

# Effective public involvement in the oversight processes of Parliaments and Provincial or Regional Legislatures

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## Introduction

The Parliament of the Republic of South Africa and the nine (9) Provincial Legislatures play an important role in the execution of oversight, in terms of legislative developments; implementation of laws; application of budgets; and the effective management of government departments, amongst others. Oversight by Parliament is at the core of good democratic principles, most importantly accountability. One cannot separate quality oversight from true and meaningful public participation, which my paper will be focussing on, as the oversight mechanisms are often the most important vehicles that facilitate public participation.

Public access and involvement in the National Assembly, National Council of Provinces and Provincial Legislatures are safeguarded in the South African Constitution (compare sections 59, 72 and 118 of the South African Constitution, 1996)<sup>1</sup> and, thus, lie at the heart of an open democracy. We know that various studies have been done on public participation in the South African legislative sector, of which the *Report on the Independent Panel of Assessment of Parliament, 2009*, is an important landmark. It makes clear and very important recommendations, which include aspects such as: public education, the development of a Parliamentary Public Participation Model; importance of feedback; and clear standards for public participation, amongst others<sup>2</sup>. These are very insightful and useful recommendations, not only for the South African legislative sector, but also for many other parliaments and legislatures to consider.

## Defining Public Participation

I think that we should be clear on what we mean by the term *public*, before we enter into a dialogue on effective public participation. For the purposes of this discussion, *public* refers to the general population or the ordinary citizens of the country<sup>3</sup>. In a diverse and complex society such as South Africa, we also need to acknowledge that the term public is inclusive and diverse in its very

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<sup>1</sup> Republic of South Africa (RSA). 1996. *The Constitution of the Republic of South Africa*. Pretoria: Government Printer.

<sup>2</sup> Republic of South Africa (RSA). 2009. *Report on the Independent Panel of Assessment of Parliament*. Cape Town: Parliament of the Republic of South Africa

<sup>3</sup> Merriam-Webster Online Dictionary. (2011). [o]. Available: <http://www.merriam-webster.com>. Accessed: 2 March 2012

nature. There should be, in this context, a focus on those who are confronted with poverty and lack access to resources, including children, women, people with disabilities and the youth<sup>4</sup>.

Public participation is a fundamental dimension of democracy<sup>5</sup> and an important factor in the strengthening and maturing of democracies<sup>6</sup>. The latter is of particular interest and importance in a young and prominent democracy like South Africa, and as I will indicate later in my paper good examples and opportunities are emerging, which, if nurtured, can set a trend and example on the Continent and internationally.

As indicated earlier, the South African Constitution asserts a participatory democracy, which calls for the active involvement and participation of the citizenry as well as more defined interest groups<sup>7</sup>. The International Association for Public Participation has developed seven (7) core values for public participation for use in the development and implementation of public participation processes. These are<sup>8</sup>:

1. Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.
2. Public participation includes the promise that the public's contribution will influence the decision.
3. Public participation promotes sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers.
4. Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.
5. Public participation seeks input from participants in designing how they participate.
6. Public participation provides participants with the information they need to participate in a meaningful way.
7. Public participation communicates to participants how their input affected the decision.

These values cut across all areas of public participation and can provide a useful benchmark for the legislative sector.

### **Access to information to ensure effective public participation**

Access to information is not only a Constitutional Right (section 32 (1))<sup>9</sup>, but an important pre-requisite for effective public participation in a manner that is meaningful for the majority of the "public".

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<sup>4</sup> Nzimande, B. 2003. *Public Participation, Socio-economic rights and NEPAD*. Keynote Address at The Conference on Public Participation: Growth through participation. Held in Durban 24 to 25 June 2003. Durban: Report of the Centre for Public Participation.

<sup>5</sup> Southall, R. 2003. *The Challenge of Public Participation in Africa*. Paper delivered at The Conference on Public Participation: Growth through participation. Held in Durban 24 to 25 June 2003. Durban: Report of the Centre for Public Participation.

<sup>6</sup> Scott, R. 2009. *An Analysis of Public Participation in the South African Legislative Sector*. Unpublished Master of Public Administration Dissertation. Stellenbosch: University of Stellenbosch.

<sup>7</sup> Scott, R. 2009. *An Analysis of Public Participation in the South African Legislative Sector*. Unpublished Master of Public Administration Dissertation. Stellenbosch: University of Stellenbosch.

<sup>8</sup> International Association for Public Participation. 2007. *IAP2 Core Values of Public Participation*. USA: IAP2

<sup>9</sup> Republic of South Africa (RSA). 1996. *The Constitution of the Republic of South Africa*. Pretoria: Government Printer.

Children, people with disabilities, people living in rural and/or under-resourced areas, and people with limited literacy due to the legacy of the past, have a need to get information timely and in a manner understandable and digestible to them<sup>10</sup>. An example that is very close to the organisation that I represent, UNICEF, is children's rights to information. Children, as part of the public, with an equally important right to public participation, need information that is presented in a manner that is understandable to them and takes into account their age and language ability, to ensure that they are able to participate in an informed manner and claim their right to have their views heard. This requires a willingness, commitment and resources to employ methodologies that will make information accessible.

