

**THE SOUTH AFRICAN PARLIAMENTARY COMMITTEE SYSTEM
AND INSTITUTIONAL CAPACITY**

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DECLARATION:

This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the works of other people, has been attributed and cited and referenced.

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Abstract:

This study aims to provide an analysis of the factors which facilitate or impede the capacity of the portfolio committees of the South African National Assembly in the carrying out of the primary function of oversight. Parliamentary oversight presents itself as a key function of legislatures and further than this, serves as a primary indicator of the effectiveness of the legislature as a principle institution in the system of democratic governance. There has not been much contribution to the field of study of the committee system of the South African Parliament much less its institutional capacity. The dissertation conceptualised capacity as the “hard” physical resources available to the committees as well as the “soft” political environment in which the committee operates. The study made use of a number secondary documents relating to the work of committees along with data collected from interviews carried out with chairpersons and committee researchers. From an analysis of these variables in relation to a sample of committees, findings present a varied picture where capacity, in terms of both hard and soft variables, differ from one committee to the next. Overall committees differ from one to the next whether in terms of the scope of their oversight or their workload and this study found that capacity has to mirror these distinctions for effective oversight.

CHAPTER ONE

INTRODUCTION

1.1 Introductory Overview

Much media and public attention has been placed on the theatrics and boisterous character the National Assembly of the South African Parliament has come to adopt given the change in opposition dynamics following the 2014 general elections. Scant attention has been paid to the importance of the committee system behind the doors of the House of the National Assembly. Academically, there has not been much contribution to the field of study of the committee system of the South African Parliament much less its institutional capacity. This has been echoed by Barkan who stated that “few systematic studies exist of the South African National Assembly... it has attracted little scholarly attention” (2005:5).

This study hopes to contribute to the body of research looking at the South African parliamentary committee system by exploring the institutional capacity of the committee system. Barkan states that it has become common practice to broadly label legislative institutions as either “weak”, “strong”, “effective” or “ineffective” based on conventional wisdom (2005:1). This study wishes to build on the sentiments expressed by Barkan to essentially provide insight into the workings of the committee system based on the notion of structure and capacity of the committee system.

Although the South African Parliament fulfils important functions relating to the drafting, deliberation and passing of legislation as well as an important vehicle for public participation, this study has a specific focus on legislative oversight in the South African context. Parliamentary oversight presents itself as a key function of legislatures and, further than this, serves as a primary indicator of the effectiveness of the legislature as a principle institution in the system of democratic governance. The capacity of the South African legislature to carry out this vital function will form an integral part of this study.

The South African Parliament has effectively had 20 years to establish itself institutionally. The South African Parliament has effectively cemented its mark as a cornerstone institution of the country's constitutional democracy. The institution draws its powers firstly from the constitution – also the highest law in the land. The institution also has a vast array of rules developed through statutes which guide the work of the legislature and its committees.

On the other hand, this structural capacity is one half of the duality which any legislative committee system needs to operate optimally. One has to take cognisance of the political dynamics or the political capacity giving rise to committee performance. Given the fact that since 1994, parliament has been dominated, in terms of numbers of seats, by the ruling party, the African National Congress (ANC), it has become common opinion that the party has used its numerical strength to push through legislation, ratify executive decisions and generally quash opposition dissent. Academic and general opinion has largely been that the South African Parliament has become more of a “rubber stamp” than a robust check on the government of the day. Pinpointing certain instances, for example, the endorsement of the Arms Deal, the passing of the Protection of State Information Bill and the President failing to answer questions orally in the House in 2014, easily explains the conventional thought, to use Barkan's notion, of Parliament failing to use its teeth.

This study hopes to explore these complex and interesting dynamics comprising the institutional capacity of the South African legislative committee system in performing oversight. Through this exploration, it is hoped that the commonly held broad brushstroke perceptions around the South African Parliament are informed by meaningful insights and findings. Furthermore, it is believed this study will generate useful information and data on the complex committee system.

