Parliament to develop responses to their needs that are realistic and sustainable.
- Parliament should also broaden the base of the public, especially its reach in rural areas to ensure that the institution is more accessible to the poor and marginalised who may not have the resources to readily access Parliament through the conventional processes.
- A public participation framework for Parliament that addresses the concerns raised by the public, needs to be developed and implemented.
- The role and work of Parliament needs to be translated into all the official languages, going beyond the traditional coverage of English, Afrikaans, isiZulu and isiXhosa.

6.9 Fostering enhanced cooperative governance and intergovernmental relations

Chapter 3 of the Constitution, 1996 asserts that all spheres of government are distinctive, yet interdependent and interrelated. In addition, Section 41 of the Constitution sets out the principles under which the three spheres of government must engage one another to ensure sound co-operative government and intergovernmental relations.

Most notably, in Section 41(1)(h), the cultivation of sound relations through mutual trust and good faith, by, amongst others, (i) fostering friendly relations, (ii) assisting and supporting one another, and (iii) co-ordinating their actions and harmonising legislation with one another, is emphasised.

In the National Developmental Plan (NDP, 2012), a capable and developmentally orientated local government sphere is regarded as essential to the implementation of the plan. In addition, the NDP promotes the principles of co-operative government and intergovernmental relations through advancing the use of the cluster system to focus on strategic cross-cutting issues to bring different parties together when co-ordination breaks down.

Fourteen years after the introduction of a new local government system in South Africa, the Deputy Minister of Co-operative Governance and Traditional Affairs made a call for national and provincial governments to consider their role beyond legislation and regulations. (Andries Nel, Parliament, 17 July 2014).

6.9.1 Analysis and findings

National and provincial government service delivery happens at the local level and, as such, no sphere can succeed on its own. The research reveals that Parliament's involvement in overseeing provincial and local government has to date been largely limited to the passage of legislation and the oversight of the implementation of national legislation. It can therefore be deduced that Parliament has followed a relatively narrow or reductionist approach in carrying out its oversight mandate.

Put simply, the distinctive aspect of the other organs of state has been overemphasised to the detriment of the provisos related to the interdependence and interrelatedness of the three spheres. The reason for this caution was cited as "mainly being unsure about the extent to which we can engage and intervene, without treading on toes" (Interview with Presiding Officer). In addition, Parliament's engagement with provincial legislatures has

largely revolved around the sharing of best practice around the Rules and Procedures and the development of frameworks such as the Oversight and Accountability Model and the Public Participation Framework, which the provincial legislatures have had difficulty implementing owing to budgetary constraints, lack of adequate human resources and the autonomy of legislatures (Interview with senior official).

The NDP calls for improved clarity on the roles and responsibilities of the three spheres of government, a proactive approach to identifying and resolving problems, and the need to clarify the division of roles and functions especially in relation to key departments such as water and sanitation, housing, electricity and public transport, to ensure that delivery is speeded up and disputes are settled swiftly. Significantly, the Speaker of the Fifth Parliament, who also holds the role of chairperson in the African National Congress, posed the question in her budget speech in July 2014:

“Beyond our constitutional mandate, what is the role of Parliament in enhancing cooperative government? This is a grey area, on which sharper focus of both Houses of Parliament is required.” (Speaker Baleka Mbete, National Assembly, July 2014).

6.9.2 *Recommendations*

“We do not want to be spectators when there are problems in communities.”
(Interview with chair of committee).

To implement the NDP effectively, a sound framework for local government collaboration is required, with clarification of the roles and responsibilities in the context of South Africa’s tiered system of government. This involves that the Presiding Officers of Parliament engage and unpack these relationships with the Executive and Speakers of Provincial Legislatures in greater detail.

The strength of Parliament and provincial legislatures potentially lies in systematic and collaborative engagement in which their autonomy does not supersede their interdependence and interrelatedness. In this regard,

enhanced systematic strategic development of Parliament and the provincial legislatures in the Fifth Parliament needs sharper focus. In particular, co-ordinated oversight with provincial legislatures is a practical way in which the legislatures could become more effective when performing their oversight functions.

