

## Section 5

### Public Participation and Oversight

As indicated above both Houses of Parliament are compelled to take due regard of **representivity, participatory democracy, accountability, transparency and public involvement.** In addition to the public participation activities of committees Parliament currently also has the following activities, namely: the NCOP's "Taking Parliament to the People" campaign, the "Women's Parliament", "Youth Parliament", and the "People's Assembly". Currently, Parliament is also in the process of establishing Parliamentary Democracy Offices (PDOs), which will create an immediate parliamentary presence in all Provinces.<sup>29</sup> These offices will serve as conduits between Parliament and local communities and in addition to informing communities of Parliament's programme and activities, it will also assist the public in making submissions and petitions to Parliamentary committees.<sup>30</sup> Whilst all these activities ensure that Parliament remain true to its Constitutional obligation for public participation, the challenge is to ensure that all information captured through these activities is correctly channelled to appropriate committees in Parliament.

## **Section 6**

### **Conclusions and Recommendations**

Conceptual models are by definition simplified, ideal-type frameworks. This document and the accompanying proposed model, strives to present a framework within which Parliament's oversight role can be structured, so as to enhance Parliament's Oversight capacity, as well as, bring current practices in line with Parliament's strategic path. Two critical factors for ensuring the success of this model is firstly the need to integrate Parliament's public participation function within its overall oversight mechanism and secondly to provide the appropriate capacity, especially human resources, for its execution. It is vital that all Public Participation processes become inputs to the work of appropriate committees.

Detail oversight practices, aligned with this framework are captured in the Best Practice Guide on Oversight currently being finalised. However, given the complex nature of Parliament's activities and the dynamic environment in which it operates, we wish to echo the sentiments of the Joint Ad hoc Subcommittee, that Parliament should adopt a policy requiring each new Parliament to assess and review its oversight capabilities, including its oversight model, at least once during its five-year lifespan.<sup>31</sup>

In order to implement the proposed model decisions are required on the following aspects:

1. The immediate need to increase the Research (and content specialists) capacity of committees.
2. The implementation of systems to capture and manage information within committees.
3. The development of a public participation model to ensure that inputs received through public participation activities is channelled to appropriate committees.

4. Changes in Parliamentary policy/rules to accommodate the creation of IPOC, with appropriate terms of reference.
5. Continuous capacity development of MPs in terms of information communication technology, budgeting practices and other skills required to enhance their oversight capacity.
6. Offices of Members of Parliament should also be afforded additional human resources and upgraded in terms of technology capacity.
7. Training of staff in line with the oversight best practice guide.
8. Adoption of procedure for Executive compliance.

With regards **"Terms of reference for IPOC"** the following elements are proposed.

1. Ensuring Oversight powers, as is currently enjoyed by Parliamentary Committees, are exercised by IPOC on broader substantive issues that cut across the mandates of the two Houses and various government portfolios
2. Ensuring a more integrated and holistic approach to Parliamentary Oversight.
3. Coordinating all oversight related information gathered through Parliament's Public Participation activities.
4. Coordinating the effective referral to committees of the national Budget.
5. Serving as nodal point for interaction with ISDs.
6. Identifying and setting long-term oversight objectives of Parliament.
7. Ensuring the effective co-ordination of oversight activities between the NA and NCOP.
8. Ensuring effective business planning of Parliament's oversight activities.

## **List of Parliamentary Sources Consulted**

- National Assembly Table. 2004. Audit of Statutes
- National Council of Provinces. 2005. NCOP Members' Handbook
- Matyolo, L.L. 2005. Discussion Document: The National Council of Provinces Conducting Oversight
- Best Practice Guide on Oversight for Parliamentary Committees (Draft 7)
- ISD Interviews report (ongoing)
- Jenkins, F.S. 2005. Constitutional landscape of the constitutional provisions dealing with the interrelated themes of oversight, accountability, transparency and responsiveness in respect of Parliament's functions. (Draft 1)
- Keswa, NP. 2005. Presentation to Focus Group on Committees on Committees Human Resource Capacity (21 November 2005)
- Nhleko, N. Oversight and Accountability: Statement of Definition, 2005
- Committee work structure proposal
- HSRC, 2005. Audit of public funded bodies (Draft 2)
- Constitutional Experts Interview Report (ongoing)

