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Policy Brief

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The Implications of the Governance of National Unity on South Africa's Foreign Policy

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Editorial Note

Mr. Sizwe Nene
Chief Editor

In this issue, Ms. Coetzee notes that the establishment of South Africa's Government of National Unity (GNU) in 2024 has introduced a new epoch in the country's political, strategic, and international landscape. She argues that the inherent challenges of consensus-based decision-making could result in a less decisive and coherent national and international strategy.

Dr. Ngwane contends that the era of grand coalitions or Government of Provincial Unity (GPU) cannot escape a simple truism, which is, no matter who is at the helm of power, the delivery of basic services is paramount. Through petitioning process, he argues that rich data set should be used as a service delivery diagnostic and prognosis assessment.

Ms. Nkomo took a step further by raising concerns that there is less internalising on what the new political landscape means for public participation in all processes of governance. One must therefore wonder: has the new GNU and PNU interrogated the public's understanding of these new formations?

Are South African Legislatures capacitated to undertake post-legislative scrutiny, Mr. Buthelezi asks? He notes that post-legislative scrutiny is an important tool for increasing government accountability and is part of the oversight role of parliament.

Ethics in the public service, Mr. Ntuli notes, are broad norms that delineate how public servants should exercise judgment and discretion in carrying out their official duties. There are alternative strategies for enhancing ethics in government and among public officials, including legal, organizational, and institutional frameworks which might be utilised to enhance ethics in the public service.

On the utilization of social audit to enhance accountability, Ms. Mofokeng and Ms. Dlamini underscores that the importance of community involvement in oversight has given rise to social audits. Social audits offer a forum for communities to articulate their demands and turn public participation and democracy into a reality. PB

Editorial Team

The Research Unit Editorial Team of the Gauteng Provincial Legislature serves as a vital support function, providing comprehensive research and analysis to inform the decision-making processes of the Legislature. By conducting in-depth studies on various topics related to the province's governance, policy, and development, the unit empowers Legislators to make informed decisions that align with the needs and aspirations of the people of Gauteng.

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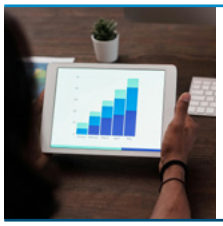

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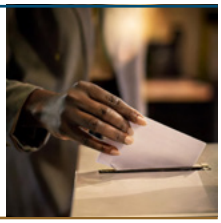

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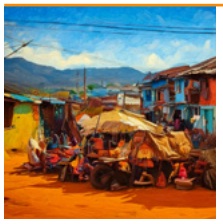

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Nota Bene:
The articles represent the opinions of the authors and are not necessarily the views of the Gauteng Provincial Legislature. Please share your comments, queries and any other feedback on the articles published in this issue via email to the author.

The Implications of the Governance of National Unity on South Africa's Foreign Policy

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The establishment of South Africa's Government of National Unity (GNU) in 2024 has introduced a new epoch in the country's political, strategic, and international landscape. The loss of the African National Congress (ANC) parliamentary majority in the 2024 national elections catalyzed this shift, necessitating the formation of a coalition national government. This new political reality presents both challenges and opportunities for South Africa's foreign policy. This brief argues that while the GNU could lead to a more pragmatic and tempered foreign policy approach, the inherent challenges of consensus-based decision-making could also result in a less decisive and coherent national and international strategy.

Contextual Background

From 1994 until May 2024, the African National Congress (ANC) was South Africa's dominant political force, shaping the country's domestic and international policy agenda. However, the 2024 national elections – arguably the most competitive in South Africa's political history[1] – marked a turning point. The ANC, unable to secure a majority, was compelled to share power with parties it had long viewed as ideological and political adversaries[2]. This resulted in coalition, and thus, a Government of National Unity (GNU)[3].

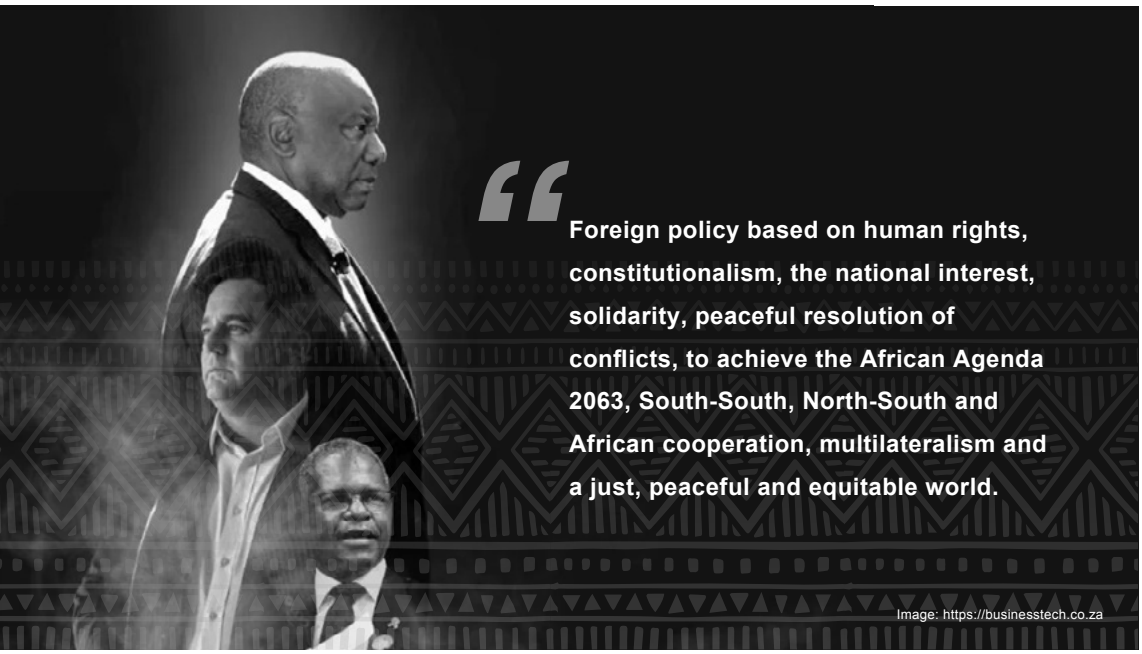
Despite the coalition, the ANC has retained control over crucial ministerial portfolios, including the presidency, finance and foreign affairs and international relations[4], which may signal that the broad contours of South Africa's foreign policy will remain unchanged, and that International Relations will continue to be guided by the Constitution of South Africa and underpinned by the ANC's ideological adherence to Pan-Africanism and progressive internationalism. However, determining the direction and future of South Africa's foreign policy under the coalition government is considerably more complex. Despite an ANC minister, Mr. Ronald Lamola, leading the Department of International Relations and Cooperation (DIRCO), the significant and evident foreign policy divisions between GNU parties—especially between the ANC and the Democratic Alliance (DA)[5] – cannot be overlooked.