Monitoring and evaluation methodologies are crucial in attempts to, amongst others, test the feasibility of the [NDP], to provide financial and political accountability, and to better advocate a cause, thereby correction mistakes and improving outcomes (Cloete et al., 2006:248). Parliament should therefore invest in a monitoring and evaluation system that connects local, provincial and the national legislature, and that includes appropriate performance metrics and clear lines of reporting within clearly defined time frames, to ensure service delivery and accountability to the people of South Africa.

The National Assembly should as well explore a closer working relationship with the National Council of Provinces, especially in relation to its oversight activities.

6.10 Constituency offices as gauges for development

“Constituency work, is an indispensable part of the public representative role of a MP in Parliament. The work that you come across in your constituency, is indicative of whether or not the executive is delivering or not.” (Interview, chairperson of Committee)

The Inter-Parliamentary Union (IPU) has identified four key components that are integral to effective constituency work:

1. Casework – getting information and lodging demands on behalf of the people.
2. Policy responsiveness – seeking ways to benefit constituencies through existing or proposed national programs and legislation.

3. Voicing views or concerns of constituents regarding national policy issues
– This involves listening, explaining and expressing informed positions, although MPs are not obliged to agree with morally unsound views.
4. Attending social events – particularly important in rural constituencies as a key means of maintaining close personal ties with their constituents.

The South African Parliament makes available to each party represented in Parliament a 'Political Party Constituency Allowance' and determines certain regulations regarding constituency offices operated by parties, including that:

- the services available at a constituency office must be available equally to all members of the public;
- a party must lease office space exclusively for use as a constituency office; and
- the office must be clearly marked as a constituency office.

The records of Parliament show that, among themselves, political parties have set up 350 Constituency Offices around the country where members of the public can approach elected representatives for assistance (Finance Department, Parliament). According to the parliamentary programme, each Monday during session is assigned to members' constituency work. Several weeks during the year are also set aside for MPs to carry out constituency work. (Interview, Member of Parliament)

6.10.1 Analysis and findings

As per the interviews conducted during the study, as well as the numerous speeches of members during Parliament's Budget Vote (Vote 2, Parliament 2013, 2014, 2015), it became clear that constituency offices have not functioned in a way that produced the desired results. It was observed that constituency work was mostly based on the initiatives of individual Members of Parliament and the resources available to them. The success of members in their constituencies came down to "individual members' conscientiousness

and stamina to address issues in their respective constituencies” (Interview with senior official of Parliament).

The researcher selected a number of random constituency officers throughout the country to ascertain whether or not members were in attendance at their constituency offices on Mondays, the day Parliament sets aside for constituency work.

Of the ten constituency officers called every Monday for four weeks, and at different times of the day, on average three Members of Parliament would be present in their constituency offices. This worrying absence of Members of Parliament from their constituency offices was also underscored by the feedback of members of the public during public hearings on the Public Participation Framework in Parliament in September 2013. The public hearings pointed to the ineffectiveness of constituency offices and the fact that ordinary citizens had little contact and therefore connection with their political representatives.

In addition, the MPs who were interviewed during the study expressed their frustration at the absence of joined-up mechanisms between Parliament and constituency officers through which issues of concern could be funnelled and addressed.

“There are no formal mechanisms by which I am able to table issues uncovered or raised by our people in our constituencies in the formal processes of Parliament. These things fall through the cracks.” (Interview with Member of Parliament).

Members of Parliament also expressed frustration concerning the time-consuming nature of follow-through on issues which were presented by their constituents. The burden of the follow-through and particularly the lack of coordination by departments on issues concerning inter-sectoral dimensions (for example, victims of violence, or the application of social grants) were cited as compelling reasons for cherry-picking issues that were straightforward to deal with.

The breadth and depth of the developmental agenda coupled with the high levels of service delivery deficiencies in communities, necessitates that parliamentary structures penetrate and interact with citizens. This requires the introduction of new methods and innovative approaches to parliamentary constituency work. This view was also supported by the Speaker of Parliament who stated:

“... include a rethink of the way in which we use our constituency offices. It is no longer enough to assure our people that matters are in hand and are being addressed.” (Speaker Mbete, Budget Vote Speech, Parliament, 22 July 2014).

The intent of constituency offices is for Members of Parliament to have a connecting point with their respective constituents. The point of constituency work is for Members of Parliament is to gain insight into the challenges faced by both government and communities, in their environment.