The right to access of information in order to ensure effective public participation in the oversight processes of Parliament and Provincial Legislatures is essential, and vital, for those most marginalised and least likely to have access to the media, internet or other means of information sharing. The Commonwealth Parliamentary Association (CPA) Study Group on Access to Information in particular advises that Parliaments should "play a leading role in promoting access to information..."<sup>11</sup>. The Parliament of the Republic of South Africa has already established, as part of its core objective on public participation, that "information provided to the public remain a vital focus of Parliament"<sup>12</sup>.

Thus, access to information is critical to ensure **equity** in public participation, with an emphasis on the accessibility of information. Lack of access to information, or often the manner in which we present information can hamper effective public participation, or more concerning, it can become a way in which we exclude people, especially those most left behind and/or most deprived of having a voice to claim their right to participation.

## Opportunities for Effective and Meaningful Public Participation

The Parliament of the Republic of South Africa as well as Provincial Legislatures has some of the best mechanisms that can facilitate opportunities for public participation. I am going to highlight a few particularly from the perspective of the participation of children in the oversight processes. This is important in view of the Inter-Parliamentary Union (IPU) resolution adopted by consensus by the 122th IPU Assembly in Bangkok in 2010 on *Youth Participation in the Democratic Process*<sup>13</sup>. Though my focus is on children, it can similarly be applied to other groups.

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<sup>10</sup> Selebalo, H. 2011. Challenges to Public Participation in South Africa's Parliament. Cape Town: Institute for Security Studies.

<sup>11</sup> Mendel, T. 2005. Parliament and Access to Information: Working for Transparent Governance. Washington: World Bank.

<sup>12</sup> Republic of South Africa (RSA). 2006. *Manual of Parliament on Promotion of Access to Information*. Cape Town: Parliament of the Republic of South Africa

<sup>13</sup> Inter-Parliamentary Union. 2010. *Results of the 122nd Assembly and related meetings of the Inter-Parliamentary Union*. Geneva: IPU

Children have the right, like all other members of public, to participate in the oversight processes of Parliament and Provincial Legislatures. I wish to highlight the following reasons why Parliaments should involve children in its oversight processes<sup>14</sup>:

- *Children's participation improves Parliament's representative function.* Members of Parliament do not only represent adults, they also represent children. Children are part of their constituency. It enables Members of Parliament to know what the needs of children are, how children experience services and to make decisions within Parliament that are in the best interest of children.
- *Children's participation improves legislative outcomes.* Hearing what children have to say; their perceptions and experiences will have a positive impact on legislative developments; oversight of the executive and more equitable and effective budget allocations. It will place children at the heart of the oversight processes and improve services to children.
- *Children's Participation offers a long-term perspective.* Children's lives matter in the present, but also in the future. The participation of children may often help towards a longer term outlook, rather than a short term solution. For example in 2011 we consulted children on climate change as part of a research study on the impact of climate change on children. The children's views and visions were long term and future-orientated, as one child from rural Limpopo province most profoundly indicated: *"We are the future generation; we are the people who this global warming is going to affect. (...) We are the future scientists; we are the future doctors who are going to have to deal with diseases and our lives because of global warming. We are the people who are going to suffer; we are the economy that is going to suffer."*
- *Children's participation promotes civic engagement and civic education.* Children's involvement in public decision-making provides children with a real opportunity in civic education. It can enhance their social responsibility, and develop social, communication and civic skills. They engage as citizens in social dialogue, which benefits them, the legislative sector and public as a whole<sup>15</sup>.

The public participation of children in Parliament is growing across the globe. One example that comes to mind is the proposal that three learners presented in the Brazil's Chamber of Deputies on the dangers of using certain trucks as school transport, which was taken up by one congressman that sponsored the proposal, and which was ultimately approved by Congress.

Involving children through public participation requires special skills and knowledge on children's participation; ethical principles in children's participation; and most importantly an enabling environment<sup>16</sup>.

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<sup>14</sup> Inter-Parliamentary Union/UNICEF. 2011. *A Handbook on Child Participation in Parliament* Geneva: IPU/UNICEF

<sup>15</sup> See also: Jamieson, L, Bray, R, Viviers, A, Lake, L, Pendlebury, S & Smith C (eds). 2011. *South African Child Gauge 2010/2011*. Cape Town: Children's Institute, University of Cape Town

<sup>16</sup> Viviers, A. 2010. *The Ethics of Child Participation*. Pretoria: University of Pretoria. (Master of Social Work Dissertation).

There are many opportunities that can ensure and facilitate effective public participation of children in the oversight processes of Parliament and Provincial Legislatures.

Firstly, through the *Parliamentary Committee System*, both in the National Assembly as well as the National Council of Provinces, as well as in the Provincial Legislatures, children can have the opportunity to share their views or make submissions. It can create a safe, supportive and enabling environment. We know that in this very Parliament, the Portfolio Committee on Social Development heard the voices of children in the development of the Children's Act, and their opinions were given due consideration. In the Parliaments of Bahrain, Germany and Turkey, special child rights committees have been established that examine all laws, policies and government budgets from a child rights perspective; and they invite children to participate in their proceedings and provide testimony<sup>17</sup>.