Although the literature review of this study will discuss the following in more detail, there are many international academic studies and papers looking specifically at legislative committee systems. Such bodies of studies and papers are lacking on the South African legislative committee system. More so, what is written on the case of South Africa is largely dated, which renders it of less use today. While there is a substantial body of research on oversight in the South African Parliament, not much of it is geared specifically toward looking at the committee system. In most work on

the South African Parliament, reference is made to specific committees without providing more detail or research into the operation or capacity of these committees to fulfil their mandates.

1.2 Background to the Research Problem

The idea for this study derived from a reading of Barkan's (2005) study on the South African National Assembly after ten years of democracy in terms of whether the institution was an emerging legislature, marking its autonomy as an independent arm of the state or rubber stamp for the ruling party.

In the paper, the author speaks of the importance of legislative capacity and pertinently highlights the disparity between the structural capacity of the South African Parliament and the political capacity in which the legislature is meant to flourish. Through some elaboration he reaches the conclusion that the conventional wisdom or slapping on of labels such as "rubberstamp" is not that easy and the case in South Africa is much more complex (Barkan, 2005). Although the paper makes reference to the committee system, most of the paper is written on the South African Parliament as a whole. What this thesis intends to do is build on this foundation laid by the Barkan paper and explore this capacity disparity further looking solely at the committee system of the National Assembly. Through this analysis, information would be generated on the operations and workings of the committees of the National Assembly specifically in the functional area of legislative oversight. After all, as stated by Murray and Nijzink (2002:63), "the most important work is done in committee(s)".

There is an important theoretical groundwork on which this study is based. To understand the discussion on institutional capacity, the dense theories related to institutionalism will to be waded through. It is necessary to look at primary assumptions engrained in the theory of institutionalism to give context to the institutional capacity of the South African legislative committee system. Subsequently, by looking at the theories underlying institutional capacity, this thesis will also substantially explore the critical theoretical assumptions behind oversight. By doing so, the discussion will also give an account of the rocky terrain of legislative-executive relations and the theory of the separation of powers which

cannot be divorced from a discussion on legislative oversight. Through this debate on the theoretical groundings and foundations, the study will also look at these assumptions through a useful comparative lens. There is a wealth of international literature from which to draw on which would certainly enrich this theoretical discussion and provide a thorough basis for the broader contextual dynamics to be discussed later in the case of the South African legislative committee system.

1.3 Research Questions

The primary research question forming the crux of this research study, reads: What are the factors which facilitate or impede the capacity of the South African parliamentary committees to perform oversight? The data collected in assisting in answering this question is limited to the last year (2013/2014) of the Fourth parliamentary term (2009-2014). The dissertation will also focus on the portfolio committees of the National Assembly as opposed to the select committees of the other House of the South African legislature, the National Council of Provinces (NCOP). There are a number of sub-research questions and associated variables that assist in answering the main research question and these are discussed in more detail below.

1.4 Committee Capacity

One of the key focused questions which this study will provide information on is a greater understanding of how the committees of the South African parliament work and operate in this current era of the country's democracy. It cannot be disputed that in any legislative institution committees are regarded as vital centres of power – the question remains in the case of South Africa whether portfolio committees specifically have strengthened or weakened as vital centres of power.

The study will further focus on the oversight work of the committees. The function of holding the executive accountable is indisputably a vital role the legislature fulfils. At this point in the discussion, it is important to look at the rich theoretical framework providing the basis for many assumptions regarding legislative oversight. While the separation of powers is the normative ideal for any democratic arrangement of government, research shows many democracies carry the function of separating powers out differently depending on varying forms of government. Looking into these

various assumptions relating to legislative oversight will be a key focus area of this study.

It is the capacity of the South African committee system to fulfil this function that forms the central point of analysis of this study. There is a vast and fascinating body of literature on institutionalism and theories on the institutionalism of legislatures specifically which this study will draw on to form a solid theoretical grounding for later analyses and discussion.