Hon. Ronald Lamola - Minister: DIRCO
Image: www.middleeastmonitor.com

1 https://afripoli.org/south-africas-new-coalition-government-implications-for-social-economic-and-foreign-policy
2 https://afripoli.org/south-africas-new-coalition-government-implications-for-social-economic-and-foreign-policy
3 https://www.chathamhouse.org/events/all/open-event/future-south-africas-foreign-policy
4 https://www.reuters.com/world/africa/who-leads-key-portfolios-south-africas-new-cabinet-2024-07-01/
5 https://issafrica.org/iss-today/how-will-sa-s-new-coalition-government-steer-foreign-policy

GNU and the Implications on Foreign Policy

The 2024 Government of National Unity (GNU) has articulated its foreign policy vision with the following statement of intent:



As South Africa continues to be a significant player in international relations, the world is watching closely to see how the GNU will shape its foreign policy. Recent examples, such as South Africa’s stance against Israel and its move to the International Court of Justice to address the ongoing war, highlight the country’s commitment to human rights and its readiness to engage in international legal mechanisms. Such actions position South Africa as a strong advocate for global justice. However, the internal divisions within the GNU – such as differing views among coalition partners on issues such as trade relations, military and economic alliances, and peace operations – raise concerns about its ability to maintain a consistent and coherent approach to complex foreign affairs. For instance, disagreements over whether to prioritize economic ties with Western nations or to rather foster solidarity with other African states could hinder the government’s diplomatic effectiveness[6].

[6] https://afripoli.org/south-africas-new-coalition-government-implications-for-social-economic-and-foreign-policy

These ideological rifts, while not unprecedented, could fragment foreign policy, particularly on divisive issues like Israel-Palestine, BRICS, and the Russia-Ukraine conflict. So far, these tensions have been contained through compartmentalization[7]. However, with different government departments having their own foreign affairs desks, non-ANC coalition partners now have greater opportunities to shape South Africa's international engagements, which could lead to conflicting policies.

Without unity on key global issues, the GNU risks giving political opposition forces leverage to undermine South Africa's foreign relations. Additionally, a lack of consensus could result in an indecisive and incoherent foreign policy, especially if the institutional links between the executive and legislative branches weaken. To prevent this, GNU parties must acknowledge these challenges and consider entrusting major foreign policy decisions to a single party, based on the Cabinet minister's political affiliation[8]. This would help ensure clearer and more decisive actions on the global stage.

The coalition's varying foreign policy priorities could also contribute to a lack of coherence. While the ANC may prioritize solidarity with African nations and the Global South, other coalition partners may push for stronger ties with Western powers. This divergence could further complicate South Africa's foreign policy direction, undermining its ability to respond swiftly and effectively to international crises that demand unified action.

"a lack of consensus could result in an indecisive and incoherent foreign policy, especially if the institutional links between the executive and legislative branches weaken

[7] https://afripoli.org/south-africas-new-coalition-government-implications-for-social-economic-and-foreign-policy
[8] https://issafrica.org/iss-today/how-will-sa-s-new-coalition-government-steer-foreign-policy

Recommendations

To achieve the statement of intent laid forth, to navigate the complexities and maximize the effectiveness of South Africa's foreign policy under the Government of National Unity (GNU), the following strategies are recommended:

Develop a Unified Foreign Policy Framework

The GNU must prioritize the creation of a comprehensive foreign policy framework that aligns the diverse perspectives of its coalition partners[9]. This framework should clearly define the overarching foreign policy objectives, guiding principles, and strategic priorities. By establishing such a blueprint, the GNU can mitigate internal conflicts and present a coherent stance on international matters, particularly on contentious issues such as the Israel-Palestine conflict, BRICS, and the Russia-Ukraine war. Regular consultations among coalition partners will also be essential in fostering open dialogue and resolving differences, ensuring that the GNU speaks with one voice on global platforms.

Strengthen Institutional Mechanisms

The foreign policy-making process should be streamlined through improved institutional coordination and oversight. A Foreign Policy Oversight Committee, comprising representatives from all coalition parties, should be established to monitor the implementation of foreign policy and address potential conflicts. This committee will serve as a platform for reviewing key international engagements and ensuring that foreign policy actions align with the GNU's strategic goals. Furthermore, enhancing interdepartmental coordination, particularly between the Office of the Presidency, DIRCO, and other government departments with foreign affairs responsibilities, will be crucial for maintaining policy coherence and reducing fragmentation.

Prioritize Trade and Investment initiatives

Given the ideological differences within the GNU, focusing on economic diplomacy offers a pragmatic pathway to maintain stable international relations. The government should prioritize trade and investment as central pillars of its foreign policy, emphasizing strategic partnerships with both emerging markets and established economies. By leveraging these economic ties, South Africa can bolster its global influence while minimizing the risks posed by internal political divisions. Prioritizing economic diplomacy will not only help the country navigate ideological differences but also serve as a foundation for maintaining strong, mutually beneficial relationships with key international partners.

[9] https://www.biznews.com/leadership/2024/06/24/gnu-foreign-policy-shift

Enhance Public Diplomacy and Global Outreach

Public diplomacy must be leveraged to project South Africa's values and interests on the global stage. This can be achieved by actively participating in international forums, promoting the African Agenda[10], engaging in global dialogues, and launching targeted campaigns on critical issues such as human rights, climate change, and economic development. These efforts will help align international perceptions with South Africa's foreign policy objectives and enhance its national role conception[11] as a defender of global justice and human rights. Furthermore, public diplomacy can serve as a counterbalance to the potential incoherence that may arise from internal divisions within the GNU, helping South Africa maintain a positive and consistent global image.

Foster Inclusive Diplomacy

Inclusive diplomacy will be critical for South Africa's success in navigating a complex international landscape. The GNU should engage a wide range of stakeholders, including civil society organizations, think tanks, academic institutions, and the broader public. This will not only enrich the foreign policy discourse but also help build consensus around the country's national interest. Facilitating public engagement through consultations, forums, and educational programs will ensure that the GNU's foreign policy reflects the diverse values and interests of the South African people. Inclusive diplomacy will also foster greater transparency and accountability in foreign policy decision-making, building trust both domestically and internationally.

Conclusion

The Government of National Unity presents both challenges and opportunities for South Africa's foreign policy. By implementing the recommended strategies, South Africa can navigate internal divisions, enhance policy coherence, and maintain a strong presence on the global stage. Through a unified foreign policy framework, strengthened institutional mechanisms, and a focus on economic diplomacy and public engagement, the GNU can effectively address international issues and advance South Africa's strategic interests.

[10] https://www.anc1912.org.za/statement-of-intent-of-the-2024-government-of-national-unity-2/
[11] Holsti, K. J. National Role Conceptions in the Study of Foreign Policy. International Studies Quarterly, 14(3): 233 – 309.