Secondly, through *constituency work*, Members of Parliament and Members of Provincial Legislatures, have the opportunity to seek and enhance the participation of children. Children can be engaged in their natural spaces such as clubs, schools, churches, mosques, early childhood development centres, amongst others by MPs and MPLs to hear what the real issues are that children face on a day-to-day basis. Such opportunities are fairly easy to organise and can provide MPs and MPLs with real-time information to include in their oversight work in Parliament and the Provincial Legislature.

Thirdly, during the *budget processes*, whether the national budget or departmental budgets, MPs and MPLs can facilitate input from children by producing child friendly budgets (that children can understand); meeting with children; and requesting inputs from children (in writing or orally)<sup>18</sup>. A very good example is the Minister of Women, Children and People with Disabilities, Honourable Lulu Xingwana, Budget Speech in 2011, which also had a Child Friendly version and coincided with a workshop with children on what they expect from her Ministry's Budget. In Brazil, the Children's Participatory Budget Council in the State of Rio de Janeiro (Barra Mansa) was established in 1998 and enables the participation of children in the budgetary process, including the allocation of municipal funds<sup>19</sup>.

Fourthly, *Taking Parliament to the People* is a flagship public participation programme of the Parliament of the Republic of South Africa and most commendable. It is seen as vital to bridge the gap between institution and its citizens<sup>20</sup>. It takes the national legislature to most remote corners of the country and allows ordinary people to have the opportunity to engage with Members of Parliament or Members of the Provincial Legislatures. This provides a landmark opportunity to

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<sup>17</sup> Inter-Parliamentary Union/UNICEF. 2011. *A Handbook on Child Participation in Parliament* Geneva: IPU/UNICEF.

<sup>18</sup> Inter-Parliamentary Union/UNICEF. 2011. *A Handbook on Child Participation in Parliament* Geneva: IPU/UNICEF.

<sup>19</sup> Inter-Parliamentary Union/UNICEF. 2011. *A Handbook on Child Participation in Parliament* Geneva: IPU/UNICEF.

<sup>20</sup> Selebalo, H. 2011. *Challenges to Public Participation in South Africa's Parliament*. Cape Town: Institute for Security Studies.

ensure that special time and effort is made to include children and have them participate in the “Taking Parliament to the People”.

Fifthly, *oversight visits* by committees provide Members of Parliament and Members of Provincial Legislatures with the opportunity to engage children through public participation on specific issues.

Sixthly, another interesting development has been the establishment of *children’s parliamentary caucuses*, similar to the very successful Women’s Caucus that the Parliament of South Africa has, where like-minded Members of Parliament and Members of Provincial Legislatures can review all policies, budgets and legislation from a child rights perspectives and can meet with children in their constituencies or invite children to participate at Parliament. It allows members to bring a child perspective to their respective committee, no matter whether it is Finance Committee, Public Administration Committee or the Health Committee. Relatively close to home, the Zambian Parliament established the Zambian Parliamentary Caucus on Children with support from UNICEF and is open to all members of parliament. This caucus “aims to influence relevant national institutions to place children, in particular vulnerable children, at the top of the political and development agenda”. It also contributes to the strengthening of capacity of Members of Parliament in Zambia on child rights at all levels<sup>21</sup>.

### **In conclusion**

Effective public participation in the oversight processes of Parliament and the Provincial Legislatures safeguards and promotes citizens’ Constitutional right, but it also places an obligation on these institutions to provide feedback and share information in an accessible manner. More importantly, it allows the MPs and MPLs to identify and address *inequities* in the realisation of human rights of all citizens through the work of Parliament and the Provincial legislatures. Listening to and responding to those who are most vulnerable and with the least opportunity to have their voices heard, can build a true democracy and eradicate the inequality in South African society in the years to come. Though my focus has been on children this afternoon, what I shared applies to all those who are in need of a voice in the oversight process of Parliament, but are seldom given that voice. We all need to be custodians of democratic governance, especially as it increasingly becomes a foreign policy priority<sup>22</sup>.

I wish to reiterate the commitment of UNICEF to support Parliament and the Provincial Legislatures to enhance public participation in oversight processes, particularly as far as it pertains to children, through capacity development, sharing of information and the development of tools that will enhance this.

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<sup>21</sup> Inter-Parliamentary Union/UNICEF. 2011. *A Handbook on Child Participation in Parliament* Geneva: IPU/UNICEF.

<sup>22</sup> Sahgal, V. 2001. *The Importance of Quality Parliamentary Oversight: A Global Overview*. Washington: World Bank

I wish to conclude with a profound and inspiring quote from Mr Nelson Mandela. *“One way that we can build a better future for children is by empowering them through allowing them to speak up for themselves. Of course, we as adults have to guide them and to take ultimate responsibility but that is something quite different from patronising them. The rights of children must, importantly, include the right to be themselves and to talk for themselves.”*

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