1.5 Conceptual Framework

As highlighted substantially throughout this introductory passage, looking at the institutional capacity of the South African committee system goes to the heart of this study. Furthermore, this study has conceptualised that institutional capacity is comprised of “hard resources” the committee system possesses along with the political system in which the committee system is grounded in. As mentioned the inspiration for this conceptualisation was drawn from the Barkan paper which highlighted the variables to consider when analysing the capacity of a fully developed legislature (2005: 2). Looking closely at these variables, which are also largely the overarching clustering of variables for the African Legislatures Project (ALP), it is observed that there is a clear distinction, as evident in the case of the South African National Assembly, between variables of a physical or structural nature, which this study has come to conceptualise as “hard” resources and then “soft” political resources which make up the environment in which committees operate. Conceptually, therefore, it is abstracted that both these factors make up the concept of institutional capacity in terms of the committee system.

At this point it would be useful to provide further insight into the sub-variables which comprise the overarching variable this study has conceptualised as “hard” resources forming part of capacity. As mentioned previously, these are the variables which lend itself to quantitative analysis such as variables relating to the financial and budgetary resources available to committees and to what extent such resources are managed autonomously. Under this variable, the sub-variable relating to parliamentary staff of committees is also conceptually important. The experience and quality of research and administrative staff provided to committees are integral to the functioning of

committees and so would form an important aspect of institutional capacity. Another such sub-variable under this half of capacity would be related to the physical infrastructure available to committees. This study makes reference here to designated space for committees to meet when required to, computers and technology, library and research services.

Similarly, there are sub-variables which comprise the complementary half of what this study conceptualises as institutional capacity – political dynamics. This overarching variable is not as simple to conceptualise, in terms of sub-variables, as the hard resources variable is. The sub-variables considered in terms of political dynamics are qualitative in nature. One sub-variable looked at would be the leadership of the chairperson. In the South African parliamentary committee system, chairpersons head committees and this leadership role is thus an important variable to consider.

The experience, background, holding of other positions in the political party and length in office, would be some of the factors to discuss within this particular variable. South Africa makes use of a Proportional Representation (PR) electoral system which impacts, arguably, on the behaviour of committee members and chairpersons so the effect of this on committee capacity would also be important to explore. In further detail, the PR system essentially means individuals owe their parliamentary seat to the party as opposed to a constituency-based system where an individual would be directly voted for to occupy that seat. The assumption then is that members toe the party line to retain his or her seat. Another sub-variable to delve into under the political side of committee capacity would be relations between the committee and the department it is meant to oversee. Essentially this amounts to looking at executive-legislative relations and if such affects committee capacity. Similarly, issues related to the turnover of committee members and chairpersons are also worth looking at as a sub-variable under political dynamics.

Formal rules and constitutionally-entrenched provisions ultimately give effect to the operationalisation of committees, or as van der Westhuizen neatly terms it, the scaffolding of Parliament (2014: 102). The South African parliamentary committee system is cushioned by a rich and extensive framework of rules and regulations which are intended to empower the functioning and execution of committee

mandates. As such, this consideration is an important factor in the institutional capacity of the legislatures and will be a key part of the discussion on the capacity of the South African committee system.

1.6 Research Design and Methodology

1.6.1 Type of Methodology Used

The type of methodology used was largely qualitative in nature in terms of the research design, units of analysis and the data that was collected for this thesis. The secondary research and data gathered to form the theoretical grounding of the dissertation is classified as desktop research, also qualitative in nature. As such, the analytical or discussion section of the dissertation is qualitative in nature.

As outlined earlier in the introduction, the institutional capacity framework of the study is set out in such a way that legislative institutional capacity can be polarised between “hard” resources or the physically tangible capacity legislatures possess and political capacity – the political will to carry out functions, political dynamics or the partisan environment in which the legislature operates - in other words, the aspects of institutional capacity which are intangible. In this polarised framework, the former half of capacity, the tangible resources, lends itself to somewhat of a quantitative indicator while the variables related to political dynamics, lends itself to more of a qualitative methodology. This will be elaborated on further in the discussion on the research design of the study.