No Matter The Size, Data Tells A Story: Paying Attention To Petitions

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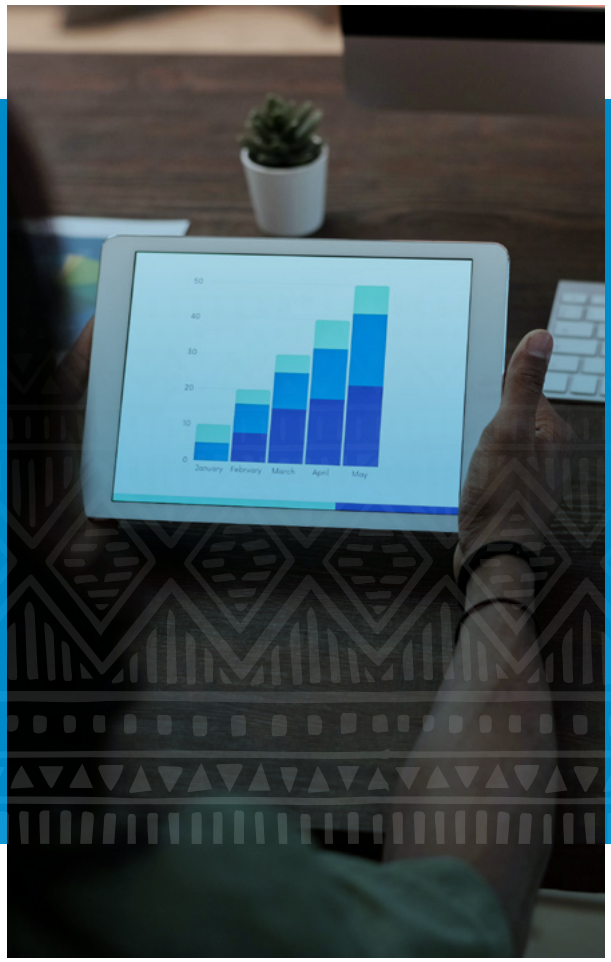
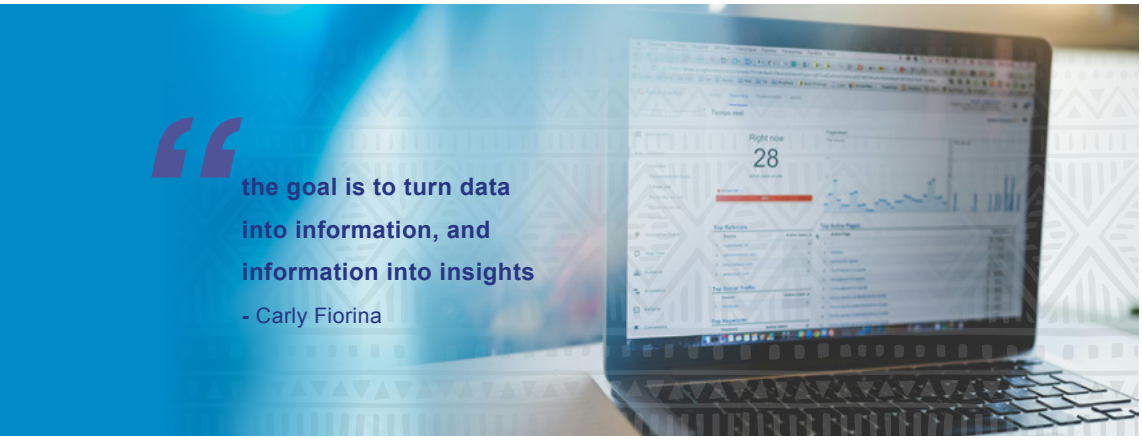
The results of the May 2024 national and provincial elections ushered in a period of precariousness. A precariousness that saw Gauteng forming a minority Government of Provincial Unity (GPU). This is Gauteng's first dabble with a coalition government - at provincial level, and it is characterised by a "de facto confidence-and-supply" dynamic. This dynamic might seem macro and removed from the woman and man on the street. But this is far from the truth. This precarious era of grand coalitions or Government of Provincial Unity (GPU) cannot escape a simple truism, which is, no matter who is at the helm of power, the delivery of basic services is paramount. But how do we measure the delivery of services and its impact? Enter the era of Big Data!



Clarity through Volume

Big data presents government with a multivalent tool. Big data describes large and diverse datasets that are huge in volume and also rapidly grow in size over time. Big data is used in machine learning, predictive modelling, and other advanced analytics to solve business problems and make informed decisions. The effective use of data could be the missing link between good governance and capacity building, where insights through data are used to improve service delivery[1]. Government organisations have realised that accurate, up-to-date data are required to improve service delivery, accountability, transparency, efficiency and productivity. The multivalent nature of big data means that there are multiple data sets that should be considered. This is where the petitioning process comes in as it acts as a service delivery barometer. Used effectively, it can do more than diagnose service delivery deficiencies. It can prompt action. This argument borrows from Carly Fiorina, the former CEO of the American tech company; Hewlett-Packard (best known as HP) who once said, "the goal is to turn data into information, and information into insights". Although at face value, the petitioning process is a form of public protest, but I argue that it is also a rich data set for service delivery diagnostic and prognoses assessment.



[1] Big Data Defined: Examples and Benefits | Google Cloud (accessed 15 September 2024)

On your mark!

Big and not so big data should characterise the rationality of the Government of Provincial Unity (GPU). The GPU is underpinned by the Government of National Unity (GNU). Which is undergirded by the Statement of Intent (SOI) and its associated principles. During the July 2024 Sate of the National Address (SONA), President Ramaphosa outlined how the GNU had resolved to dedicate the next five years to actions that will advance three strategic priorities: Firstly, to drive inclusive growth and job creation. Secondly, to reduce poverty and tackle the high cost of living. Thirdly, to build a capable, ethical and developmental state. Moreover, at the State of the Province Address (SOPA) on the 15th of August, Premier Lesufi, stated that the Seventh Administration is committed to ensuring that it will consolidate the provincial development vision to secure the future of its residents and for generations to come. The focus will essentially be centred on Growing Gauteng Together 2030 (GGT2030), which is the provincial interpretation of the National Development Plan (NDP). Through GGT2030 the government of Gauteng has aligned itself to the GNU priorities of: inclusive economic growth and job creation, improved living conditions and enhanced health wellbeing and a capable, ethical and developmental State.

Reality on the Ground!

Being South Africa's economic hub comes with some ramifications, as urban centres attract many people from across the provincial and national borders into Gauteng looking for better opportunities. According to Stats SA Mid-year Population Estimates SA, South Africa's population sits at 63.02 million and South Africa's median age is 28 years. With approximately 15.93 million people (25,3%) Gauteng has the largest population. According the 2022 Census, between 2011 and 2022, Gauteng received a net amount of almost 400 000 persons moving into the province, followed by the Western Cape at 294 029. The two provinces with the largest out migration patterns are Limpopo (-114 328), and the Eastern Cape (-62 629). Those coming from outside South Arica, are the largest group that accounts for inward migration to Gauteng. Gauteng is, therefore, the largest destination for out migration. Largest top sending countries are Zimbabwe (45.5%), Mozambique (18.7%) and Lesotho (10.2%).

