

## Section 3

### Enhancing Parliament's Oversight role

#### 3.1 Definition and broad overview of Oversight

The conventional "Westminster view" on oversight, as inherited by many former British colonies, is often rather adversarial and in some instances oversight is professed to be the purview of opposition politicians and not the Legislature as an institution.<sup>5</sup> Furthermore, those exercising oversight are usually afforded the "luxury" of hindsight and generally divorced from the responsibility for failure in terms of service delivery.<sup>6</sup> The emphasis is placed on the "watchdog" role of legislatures, especially as it relates to ensuring government compliance to approved public spending. Whilst these elements are not necessarily negated by a more people-centred approach to oversight some stark difference does exist in terms of both approach and emphasis. In the course of the work of the Task team the following definition statement was used to frame oversight:

*The term Oversight is derived from an act – "to oversee" with Accountability as a direct result. Accountability is almost synonymous with "answerability". Accountability places responsibility upon those overseen that they must account.<sup>7</sup>*

Based on this definition statement it was further held that oversight could be subdivided into a number of interdependent categories, namely political, administrative, financial, ethical and legal elements of oversight.

- The political element of Oversight entails Oversight of national priorities as well as assessing the outcomes in respect of these priorities. This is done through systematic programme evaluation of

various Departments, including overseeing policy development and implementation.<sup>8</sup>

- The Administrative level includes assessment of Departmental Strategic Plans and Departmental Annual Reports
- The Financial level is based on the notion of efficiency and includes Oversight of the Budget (inputs and outputs of the process), and Oversight of financial processes
- The Ethical level includes ensuring that good governance takes place in all spheres of government, as well as the application of principles of eco-sensitivity in conserving natural resources
- The Legal level includes ensuring that the framework of the Constitution is primarily adhered to, that the passing of legislation is effective and ensuring that institutions carrying out legislation are overseen. This means that when Members are passing legislation they have to be sensitive to the needs of the Constitution and to the needs of their constituencies.<sup>9</sup>

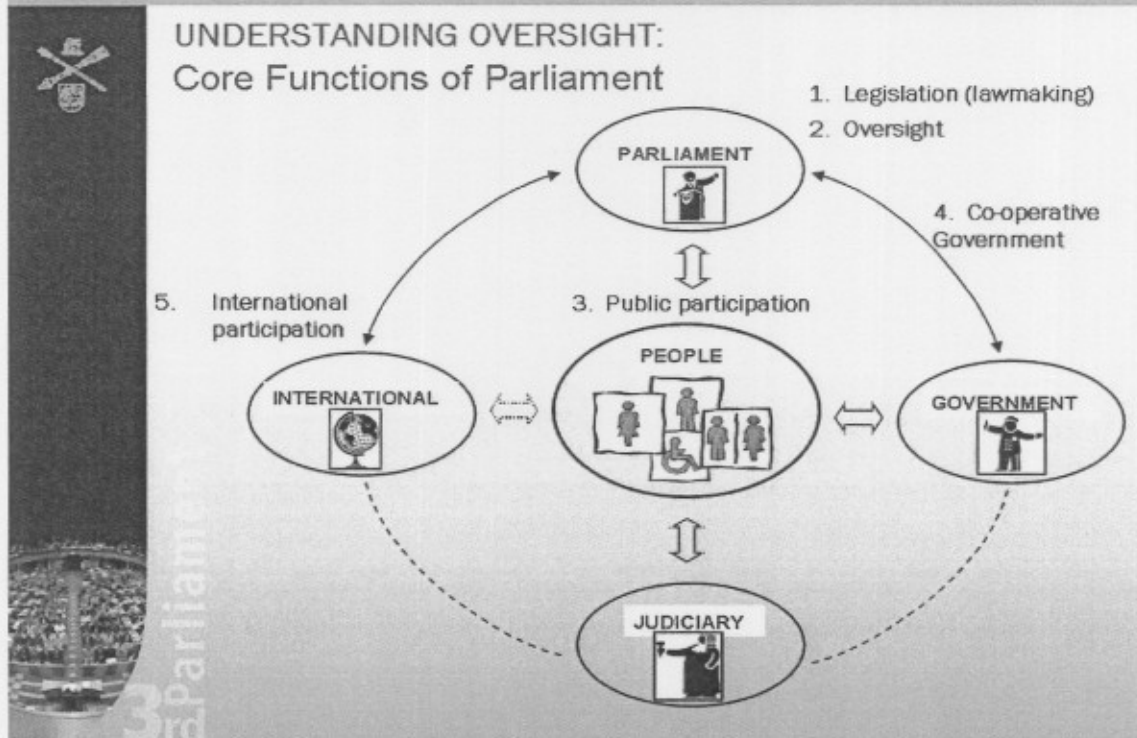
In further enhancing Parliament's oversight role it is imperative to integrate these, more holistic elements of oversight into Parliament's oversight model.

### **3.2 Parliament's core functions**

Parliament performs five core functions in its constitutional interactions with the public, executive, judiciary and international community. They are:

- To pass laws (Legislation)
- To oversee and scrutinise executive action (Oversight)
- To facilitate public participation and involvement
- To facilitate co-operative government
- To facilitate international participation

In exercising these core functions Parliament should be people-centred as illustrated in figure 1.



**Figure 1. The core functions of Parliament**

### 3.3 Understanding Oversight

Figure 2 gives a high level representation of the interaction between the People, Parliament and the Executive with regards to oversight, as discussed above.