In this regard, the following recommendations are proposed in an endeavour to strengthen the role and functioning of constituency offices.

6.10.2 Recommendations

Ideally, Members of Parliament provide a key interface between the state and society. Parliament therefore has to implement strategies that reconnect representatives of the people to their constituencies.

Effective operation of the constituency offices could also act as an additional barometer by which Members of Parliament gauge the implementation of the National Development Plan at grassroots level. In this regard, the following strategies are proposed:

- Consideration needs to be given to the design of more standardised and professionally staffed constituency offices that are adequately resourced.

- Parliament should consider taking over the administration of constituency offices instead of continuing the current practice, which leaves it in the hands of political parties.
- Members should consider a structured but flexible constituency programme as well as provide opportunities for all residents of an area, regardless of political persuasion, to discuss constituency issues with their representative in Parliament.
- Constituency offices should, where possible, be closely located to local government offices for co-ordination purposes.
- Parliamentary constituency offices should act as information centres with the primary objective of providing citizens and local organisations with an opportunity to engage Members of Parliament on the problems and needs of the constituencies.
- As a base for parliamentary generated information, the constituency offices should also enable the public to be involved in the legislative process from a more informed standpoint.
- Parliamentary Constituency Officers should be in possession of a socioeconomic database of the area which is regularly updated, and which serves to identify some of the most pressing issues and areas of need.
- The programme of Parliament has to be changed to allow Members of Parliament more time to engage with their constituents.

6.11 Relevance through the use of external expertise

South Africa has a broad range of institutions that are producing high-quality information, analysis, innovative research and reports on a range of subject matter relevant to the work of Parliament. As the subject matter Parliament has to grapple with in the discharge of its mandate becomes more challenging, so too do its institutional weaknesses become more evident.

6.11.1 Analysis and findings

The study found that the increasing complexity and sophisticated subject matter that has emerged related to issues like renewable energy, climate

change, and the economy, amongst others, makes it increasingly difficult for Parliament to grasp the outcomes and impact of the work of government. During a parliamentary workshop on the NDP, on 21 October 2014, chairpersons of portfolio committees admitted that it was significantly more difficult for members of parliament to stay abreast of government with regard to the increasing complexity of the issues that were emerging.

The failure of Parliament to understand the complexity of the regulatory framework in which Eskom had to operate, for example, was cited as a factor, in the paucity of parliament to hold the parastatal to account (Researcher's field notes, 21 October 2014). This lack of understanding, and the concomitant resource imbalance have a direct impact on Parliament's efficacy as an overseer of executive action. The research reveals that Parliament has been reluctant to draw on the expertise that resides outside governmental departments. It should, however, be noted that the exception in this regard has been the findings of the Auditor-General.

"We have not reached out to the universities, as we should. Or to the HSRC, the Medical Research Council, or even Stats SA, for example. We have simply not considered it." (Interview with senior official, Parliament).

"We have the HSRC right next to us but we never engage with those people on substantive issues. This is a problem that you are rightly pointing out." (Response by Presiding Officer to point raised by researcher in strategic planning process, 2014).

The study also finds that Parliament has not sufficiently generated its own information on key policy positions. In this regard, participants in the study acknowledged an almost exclusive reliance on the bureaucratic machinery of government to provide it with information and expertise on relevant subject matters.

The section that follows proposes a number of strategies for Parliament to consider in its endeavour to enhance its capabilities and expertise to hold the Executive more effectively accountable and answerable to citizens.

6.11.2 Recommendations

Drawing on expertise other than that of the Executive is an invaluable strategy that could bring balance to the Executive's dominance, especially in more specialised areas such as economic and industrial policy, which are also central pillars in the NDP.

In an endeavour to become more relevant, Parliament must broaden its information base, and build strategic alliances with universities and research institutions, amongst others, to ensure that its oversight is more coherent and systematic. In this regard it is proposed that Parliament should consider identifying and formalising relationships with institutions strategic to its work and mandate.

It also imperative that Parliament makes use of existing resources at its disposal such as the work of institutions supporting democracy that on a daily basis produce evidence of service delivery failures throughout the country. Further, expert agencies, such as those related to the United Nations, which have established a significant footprint in South Africa, should be enlisted as additional expertise to enhance the institution's capabilities, and efficacy.