Concluding Remarks

Working as a service delivery barometer, the petitioning process can be a vital big data source for the Legislature as it undertakes its oversight mandate. The era of grand coalitions and Governments of National/Provincial Unity also coincides with the epoch of big data. Our focus should not detract from the key issue which is service delivery. All those in the accountability eco-system should meditate on the sagacious words of the American corporate executive who once said, “the goal is to turn data into information, and information into insights”. Petitions insights are telling the Executive that employment and housing are burning issues in the province.

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- Stats SA Mid-year Population Estimates (2024)
- Stats SA Q1 Labour Force Survey (2024)

Members of the Public:

The Forgotten GNU / GPU Key Stakeholder

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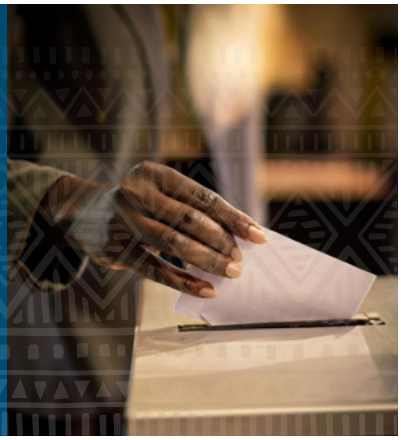
A Clarion Call by the 2024 Voters

Voters who cast their votes for political parties of their choice during the seventh (7th) National and Provincial Elections of 2024 did not give out “an outright winner”. This was subsequently interpreted by the 7th administration as a call by voters to force parties to work together[1]. However, one must ponder on the more than forty percent (40%) of non-voters who were eligible to vote but did not[2]. Are their perspectives relevant in pursuit of unearthing the reasons behind this? Furthermore, do the over 56% voters feel they are part of the current 7th administration?



> **...voters tend to be pushed to the side post elections, ending their “usefulness” immediately after elections.**

This article argues two (2) points, that the voice of the non-voter is not investigated sufficiently; secondly, that the voices of those who voted are put on hold until the next national and provincial election[3]. This article suggests that political parties tend to shun their backs on non-voters, believing that non-voters deserve to be ignored post elections. In the same vein, voters tend to be pushed to the side post elections, ending their “usefulness” immediately after elections[4].

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1 https://www.gov.za/CoalitionsDialogue/faqs (accessed on 13 September 2024)
2 https://results.elections.org.za/home/ (accessed on 13 September 2024)
3 https://www.redalyc.org/journal/6637/663773655001/html/ (accessed on 13 September 2024)
4 Gauteng Provincial Legislature Perceptions Survey Draft Report, 2019

Unchartered Terrain: Public Participation and the GNU / PNU

Post the formations of the State of Government of National Unity (GNU) and Provincial Government of Unity (PNU) the focus has been on the political parties themselves- which powers they wish to wield through executive & legislative positions, which portfolios they wish to occupy and perform better, as the opportunity has presented itself[5]. Therefore, it appears that there is less internalising on what the new political landscape means for public participation in all processes of governance. One must therefore wonder: has the new GNU and PNU interrogated the public's understanding of these new formations? Considering that non-voters and voters are at the centre of deciding who will run the State, they are key to forming people-centred government of South Africa[6].

> The past 30 years of democracy has seen national government declaring to put people first (Batho Pele Principles), and as a reference to this is the Gauteng Provincial Legislature's (GPL) motto: **"Your View Our Vision"**. It is therefore important that the public is brought along on the new journey of GNU and PNU.

Public participation is meant to be part of governance processes (law making, service delivery, accountability of the State). However, the State has been lambasted for years for using public participation platforms as "talk shows" and box ticking exercises. How will the "new government" ensure that all citizens of the country feel a part of governance processes despite their political affiliations? This is particularly important, since public participation is considered a political terrain. Understanding how the public will be able to participate beyond their political ideologies under GNU and PNU is critical to democratic principles of inclusive public participation.

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[5] DA to get six ministerial positions and four deputies in new GNU (citizen.co.za) (accessed on 13 September 2024
[6] Parliament_Public_Participation_Model.pdf (accessed on 13 September 2024)

The Public as Key Stakeholder in GNU / PNU

> There are two (2) broad perspectives that are applied here: political parties perceive non-voters inaction as disinterest (passive) and on the other end of the spectrum, see non-voting as a sign of protest[7].

There appears to be widespread belief by the public, that voters are only good for giving their votes to political parties, hence feel alienated post elections. This is probably more so in this uncharted terrain of GNU and PNU. The South African public should feel and actively be made part of democratic processes during the current dispensation. This is especially so, considering that voters determine the outcome of elections; and under the GNU and PNU members of the public should not be alienated as they hold a key stake in the new formation of government, in this 7th administration and should be taken along all governance processes.

The political parties in coalition might be feeling a sense of duty to prove that they are better than their predecessors and bear some form of pressure to radically improve the lives of South Africans. However, this should not be at the expense of the public, in which ideally, members of the public are as much custodians of the GNU and PNU as the members of (provincial) parliament/s (MPs/ MPLs).

[7] csda-_-voterchoiceresearchbrief-_-research-brief-_-a4-_-may-2024-_-2.pdf (uj.ac.za) accessed on 13 September 2024

Are South African Legislatures capacitated to undertake post legislative scrutiny?

A specific focus on the Gauteng Provincial Legislature

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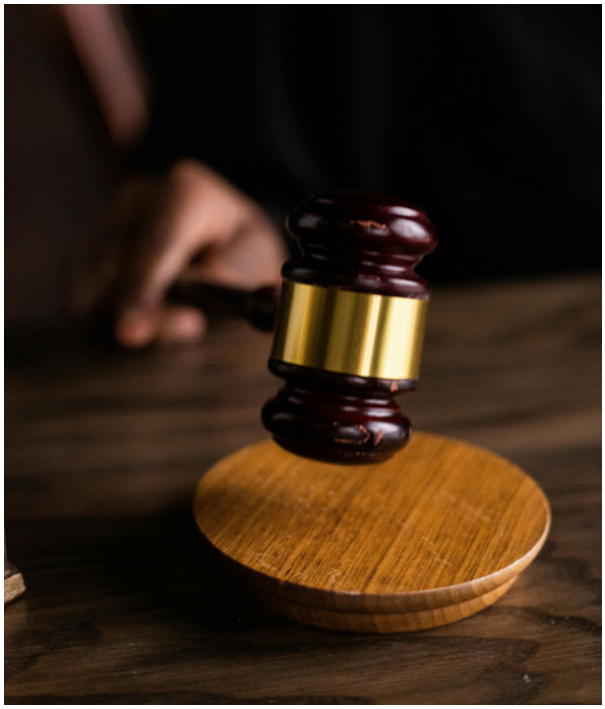
Introduction

One of the important roles of parliament is to make laws that meet the needs of the people. The process of lawmaking, otherwise called legislation, generally entails a series of parliamentary procedures that seek to review the needs of society. This is done with a view to respond to those needs appropriately and adequately, in an efficient and resourceful manner. Laws passed need to be assessed in order to help parliament to understand whether a law or set of laws have served the purpose for which they were enacted or not. If not, parliament could then decide to correct the anomaly. This process is referred to as the Post Legislative Scrutiny (PLS).