## Endnotes

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<sup>1</sup> Section 2 of the Constitution (Act 108 of 1996)

<sup>2</sup> Section 42 (2)

<sup>3</sup> Murray, C and Nijzink, L. 2002. Building Representative Democracy: South Africa's Legislatures and the Constitution. P.101

<sup>4</sup> NCOP, Op. cit. pp. 5-7

<sup>5</sup> Gauteng Provincial Legislature (GPL) (2002) Programme Evaluation and Budget Analysis: An Oversight Paradigm for the Gauteng Legislature p. 77

<sup>6</sup> Ibid

<sup>7</sup> Nhleko, N. Oversight and Accountability: Statement of Definition, 2005

<sup>8</sup> In accordance with this approach Departments appear in front of committees and present their Strategic business plans which outlines their objectives (and explains how this ties to National priorities set through the State of the Nation and the National Budget), their annual programmes, their budgets and eventually towards the end of the year their Annual reports. Based on this committees then analyse and interrogate spending patterns in relation to National stated priorities.

<sup>9</sup> Nhleko, op.cit p5

<sup>10</sup> In terms of Section 57 (2) the NA provides financial and administrative assistance to each political party represented in the Assembly, in proportion to its representation, to enable the party to perform their function, including MPs' constituency work. Whilst there is no formal manner in which constituency work filter into the Parliamentary process, MPs make extensive use of information gathered through their constituency offices for their work in the House and in Committees.

<sup>11</sup> Best Practice Guide on Oversight for Parliamentary Committees (Draft 7) p. 20-21

<sup>12</sup> Op. cit. p.10

<sup>13</sup> Keswa, NP. 2005. Presentation to Focus Group on Committees on Committees Human Resource Capacity (21 November 2005) p.1

<sup>14</sup> Ibid.

<sup>15</sup> Keswa, Op.cit. p.4

<sup>16</sup> Keswa, Op.cit. p.7

<sup>17</sup> Chapter 9 of the Constitution

<sup>18</sup> Section 181 (5) read with Section 181 (2)

<sup>19</sup> Corder H, Jagwanath S, Soltau F (1999): Report on Parliamentary Oversight and Accountability

<sup>20</sup> Hereafter referred to as the Subcommittee

<sup>21</sup> In August 2004, the Joint Rules Committee mandated one of the House Chairpersons in the National Assembly and the Chairperson of Committees in the National Council of Provinces to set up the Task Team on Oversight & Accountability.

<sup>22</sup> Cachalia, F (2004) Good governance needs an effective parliament. Umrabulo No. 11

<sup>23</sup> See also GPL, p.2

<sup>24</sup> A current practice employed by the NCOP to identify "unintended consequences of government action" and "advise from the public on specific government programmes or policies" is worth mentioning in this regard. In accordance with it's rules the NCOP capture in detail inputs from the public gathered through public hearings regarding such matters and bring this under the attention of Government

<sup>25</sup> Section 57 and Section 70

<sup>26</sup> Section 57 (1) b for the NA and Section 70 (1) b for the NCOP

<sup>27</sup> Read also Section 195 (2)

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<sup>28</sup> This section is based on the following document prepared by the Secretary to the National Assembly K Hahndiek: "Committee reports: proposal for monitoring Executive compliance" Amended 29/07/04)

<sup>29</sup> Parliamentary Information Offices - A presentation by Speaker Mbete to the Speaker's Forum (12 August 2005), p. 1

<sup>30</sup> Loc. Cit. pp. 1 and 5-6

<sup>31</sup> ATC No 10 - 2004. Recommendation 3.2, p. 94