The expertise and institutional memory of former members of parliament should also find prominence in Parliament's endeavour to strengthen its efficiency and efficacy.

6.12. Summary

The chapter specifically identified, analysed, interpreted and proposed a number of strategies to strengthen the constitutional mandate of Parliament, namely oversight, legislation and public participation. The study uncovered numerous institutional weaknesses that have compromised the role of Parliament in the accountability chain.

The study underscores that Members of Parliament have powerful accountability levers at their disposal such as those within the House, within their constituencies, and through the Committee system. The optimal use of these accountability mechanisms, are, however, reliant on informed and capacitated Members and an efficient and effective institution.

A recurring understanding that emerged as the study evolved was that improved “measures will not fulfil their objectives unless legislatures show a genuine will to hold the executive to account” (NDP, 2012:428). Holding the Executive accountable for its actions is the foundation that should underpin the work of Parliament.

CHAPTER SEVEN

CONCLUSIONS

“It should never be that the anger of the poor should be the finger of accusation pointed at all of us because we failed to respond to the cries of the people for food, for shelter, for the dignity of the individual.” (Nelson Mandela, 1990).

7. INTRODUCTION

The primary objective of the study was to contribute evidence and analysis that the administration of Parliament and structures such as portfolio committees can utilise in their oversight activities to ensure the successful implementation of the National Development Plan (NDP). In this regard, this study endeavoured to shed light on the current oversight practices of the National Assembly with respect to the Executive. In particular, the study considered the strengths and weaknesses of the many ways in which Parliament pursues its mandate, through its oversight levers such as debates, questions, portfolio committee oversight activities, and legislation, amongst others. As such, the study’s recommendations are geared towards strengthening the capabilities of Parliament to deliver improved outcomes and, in so doing, raise the level of accountability within the institution and throughout the institution.

The study applied the 5-C Protocol on Policy Implementation to critically examine how best Parliament can improve its performance and efficacy to carry out its constitutional mandate. The 5-C variables offered a solid basis from which to analyse processes of institutional change and policy implementation. Cloete et al. (2006:209) assert that the 5-C protocol offers a useful a vehicle to make sense of the twists and turns as policy travels from its political objectives to the ultimate results on the ground. The 5-C Protocol includes these variables: content, context, commitment, capacity, clients and coalitions (Cloete, 2006:196-203).

This study was set out as outlined below:

- Chapter One contextualised the study and indicated the scope and limitations of the research.
- Chapter Two commenced with an investigation into the frameworks that emerged during the literature review of the study. Specifically, the purpose of accountability and its application in the South African context were explored.
- The governance framework underpinning the public service and administration was explored in Chapter Three. New Public Management, Path Dependence Theory and Development Theory emerged as strong influences prevalent in the public service.
- In Chapter Four, public policy was contextualised and defined and major past policy positions in South Africa were analysed to shed light on how service delivery in South Africa was implemented.
- The research design, methodology and difficulties experienced during the research process were elaborated in Chapter Five.
- The analysis and main findings of the study are presented in Chapter Six.
- Furthermore, possible recommendations are also set out in this section.
- Chapter Seven concludes the study and advances a series of recommendations in relation to the research problem investigated. Areas for future research are also identified.

The strategies as identified and relevant to each theme which emerged in the study are set out below.

7.1 Summary of findings

7.1.1 Context, capacity, commitment, clients and coalitions

In summary, a number of fissures and weaknesses in the way in which Parliament executes its mandate were found. Significantly, accountability – which is the axis around which the roles of Members of Parliament and Parliament itself revolves – has been significantly weakened by competing

political agendas. The highly political context and the proportional representative system influence the autonomy and constitutional commitments of Parliament.

Serious questions emerged about the ability of Parliament to hold the Executive to account. The study found that though Parliament had strengthened the instruments at its disposal to oversee government, this had not resulted in the efficacy of oversight in Parliament. This deficiency was related to the fact that Parliament was preoccupied with dealing with shorter-term issues and thus neglected to address substantive matters over the medium and longer term.

In terms of processes, the analysis underscored that collaboration among committees and within the legislative sector was not optimal. This resulted in the duplication of oversight, an absence of coherence and the compartmentalisation of issues that required inter-sectoral attention.