PLS is the practice of monitoring the implementation and evaluating the impact of laws. The aim is to ensure that laws benefit citizens in the way originally intended by lawmakers. PLS is often carried out by parliamentary committees and is an important tool for increasing government accountability. However, in practice, it is common that the aspect of reviewing the implementation of legislation may be overlooked. Implementation is a complex matter dependant on the mobilization of resources and different actors. This includes the commitment to policies and legislation, coordination and cooperation among all parties involved. Implementation does not happen automatically. Several incidents can affect its course, including changes in facts on the ground, diversion of resources, deflection of goals, resistance from stakeholders and changes in the legal framework of related policy fields.



Why is it Important for Parliaments to Undertake PLS?

There are four overarching reasons why parliaments should prioritise monitoring and evaluating the implementation of legislation. Firstly, to ensure the requirements of democratic governance and the need to implement legislation in accordance with the principles of legality and legal certainty are being met. Secondly, to enable the adverse effects of new legislation to be addressed timelier and readily. Thirdly, to improve the focus on implementation and delivery of policy aims; and lastly, to identify and disseminate good practice in order for lessons to be drawn from the successes and failures revealed by this scrutiny work.

Therefore, PLS is an important tool for increasing government accountability, and is part of the oversight role of parliament. The most effective mechanism to guarantee that PLS takes place is securing binding requirements to the review of the implementation of legislation prior to the adoption of the law by parliament. There are various ways to establishing this binding requirement, or mandate, prior to the adoption of the law. First, at some point during the passage of the bill, Ministers of the executive may be asked to make a commitment (ministerial undertaking) to conduct a review of legislation, indicating what it should cover and when.

Alternatively, as a second option, Members of Parliament (MPs) could table amendments during the passage of a bill which seek to insert a review clause. Review clauses require the operation of the act or part of the act to be reviewed after a specified time. A review clause may be a useful tool because it is enshrined in statute and therefore has the force of law. It may provide for a general review or specify the specific provisions that should be reviewed, the timescale for review and who should carry it out. A third option is sunset clauses, which go one step further. Under a sunset clause, an act or provision automatically ceases in its effect after a certain time, unless another criterion is met, e.g. a review that keeps it in place. Even when no binding commitment to PLS is made during the passage of the bill, Parliament should be able to undertake Post-Legislative Scrutiny on any matter that it so chooses.

What Necessitates PLS?

There are several trigger points for parliament to initiate PLS. These include requests by citizens or organisations that a piece of legislation be reviewed. Moreover, media reports or petitions indicating the need for Post-Legislative Scrutiny. Others being members of the judiciary commenting that a piece of legislation faces gaps, loopholes or contradictions and should be revisited. Lastly, regular parliamentary committee work and inquiry into an issue[1]. The latter trigger point is common in South Africa where a court gives a judgement that parliament should review a particular legislation because of its impracticality. It is worth noting however that, although South Africa has strong organisations that influence legislative making, they have not triggered or forced parliament to institute a PLS on a particular legislation. More active and strong citizen participation is needed to push parliament towards implementing more rigorous PLS mechanisms.

Approach for Undertaking PLS

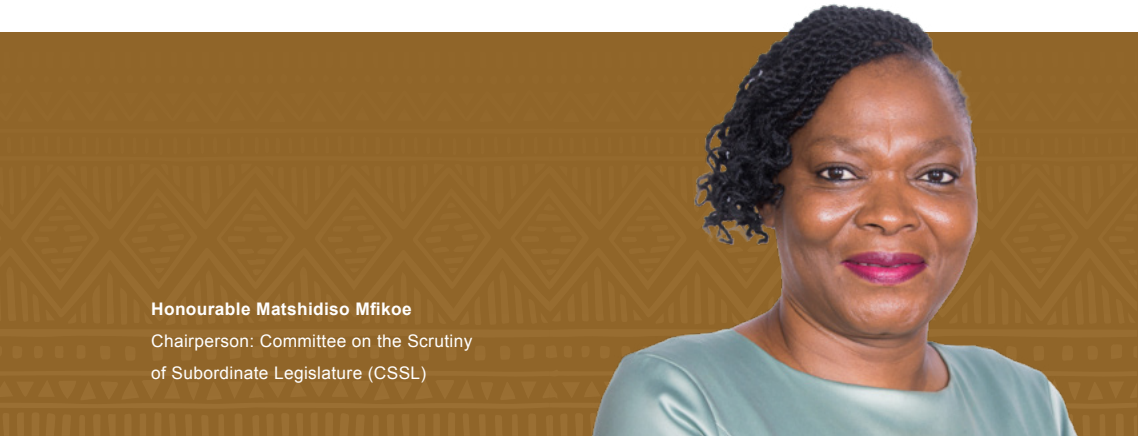
To achieve maximum value, a careful selection of legislation for review will be needed, given the time and resources required. This presents a challenge for even the world's most resourced parliaments. It is preferable for limited resources to be applied in a manner that enables quality and effective post-legislative review of a few pieces of legislation a year, rather than less thorough evaluations of multiple acts.

Acts of parliament often grant Ministers powers to make delegated or secondary legislation. It is ideal to review secondary legislation post-enactment at the same time as reviewing the parent legislation from which it owes its authority. This is particularly the case at times when most of the provisions giving effect to a piece of legislation are held within the secondary, rather than the primary legislation, and might lead to contradictions or gaps.

[1] De Vrieze, F. 2018. Principles of Post-Legislative Scrutiny by Parliaments. Westminster Foundation for Democracy. United Kingdom.

PLS in the Gauteng Provincial Legislature

In the Gauteng Provincial Legislature (GPL), there's a committee that deals primarily with delegated legislation called the Committee on the Scrutiny of Subordinate Legislation (CSSL). One of its mandates is to ensure that it evaluates pieces of delegated legislation that were previously passed. The Committee has done a lot of work in this regard and several delegated legislations have been evaluated and a number of recommendations made, prompting major legislation changes, i.e. Admission Regulations of 2012. Although considerable work has been put into PLS by the CSSL, more needs to be done in terms of following up on the implementation of the recommendations of the Committee.



Honourable Matshidiso Mfikoe
Chairperson: Committee on the Scrutiny of Subordinate Legislature (CSSL)

Moreover, GPL has in the past also instituted a project focusing on the assessment of laws passed in the province. Few pieces of legislation were identified for assessment and a service provider was appointed to carry out this task. This reflects the Legislature's commitment to the process of PLS. However, this has since been a once off project and the PLS processes are still not integrated into GPL Committees' strategic plans. This might be due to lack of capacity by the Committees to undertake such a responsibility. On average one dedicated researcher is assigned to a committee with the exception of a few high-volume committees who have two researchers. The GPL should invest more resources to capacitate this Committee to undertake the PLS. Special care needs to be taken to train and allocate skilled personnel on PLS activities as its importance cannot be over emphasised.