Members' oversight<sup>10</sup> and questions put to the Executive. Parliament also uses of a number of public participation activities to facilitate greater public involvement in its activities and to get direct input from people at grassroots level.

### **3.5 Parliamentary committees**

Parliamentary committees are delegated instruments of the Houses of Parliament and have various tools through which they exercise oversight, including site visits, Departmental briefing sessions, Annual and Departmental budget analyses, calls for submissions and petitions made to the public, the consideration of strategic plans and annual reports, study tours and public hearings.<sup>11</sup> In the National Assembly committees are organised as portfolio committees corresponding to National Government departments, whilst in the NCOP they are organised as select committees, which do not necessarily correspond directly to National departments, but to clusters of departments.<sup>12</sup>

Whilst committees have various unique ways of conducting their oversight functions, their business generally runs parallel to government's political cycle, unless there are specific "ad hoc" oversight visits that are required. In programming their oversight activities they would thus in actual fact act in a responsive/reactive manner. This they do by tracking compliance of specific Departments (or clusters of Departments) to the political agenda set from the State of the Nation, to the national Budget process, the presentation of Departmental budgets, strategic plans and annual reports. There are a number of challenges that result from this *modus operandi*, that are being addressed in the proposed model discussed later in this document, namely:

- Focus is placed on assessing compliance with the political programme of government and the approved budget, rather

than exercising oversight on government delivery more holistically against developmental goals;

- Themes that transcend designated committees do not get sufficient attention<sup>13</sup>;
- The work of committees is limited to the time span of the annual Parliamentary programme and do not have a more long-term perspective;
- Committees often have limited time or resources to use specialised independent information resources and are thus dependant on Departmental resources to evaluate the same Departments they are supposed to exercise oversight over<sup>14</sup>;
- Often opportunities for public submissions during committee hearings and are only accessible to well-resourced civil society organisations and interest groups; and
- In some instances the lack of sufficient co-ordination of activities leads to the duplication of activities.

In it's assessment of current oversight practices Parliament's Legislation and Oversight Division (LOD) highlighted that, "(F)or oversight to be effective, it is imperative that Committees have an independent, reliable source of information, analysis and verification."<sup>15</sup> This will not only enhance Parliament's internal oversight capacity, but more importantly put committees and Parliament in a position to recommend specific action. To address, specifically the utilisation of research resources for Committee oversight work, LOD proposed that a cluster approach of work be followed. This entails dividing existing committees into clusters and affording each cluster a senior researcher. The proposal on clustering committees for resource and administrative purposes was proposed to and accepted by the Task Team on Oversight and Accountability. These clusters are: Social and Public Services, Trade and Economic Affairs, Intergovernmental and Resources Matters, Finance and Public Accounts, Education and Recreation, Joint Standing Committee on Intelligence, and Justice, Security and

Constitutional Affairs. On committee level a subject/contents specialist that would report to the specific committee chairperson will provide support.

The objective of introducing the cluster-level support would be to:

- Analyse and identify policy issues, substantive matters and legislation that cut across committees to enable collaboration across sectors;
- Facilitate inter-committee communication and co-ordination;
- Co-ordinate with legal experts as required on behalf of cluster;
- Co-ordinate with subject experts on matters cutting across committees;
- Produce reports and records of those collaborative exercises; and
- Manage the performance of staff in cluster in consultation with the Chairpersons of Committees within the cluster.<sup>16</sup>

The central motivation for organising work in the “clustered manner” should thus be viewed as an attempt to facilitate greater co-operation and collaboration, and not to create additional hierarchies within the Parliamentary environment. It is foreseen that cluster meetings will be issue driven, but regular meetings should also be programmed. In certain instances, depending on ad hoc issues arising, Members might also meet in clusters set up outside the proposed cluster structure. Clusters would play an important role in identifying transversal issues and facilitating multiple referrals to Committees. In the next section it will be shown how this system can be used to effectively dovetail with the proposed model. What is important however to keep in mind is that information eventually utilised through this system would be able to be sourced throughout the spectrum of activities in which committees are involved.

### **3.6 Questions**

Questions to members of the Executive are a further important oversight mechanism available to Members of Parliament. Question time affords MPs

the opportunity to ask members of the Executive questions related to service delivery on behalf of both their political party and the electorate. Given the adversarial nature of parliamentary politics, in general, not just in South Africa, there are a number of risk factors related to questions that may detract from its effectiveness as an oversight tool.

### **3.7 Plenary debates**

Plenary debates are a further means to bring important information to the attention of the Executive regarding specific government programmes or legislation required to improve service delivery. Similarly to questions these debates run the risk of being used as short-term tactical measures to score political points by MPs, rather than to make substantive inputs or as a means to steer government action towards greater service delivery.

### **3.8 Institutions Supporting Democracy**

In addition to the tools used by Parliament, the South African Constitution also makes provision for specialised Constitutional bodies that have an oversight role, which they perform over the Executive. Whilst these "**State Institutions Supporting Constitutional Democracy**"<sup>17</sup> are accountable to the National Assembly and must report to the NA on their activities and the performance of their functions, they enjoy constitutionally guaranteed independence.<sup>18</sup> Given the different nature of their mandates and unique operating styles, the interaction of these institutions with Parliament is very differential. **In interaction with the ISDs the desire was expressed by these organisations to have a central nodal point in Parliament through which to report. This element is especially crucial given the fact that the subject matter of many of the reports of ISDs cut across Government portfolios and the mandates of the two Houses of Parliament.**