For the legislative sector to challenge the executive effectively, it will need to take charge of its own developmental path. The support required by members of parliament, need to reflect, the changing role and needs of members. The IPU's, Common Principles on Support for Parliaments, suggest that "effective parliamentary support needs to be sufficiently sophisticated and responsive to reflect the complexities in which Members of Parliament have to function" (IPU, 2015:7).

The study underscores that even though significant energy and resources have been invested since 1994 to address the efficiency of Parliament, insufficient attention has been paid to the effectiveness of the institution. The institutional machinery of Parliament has been significantly refined through the adoption of the Oversight and Accountability Model, which is designed to ensure greater efficiency rather than accountability. In addition, notable improvements have been recorded by Parliament regarding the working conditions of members through the employment of professional support staff such as researchers and content advisors to strengthen the capabilities of

members. However, not sufficient attention has been paid to addressing the balance of power between the Executive and Members of Parliament and key principles – such as accountability – that underpins our democracy.

Further, the study findings emphasise that, the reach and effectiveness of Parliament is impacted by the political context within which the institution operates. Parliament is ultimately a political institution, and therefore operates within this context. Specifically, the dual contestations of the party and electoral system, which is a consequence of the prevailing proportional representative system, impacts on the way in which Members of Parliament carry out their constitutional responsibilities.

For example, Members of Parliament had very different understandings of how best to hold the Executive to account. Increasingly, the predominant contestation was party political, playing itself out between government and opposition parties.

Parliament is a path-dependent institution. The study found that Parliament was strongly reliant on rules, procedures and established conventions that were powerfully interwoven into the practices of the institution. For example, the structure of the institution and its formal and informal rules largely determined the conditions under which members were able to carry out their duties. Further, New Public Management practices such as performance management, were evident, but the application of development methodologies had not sufficiently taken root in the institution.

The mandate of Members of Parliament, as per the injunction expressed in Chapter 4 of the Constitution, 1996, inter alia, to hold the Executive to account. The study highlights a number of shortcomings in the way in which Parliament oversees its constitutional oversight functions. Capacity constraints that pertain to both members and staff and the building of coalitions (external expertise) were factors that require attention.

In particular, though Parliament carried out varied activities related to its mandate, ranging from committee meetings, to public participation hearings and oversight study visits, these were found to be unsystematic, less rigorous, or effective. As a result, portfolio committees performed unevenly in holding responsible parties accountable for the implementation of legislation and policies, ensuring that the Executive acts upon committee findings or follows up on their own recommendations to secure better outcomes or services.

In terms of the legislative function of Parliament, the study establishes that significant strides have been made by Parliament to address institutional shortcomings such as the capacity of officials who have to support Members of Parliament in legislative processes. For example, institutional capacity constraints were being addressed on an on-going basis. It was observed that Parliament's approach to legislation was largely reactive. This is borne out by, amongst others, the unwillingness of members to process or pass Private Members' Bills, or, where such grounds exist, to withhold support for departmental budget votes in underperforming departments.

Perhaps the most glaring indictment is the failure of the institution to initiate an impact assessment of the legislation the institution has passed since 1994 to ascertain the extent of implementation and to influence the concrete conditions for its continued application. With regard to public participation in Parliament's processes, the study concludes that Parliament has done well to provide the spaces and opportunities for the public to participate in its legislative and oversight processes.

However, several shortcomings were identified related to the responsiveness of Members of Parliament to the public's inputs, and feedback to the public after participation processes. The study also called attention to the fact that constituency offices of Members of Parliament – which should ideally serve as a barometer to assess the mood of constituents and the quality of services rendered – were an underutilised resource, and that a worrying disconnect between members and their constituents had taken root.

In keeping with the NDP (2012:431), the study underscores, the need for Parliament to explore a more dynamic and proactive role in the country's unfolding intergovernmental system.

7.2 Recommendations

The National Development Plan – regarded as the blueprint to address systemic challenges such as economic growth, poverty, unemployment and inequality – necessitates that Parliament places sharper focus on the implementation of the NDP. The strategies proposed in the study endeavour to strengthen both the efficiency and effectiveness of Parliament, so that Members of Parliament are in a stronger position to execute their constitutional mandate.