There are parliamentary jurisdictions that make it the mandate of all its Parliamentary Committees to conduct PLS vis-à-vis their oversight functions (House of Commons and House of Lords in the UK), whilst others have specific Parliamentary Committees set up for this purpose (Indonesia and Belgium). There are, however, some jurisdictions that only conduct Post-Legislative Scrutiny on a need's basis (South Africa). In South Africa, since parliament does not have the internal capacity to do PLS, it has commissioned an external panel of senior experts to conduct a systematic examination of the effects of laws passed by the National Assembly since non-racialised majority-rule was established in 1994[2]. South Africa should move towards making it mandatory for all its parliamentary committees to conduct PLS as part of their oversight functions and provide necessary capacity and resources to achieve this goal.

In conclusion, the assessment of laws previously passed is a new phenomenon in South Africa, unlike other countries that are advanced in this area like the UK and Canada. PLS as a tool that encourages citizens' participation and engagement with parliament allows legislatures to leverage on the opportunity to help MPs to better understand how the laws they pass affect the people on the ground. When enhanced, these engagements can serve to reduce ambiguity and public distrust as the citizenry would be more informed of the activities, powers and limitations of Legislatures.

[2] Dumbuya AM. 2023. Post Legislative Scrutiny as a tool for national assembly evaluation of the laws of the Gambia. Commonwealth Parliamentary Association.

Terse Thoughts on Promoting Professional Ethical Governance and Accountability in Gauteng

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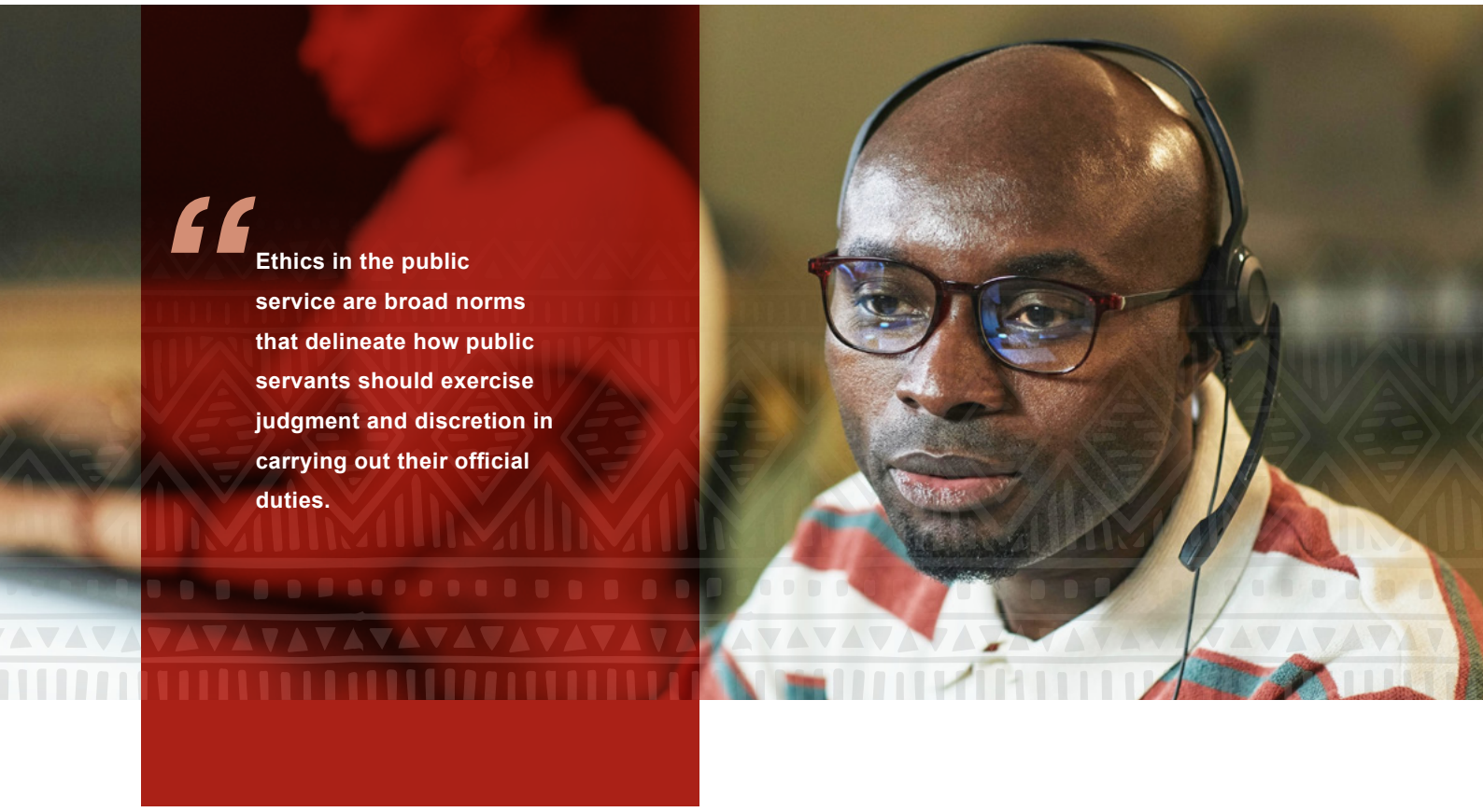

> **Ethics in the public service are broad norms that delineate how public servants should exercise judgment and discretion in carrying out their official duties.**

Introductory Note

Professionalism in the public service is an overarching value that determines how its activities will be carried out. It encompasses all other values that guide the public service such as loyalty, neutrality, transparency, diligence, punctuality, effectiveness, impartiality, and other values that may be specific to individual countries. Ethics in the public service are broad norms that delineate how public servants should exercise judgment and discretion in carrying out their official duties.

These values and norms are better reinforced if there exists a system of administrative policies, management practices, and oversight agents that provide incentives and penalties to encourage public servants to professionally carryout their duties and observe high standards of conduct. However, public servants in developing and transitional countries must meet the global challenges of a rapidly changing world and perform under local hardships.

On Ethics & Corruption

Ethics and corruption can be considered the two sides of a coin. The term ethics connotes an aspirational approach to conduct, focusing on the prevention of illegal or immoral behavior by encouraging and rewarding desired behavior. Corruption, on the other hand, conjures up a disciplinary approach to shaping conduct, through enforcing and punishing illegal or criminal behavior. It can further be acknowledged that corruption and lack of accountability among public officials (at times in collaboration with the private sector) poses a serious threat to democracy, human rights, and the rule of law.

Corruption and organised crime are undermining the fragile foundations of emerging democracies. Government leaders are not demonstrating a willingness to deal with the problems to cause much optimism for meaningful reform. But, failure to control corruption could spell economic, social, and political disaster.

There are alternative strategies for enhancing ethics in government and among public officials, including legal, organizational, and institutional frameworks which might be utilised to enhance ethics in the public service. These strategies are based on the view that reforms to safeguard public integrity are central to the survival of democratic governments because institutions based on sound ethical principles are necessary preconditions for stable democracies.

Further, these reform measures should be cost-effective. Select reforms, implemented effectively and enforced consistently, can provide an appropriate balance between compliance and integrity based approaches. Unfortunately, corruption is prevalent worldwide. It thrives under conditions of power monopolisation, and a lack of transparency and accountability.

Combatting corruption begins with better systems, more competition, and transparency and accountability in government. In line with this approach, anti-corruption strategies should focus on repairing institutions prone to corruption, involving people. They should take part in both the diagnosis and remedy of those ills and punishing major offenders.

Many countries experience conflict, cannot guarantee basic human rights, and witness a general breakdown of law and order. Under these difficult local conditions, public servants in developing and transitional countries are asked to accomplish the almost impossible (i.e. settle conflicts, rebuild nations, set up infrastructures, and develop prosperous societies) under extreme resource constraints. When basic needs cannot be met, talking about public service professionalism and ethics can seem a luxury.

Observing these problems, and having seen their costs to the socio-economic development, the Sub-Forum on Ethics on Gauteng, (under the auspices of the Gauteng Speakers' Forum - GSF) draws attention to the very important link between public service performance and development.

In view of the GSF mandate and that of the Sub-Forum on Ethics, the intents of the latter are to:

(i) Assist strengthen their governing and administrative capacities, and
(ii) Actively promote professionalism in accountability and ethics in the province's public service, and by extension, nationally.

All participating actors (i.e. Municipalities in the Province) should observe that:

a. The role of civil society organizations is crucial and growing in constraining unethical behaviour in the public service. They are crucial in the overall governance process;
b. The Launch had considered crucial and timely issues, not only for Gauteng by for South Africa too;
c. The GSF should consider developing an Ethics Board;
d. There is a need and interest in follow-up sessions on the same themes. This is today resembled in the thematic scope of our current interaction and ethical exchanges;
e. The values and goals of ethical governance which should guide public service reforms (i.e. rule of law, democratic control and accountability, transparency, professionalism, high ethical values, subsidiarity, and equal treatment of citizens) all remain unequivocally paramount;
f. Upholding professionalism in the face of short-lived, indecisive governance and inadequate resources remains a challenge.

In responding to the above, the Sub-Forum on Ethics has since come up with a Draft Program of Action to tackle difficulties face by public representatives. These could include, amongst others:

- Making training on ethics and accountability more practical and effective; and
- Focusing on managerial competence.

Collectively, we should further acknowledge that corruption and crime are problems common to all countries. We should equally not cease to discuss the various aspects of “ethics infrastructure” which would set in place the requisite legal and oversight framework, public service conditions, and training to minimize corrupt and unethical behaviour. Examining some of the actual cases of public service reform in the Gauteng and her regions, including the thinking of civil society organizations, their involvement, and how they contribute to promoting professionalism and ethics in the public service must be what continuously preoccupies us.

In Conclusion

The world may no longer be threatened by the cold war but must cope, instead, with escalating ethnic conflicts, spreading democratization and its growing pains, a shifting balance between the state, market, civil society forces, economic globalisation, and increasing demands made by better informed citizens. These global changes warrant a re-examination of the role of the state and the public service in sustainable human development. At the same time, many countries have large populations living under crushing poverty, where basic needs go unmet and vast numbers of people are unemployed or under-employed. Henceforth, the value in gathering to discuss common problems and different ways to approach them remains critical. This will enable professionalism in the public service where we will be anticipating to reform and improve our governance and accountability systems in the province of Gauteng.PB

The Utilisation of Social Audits to Enhance Oversight Capabilities of Provincial and National Public Account Committees on Public Financial Management and Accountability

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In the developed and developing countries, the role of civil society in holding government accountable has been recognised and encouraged. Civil societies and community-based organisation are better placed in conducting oversight as they can assess government services as they are close to the people. The partnership between Parliament and these organisations can provide a balanced approach to conduct oversight over the executive. Evidence shows that meaningful community participation and deliberation on all aspects of service delivery from budgets to contract specifications and performance reviews can significantly improve service delivery[1]. The importance of community involvement in oversight has given rise to social audits.

[1] International Budget Participation. 2014. A guide to conducting social audits in SA

A social audit is an accountability mechanism where citizens organise and mobilise to evaluate or audit government's performance and policy decisions. It rests on the premise that when government officials are watched and monitored, they feel greater pressure to respond to their constituents' demands and have fewer incentives to abuse their power. This shows that social audits have a role to play in enforcing evaluating and monitoring performance of institutions as well as enforcing accountability to citizens[2].

Social audits are a powerful tool for communities to engage constructively with government in contexts where formal participation spaces are largely dysfunctional5. A community-led social audit is a vehicle for community organisation and empowerment. It is also a process of serious investigation and participation in governance. Social audits offer a forum for communities to articulate their demands and turn public participation and democracy into a reality. In cases where there is a gap in Parliamentary oversight, social audits can assist in bridging that gap or work in collaboration with other formal oversight structures such as Public Accounts Committees (PACs) and portfolio committees.

[2] UNDP. 2011. Transparency and accountability in local government

Social audits are a powerful tool for communities to engage constructively with government in contexts where formal participation spaces are largely dysfunctional. A community-led social audit is a vehicle for community organisation and empowerment. It is also a process of serious investigation and participation in governance. Social audits offer a forum for communities to articulate their demands and turn public participation and democracy into a reality. In cases where there is a gap in Parliamentary oversight, social audits can assist in bridging that gap or work in collaboration with other formal oversight structures such as Public Accounts Committees (PACs) and portfolio committees.

These audits help to realise Constitutional Rights and build community power[3]. They promote active citizenship and help those who are most vulnerable to exercise their constitutional rights. In a highly unequal society, where so many live without access to decent health care, employment, or education, social audits create opportunities for communities to organise themselves and build community power. Additionally, social audits are channels for the poor and working-class to make their issues heard. In the face of unfulfilled promises of justice and equality, social audits allow communities to claim their constitutional right to participate in governance and improve government accountability and performance. In this way, community-led social audits can help the poor and working-class contribute to deepening democracy and improving the lives of all people.

Social audits are used to expose a particular issue in a community. If the legislature and government can follow up and conduct oversight on issues raised by social audits in particular communities, these can lead to change. Parliament, through its committees, is a vehicle to conduct oversight. Public Accounts Committees (PACs) and Portfolio Committees have a significant role to play in enhancing oversight capabilities and accountability over the use of public funds for municipal, provincial and national governments using social audits. However, the legislative sector as well as its committees have not dealt with social audits, these are ordinarily conducted by Civil Society Organisations. The current model of legislative oversight does not include the use of social audits.

[3] Ngifuna Ukwazi. 2015. Wolverivier Social Audit Report

There are various types of audits apart from social audits such as: financial audits, performance audits as well as audits related to compliance with legislation.

Financial statements produced by a government agency accurately portray the financial condition and activities of that agency. In contrast, social audits assess whether government records reflect the actual expenditure and delivery of services to communities. Thus, both financial and social audits scrutinise official government documentation related to expenditure and delivery.