7.2.1 Institutional agenda setting

In respect of institutional agenda setting, and bound by a common approach, the following strategies are proposed:

- It is necessary that Parliament consider setting longer-term outcomes-based strategic objectives which would be shared throughout the institution.
- To measure policy impact, outcome and impact methodologies should be explored and should be placed firmly on Parliament's agenda.
- Ensure that the necessary capabilities and instruments to evaluate the impact of long-term growth and development choices are in place.
- Parliament has to pay more attention to the development of integrated and coordinated planning processes for the institution.
- Parliament must take the necessary steps to ensure alignment of the strategic vision of the institution with that of committees to ensure synergy, coherence and improved outcomes and impact of its activities.

7.2.2 Elevate accountability within parliament

The NDP holds that “accountability is essential to democracy and that the accountability chain should be strengthened from top to bottom” (NDP, 2012:45). Ultimately, the effectiveness of Parliament as the representative of the people depends on the willingness of MPs to use their power effectively, and this means securing a balance between their partisan and oversight roles. In this regard, it is recommended that parliament consider the following:

- Parliament’s role in the accountability chain clearly requires strengthening and integrity. It is therefore critical that the institution has clear rules on accountability in place.
- Parliament should address the political constraints under which Members of Parliament have to function. The Proportional Electoral System (PR) needs a rethink towards a mixed system, such as the constituency-based system already operational at local government level.
- Parliament should reflect on its role in ensuring good governance and accountability, and bring its practices into alignment with the prescripts of the Constitution. Failing to do so will only further diminish Parliament’s reputation, power, and the developmental goals and aspirations of the people of South Africa.

7.2.3 Enhanced and effective oversight

The implementation of the NDP is contingent on the willingness of Members of Parliament to go beyond the superficial gaze of oversight, and to redefine oversight so that services to citizens are suitably rendered and progress is measured against criteria that are set objectively. Rigorous and systematic approaches to budgetary oversight by Parliament are essential to achieve the developmental outcomes that are advanced in the National Development Plan and in other policy documents and instruments.

The budget is not merely a technical tool but a profoundly political tool that ought to ensure development and, as such, should be profoundly contextual also. Therefore it is proposed that Parliament consider the following strategies:

- Engage the Auditor General (AG) on the redesign of its method of reporting to Parliament to ensure that the information produced by the AG has more depth, and is more outcomes focused.
- Adapt the Programme of Parliament to allow for synchronisation with the Executive's development of the Budget. In this regard, the Leader of Government Business and the Minister of Finance have to be engaged.
- Together with the executive address the timing and entry points at which Parliament should make its inputs to the Budget allocation process if it hopes to make any meaningful contribution. In terms of the timetable of the Budget, international experience suggests that a minimum of three months is required for meaningful legislative analysis and scrutiny and that the Budget should be tabled sufficiently in advance of the fiscal year to which it relates.
- Build the capacity of Members and staff to produce reports that describe, analyse, and measure the effect of allocations.
- Identify strategic resources and stakeholders outside of government and collaborate with such to enhance committee oversight processes.
- Strengthen the Budget Office and fast track its rollout and reach within Parliament.
- Address the deficiencies that have emerged in the Oversight and Accountability Model – specifically those deficiencies that relate to what is meant by accountability, as the Model is silent on this critical issue.
- Fully implement the Oversight and Accountability Model, especially the provision related to quality assurance, joint oversight and monitoring and evaluation of issues.
- Explore, develop and implement methodologies to deal with cross-cutting issues and the commitments made by the Executive in the House.

- Parliament must prioritise specific outcomes for oversight in the fifth term. It is proposed that the institution set benchmarks in conjunction with provincial legislatures to measure progress, so that the impact of the NDP can be assessed and measured over time.

7.2.4 Measuring progress

The ability of Parliament to hold government to account and to respond to the growing expectations of the citizenry also depends on the technical capacity it has at its disposal. As such, there is a need for Parliament to enhance the development of its own capacity requirements by the following measures:

- Improving the quality of the services provided to Members of Parliament by concentrating on building its own capacity and introducing learning methods into its operational practices.
- The efficacy of Parliament is also dependent on the provision of suitable and on-going training for Members of Parliament and their staff.
- Interventions should therefore fall within a framework of support that is longer term and matched to Parliament's own requirements.