In conducting financial oversight, PACs utilise reports of the Auditor- General (AG) and the financial statements which focus mainly on how funds have been spent by a department or a government entity. Currently, the AG expresses an opinion on reliability, validity of the information but no assessment is done on whether the reported non- financial information is true. This is where the social audits can enhance the work of Parliament and provincial legislatures. Social audits conclude with a public hearing where the audit findings are presented, often showing discrepancies between records and reality. Through these public hearings a community can hold government authorities to account. Legislatures only explore reality when oversight visits are conducted and sometimes during these, there is limited interaction with communities to verify information from the Executive.

Between 2012 and 2015, there were several social audits in South Africa (SA). These were mainly in Gauteng, Eastern Cape and Western Cape. Most social audits are in sectors that deal with basic human rights such as Education, Human Settlements, Sanitation, etc. Since 2013, communities in low-income townships across South Africa, supported by civil society organisations such as Equal Education, Ndifuna Ukwazi and Asivikelane, have conducted social audits in sanitation, refuse collection, school infrastructure, water provision, housing and more recently in mining-affected communities[4]. This work culminated in the formal establishment of the Social Audit Network in 2016, which supports the development of social audits across the country and serves as the coordinating body for training and capacity-building. In this section, some of the social audits will be discussed.

[4] Open Society Foundation in SA website. www.osf.org.za

Sanitation in Khayelitsha

One of the well documented social audits was conducted in Khayelitsha in 2015 on sanitation services. The City of Cape Town outsourced the provision and servicing of portable toilets to Mshengu, a private service contractor. Despite this development, Khayelitsha residents continued to experience problems with sanitation.

The social audit was undertaken by community members of the Social Justice Coalition (SJC) in Khayelitsha, Cape Town[5]. This case study illustrates the challenges for communities in ensuring government accountability and responsiveness. The audit involved interviews with janitors and residents as well as physical inspections of the toilets. Photo-documentary evidence was collected with more than 800 completed questionnaires.

[5] HSRC. 2015. Social audits: powerful community tools to ensure government accountability

Several significant Findings Came Out of the Audit:

- While the City of Cape Town contract with Mshengu indicated that 346 toilets would be delivered, the audit found only 256 (73%) toilets had been delivered.

- While the ratio of families to toilets was expected to be five, 26 families used one toilet (more than five times the ratio envisaged).

- While more than three quarters of janitors indicated that they worked during weekends, residents reported that only a third of janitors worked during weekends.

- 68% of the toilets were clean at the time of the inspection.

- 26% of the toilets were not in working condition, the common reasons being no water, could not flush, were blocked or had no sewage pipe.

- Just more than half of the janitors (52%) had the requisite tools and equipment to keep the toilets clean. This included brooms, bin bags, chemicals, brushes and buckets.

Lessons Learnt From The Active Citizen Engagement

The Khayelitsha case study brings to the fore several lessons in respect of enhancing active citizen engagement. These include:

- Social audits appear to be an important instrument for data collection, as well as for community mobilisation. Engaging community members as enablers and facilitators reinforces the notion of community-based and community-driven development and abandons the historical parachute approach to community development. It suggests that interventions must be designed to consider the specific context. Hence, decisions about which mechanisms and what approaches to utilise must be firmly grounded in the reality of the current context. This includes taking account of who must be involved and how.

- Evidence is not a sufficient guarantee that the state will be pressurised to act appropriately. The partnership between Ndifuna Ukwazi (NU) and Social Justice SJC, for example, provided the City of Cape Town with ammunition to dismiss the evidence and the campaign as being politically driven and attention seeking.

Equal Education in Gauteng

Equal Education is a South African membership-based community organisation, which recently begun conducting social audits. In February and March of 2015, they audited sanitation in 200 schools across the Gauteng Province in partnership with other community organisations[6].

In March and April 2015, Equal Education led an effort including 10 community-based organisations, 500 students, parents, teachers and grandparents belonging to the Gauteng Education Crisis Coalition in auditing the learning conditions of 200,000 students in over 200 schools in more than 20 communities in Gauteng – about 10% of the township schools in the province. This is one of the largest social audits in South Africa to date.

The audit found a sanitation crisis in schools. In 30% of the high schools audited, over 100 learners were sharing a single working toilet. One in 5 toilets were either broken or locked. About 70% of schools do not provide access to soap and 40% do not provide access to toilet paper or sanitary pads. Over 25% of schools have more than 400 students for 1 maintenance staff member. The audit also identified other issues like overcrowded classrooms, lack of access to sports fields, labs and libraries as well as the mass exclusion of learners with disabilities[7].

Human Settlement challenges in Wolwerivier, Cape Town

Skandaalkamp (also known as Frankdale) was an informal settlement that was established in the 1970s, 23 kilometres north of Cape Town, on the highway leading to Malmesbury. People from Skandaalkamp were relocated to Wolwerivier in 2014. However, several challenges were experienced. In October 2014, the city announced in a press statement that construction on 500 units at Wolwerivier had started.

Ndifuna Ukwazi conducted a social audit in 2015 which revealed that: -

- 51 residents who said that they were living in Skandaalkamp but had not been allocated houses in Wolwerivier.
- In some instances, the beneficiary list grouped adult boarders into the same unit as their landlords.
- Some distinct households, often consisting of adult relatives, were grouped together, Wolwerivier units only contain one open plan living space so meaning that people had no privacy and there was overcrowding for people with large families.
- The Skandaalkamp community was concerned that some established residents were not included in the survey and were not allocated units in Wolwerivier.

[6] International Budget Participation. 2014. A guide to conducting social audits in SA
[7] Ngifuna Ukwazi. 2015. Wolverivier Social Audit Report

When residents were moved, they lost their livelihood as vendors and working in farms close to Skandaalkamp. The place is far from industrial areas where people can find jobs. Unfortunately, the issues raised by the social audit were not attended to by the City of Cape Town and therefore not resolved.

The examples provided in the previous section show that currently, social audits are not taken seriously by the Executive. The involvement of the Legislative sector can enhance the effectiveness of such audits in ensuring that the Executive acts and rectifies the challenges and findings revealed by the social audits.

The few social audits which were conducted between 2013 and 2015 were mainly in Gauteng and Western Cape. Currently, there is a lack of research which shows that the Gauteng, Eastern Cape and the Western Cape Legislature dealt with these social audits. Based on the Sector Oversight Model (SOM) in the Gauteng Provincial Legislature, the Committees in the Legislature did not deal with the social audits. This implies that the Legislature must find a way of ensuring that the oversight model is inclusive of a way to process social audits. SCOPA in the National Parliament has not dealt with social audits reports.

Social audits complement the financial audits and can lead to greater effectiveness of oversight if both components are included in the oversight. Financial audits assess whether the financial statements produced by a government agency accurately portray the financial condition and activities of that agency. In contrast, social audits assess whether government records reflect the actual expenditure and delivery of services to communities. Both the regulatory audits and social audits can be utilised to achieve financial credibility as well as assessing government programmes' effectiveness and efficiency . The impact and benefits of social audits have not been realised in the SA legislative sector due to these not being discussed and processed by the Legislature. For the audits to be comprehensive, both social and regulatory audits must be considered.PB

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