7.2.5 People-centred legislation

The second transition of South Africa's democracy necessitates that Parliament play a leading role in, amongst others, determining the unintended consequences, impact and efficacy of legislation on citizens' lives.

It also necessitates that Parliament provides not only the space, but also meaningful opportunities for civil society to contribute more substantively to legislation that affects citizens. To strengthen Parliament's legislative mandate, Parliament must therefore:

- conduct an impact assessment of legislation passed since 1994;
- identify and activate processes to pass legislation required for the implementation of the NDP;
- identify legislation where implementation has been slow or ineffective;
- identify gaps and bottlenecks in policies and legislation for the effective implementation of the NDP;
- review the parliamentary programme based on legislation volumes;
- enhance Parliament's capacity to initiate legislation; and ensure that it scrutinises departmental regulations before a Bill is assented to by the President. This requires engagement by the Speaker of the National Assembly with the Leader of Government Business, who is responsible for the executive', business in parliament; and
- consider the French Model as a best practice approach that the South African Parliament could consider.

7.2.6 *Responsive public participation*

“Democracy requires that citizens should be continuously engaged in governance through interaction with those who make decisions. Marking a ballot box ... once every few years is an important element of democracy, but it is only one step in the process of building a society that genuinely serves the interest of all its people.”
(Frene Ginwala, Parliament, Hansard: 113-114, 2006).

In relation to Parliament's public participation processes and the need to be responsive to citizens, the following strategies are proposed:

- Constituency Offices need to be substantively strengthened and act as bridges to facilitate grassroots interaction between members of the public and Parliament.
- Feedback to stakeholders who participated in Public Participation processes in Parliament must be prioritised. This will encourage greater accountability and transparency.

- Innovative methodologies need to be considered to encourage participation of the public in Parliament's processes. In this regard, Parliament should consider creating collaborative spaces that enable both the community and members of Parliament to develop responses to their needs that are realistic and sustainable.
- Parliament should also target and broaden the base of the public, especially its reach in rural areas to ensure that the institution is more accessible to the poor and the marginalised who may not have the resources to readily access Parliament through the conventional processes.
- A Public Participation Framework for Parliament needs to be developed and implemented that addresses the concerns raised by the public.
- The role and work of Parliament needs to be translated into all the official languages, going beyond the traditional coverage of English, Afrikaans, isiZulu and isiXhosa.

7.2.7 Constituency offices as gauges of development

Parliament has to implement strategies that reconnect members of parliament to their constituents. Effective operation of the constituency offices could also act as the barometer by which Members of Parliament gauge the implementation of the National Development Plan at grassroots level. In this regard, the following strategies are proposed:

- Introduce standardised and professionally staffed constituency offices which are adequately resourced.
- Parliament should take over the administration of constituency offices instead of the current practice, which leaves such responsibility to political parties.
- The Presiding Officers should consider a structured but flexible constituency programme and provide opportunities for all residents of an area, regardless of political persuasion, with an opportunity to discuss constituency issues with their representative in Parliament.

- Constituency offices should, where possible, be closely located to local government for co-ordination purposes.
- Parliamentary Constituency Offices should act as information centres with the primary objective of providing citizens and local organisations with an opportunity to engage Members of Parliament on the problems and needs of their constituency.
- Parliamentary Constituency Officers should also facilitate the public's participation in the legislative process from a more informed standpoint. This could serve as a base for parliamentary-generated information.
- Parliamentary Constituency Officers should maintain a socio-economic database of the area which is regularly updated, and which serves to identify some of the most pressing issues and areas of need.

7.2.8 Relevance through the use of outside expertise

Increasingly, Parliament's accountability role has been supplanted by external and non-parliamentary forms of accountability, such as the Public Protector, the media, and civil society formations such as Ground Up and Section 27, amongst others. In this regard, Parliament should consider:

- Drawing on outside expertise to bring balance to the Executive's dominance in especially more specialised areas such as economic policy, climate change, and renewable energy, amongst others (universities, UN agencies resident in South Africa);
- The work of Institutions Supporting Democracy, as these are regulatory institutions which should be deployed much more effectively and would allow new opportunities for Parliament to scrutinise and challenge executive action;
- Identifying and formalising relationships with institutions which are strategic to its work and mandate.

7.2.9 *Strategic use of the chamber – questions and debates*

The Chamber of Parliament remains an important vehicle for Members of Parliament to articulate the concerns of the electorate and to hold the Executive to account for the promises it makes, especially as expressed in policy documents such as the National Development Plan and the Budget.

The Chamber of Parliament has the potential to become an important connecting point with the people whom members of Parliament represent. In this regard, the following recommendations are proposed:

- Firstly, the Rules and Procedures of Parliament need to be adapted to allow for more flexibility and spontaneous forms of debate. The Chamber should be transformed to allow for more, shorter, and topical issues of immediate concern to citizens.
- Secondly, the timetable of the Business in the Chamber should allow for weekly briefings or updates on progress per cluster on the National Development Plan and all undertakings by the Executive should be recorded with a system in place to track the undertakings made in the Chamber. This will ensure more accountability by the Executive, especially related to the implementation of the NDP.
- Thirdly, the business in the Chamber needs to be structured in such a way to link committee and constituency work to the business in the chamber. In this way, Members of Parliament will have more opportunity to highlight issues that emanates from their oversight activities.
- Fourthly, Bills should be debated in Extended Parliamentary Committees (EPCs). The purpose and intended impact of the Bills should be distilled into a statement by the chairperson of a committee and the whips of particular committees.
- Fifth, the parliamentary programme needs to be developed in way that encourages regular attendance and engagement of the Executive to ensure accountability of the Executive to Parliament.

7.2.10 Co-operative government and intergovernmental relations

To implement the NDP effectively, a more workable framework for local government collaboration is required, with clarification on the roles and responsibilities in the differentiated system. This involves that the Presiding Officers of Parliament engage and unpack these relationship in more detail with the Executive. In this regard, the following strategies are proposed:

- Enhanced systematic and strategic development of Parliament and the Provincial Legislatures in the Fifth Parliament needs sharper focus. In particular, co-ordinated oversight in conjunction with provincial legislatures is a practical way in which Parliament could become more effective when carrying out its mandate.
- Parliament should invest in a Monitoring and Evaluation System that connects local and provincial government and the national legislature, and that includes appropriate performance metrics and clear lines of reporting within clearly defined time frames, to ensure service delivery and accountability to the people of South Africa.
- The National Assembly should also explore a closer working relation with the National Council of Provinces, especially in relation to its oversight activities.

7.3 Future research

The research was confined to the research topic. Results from this study recommend that further research be undertaken on:

- Parliament's role in co-operative governmental and inter-governmental relations.
- A review of Legislation.
- Review of the Oversight and Accountability Model
- The role of Parliament in International Relations.
- The role of Parliament in e-democracy.

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Appendix 1: Letter of approval for study



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

Office of Speaker
PO Box 15 Cape Town 800 Republic of South Africa
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2 September 2013

Ms Lynette Sait
2 Bideford Road, Woodstock
Cape Town, 7945

Dear Ms Sait

**REQUEST FOR PERMISSION TO CONDUCT RESEARCH AMONGST
PARLIAMENTARY PERSONNEL IN THE PARLIAMENT OF THE REPUBLIC OF
SOUTH AFRICA**

I hereby grant permission for Ms Lynette Sait to conduct her masters research in Parliament. The study entitled: "**Strategies** for the National Assembly to ensure the effective implementation of the National development Plan of South Africa", is a timely intervention.

It will be appreciated if Ms Sait could share the findings of her research with Parliament.

Sincerely

PM Lebeko

Executive Director

Office of the Speaker: Parliament

Appendix 2: Grammarian clearance

E S van Aswegen
BA (Bibl), BA (Hons), MA, DLitt, FSALIS
Language and bibliographic consultant

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ACADEMIC WRITING

Linguistic proofreading and editing of:

Research proposals
Conference and journal papers
Theses, dissertations, technical reports

Bibliographies
Bibliographic citation
Literature searching

The master's thesis by Ms Lynette Sait has been proofread and edited, and the candidate has been advised to make the recommended changes.



ES van Aswegen
15 May 2015

Appendix 3: Safe assigned plagiarism report



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