1.6.2 Unit of Analysis and Sampling

The unit of analysis of this dissertation is that of the portfolio committee of the National Assembly of the Parliament of South Africa. I have elected to look specifically at the last year of the fourth and previous parliament. To explain, the fourth parliament commenced after the fourth general election in 2009 until it was dissolved prior to the national and provincial election, which took place in May 2014. This dissertation has gathered data and maintained a focus on the last year of parliament being in operation (2013/2014). Due to time limitations and to allow for a narrowed focus on committee work, the study period of one year was chosen.

This dissertation elected to develop a deliberate and purposeful representative sample of portfolio committees. Given limitations of time and resources, it would simply not be possible for this dissertation to look at all portfolio committees. The committee system of the South African parliament largely mirrors the arrangement of departments in the executive at the time. One way of ensuring a representative sample of committees was to peg this to how government departments are clustered in South Africa:

1. Infrastructure Development Cluster
2. Economic Sectors and Employment Cluster
3. Governance and Administration Cluster
4. Human Development Cluster
5. Social Protection and Community Development Cluster
6. International Cooperation, Trade and Security Cluster
7. Justice, Crime Prevention and Security Cluster

In order to reach as representative a sample as possible, it was decided that the committees chosen should as far as possible be allocated in each of the clusters.

Looking at the comprehensive list of portfolio committees and the departments or government ministries they shadowed at the time, three variables were elected on which to base the sample for purposes of it being as representative of the array of governance clusters as possible. The three variables investigated were:

1. Departmental budgets for the year 2013
2. Departmental staff complements for the year 2013
3. Number of public entities¹ the department was responsible for overseeing and which committees are also responsible for overseeing, for the year 2013

¹ A public entity is defined as a (a) national government business enterprise; or (b) a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is – (i) established in terms of national legislation; (ii) fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation; and (iii) accountable to Parliament (Public Finance Management Act, 1999: 6)

These particular variables were identified as important as they reflect the oversight burden of committees which have to track departmental spending, functions which are affected by staff size and legislative/policy mandates which are also shared by the public entities.

Looking at this information for the year under review for all government departments, it was decided, for the sample to capitalise on representativeness, it would have to be structured in such a way so as to include departments with the highest budget, staff complement and entities, those with the lowest numbers for all three variables as well as those departments located in the proverbial middle of the road or forming the averages for the variables investigated.

An initial sample was reached but difficulties were encountered during surveys and interviews with chairpersons. To qualify, the dissertation was based on the last year of the previous (fourth) parliament which was the year 2013 - 2014. After compiling the interview questions, the Fifth Parliament (2014 - 2019) had already convened and a number of chairpersons in the original sample of committees had left the national legislature. Attempts to reach chairpersons proved extremely difficult as they were no longer in Cape Town and were tied up establishing themselves in various other areas of work post-chairing in the National Assembly. After some thought, the initial sample was amended slightly in light of these difficulties in securing interviews and the current sample on which the dissertation is based is as follows:

COMMITTEE SAMPLE

CLUSTER	COMMITTEE	BUDGET (Final Appropriation)	NO. OF ENTITIES (Reporting to the Minister)	STAFF SIZE (Posts Filled)
1. Infrastructure Development	Energy	R6 503 billion	6	550
2. Economic Sectors & Employment	Trade and Industry	R9 515 billion	14	1286
3. Justice, Crime Prevention and Security	Correctional Services	R18 748 billion	0	41 825
4. Economic Sectors and Employment	Communications	R2 372 billion	7	333
5. Social Protection & Community Development	Social Development	R118 511 billion	3	678
6. International Cooperation, Trade & Security	Water & Environmental Affairs	R10 375 billion + R5 206 billion = R15 581 billion	16 + 4 = 20	7336 + 1588 = 8924
7. Justice, Crime Prevention & Security	Police	R68 791 billion	3	194 852

The above sample is still satisfactorily representative in terms of governance clusters as well as providing for a diverse basis through which to compare and contrast committees.

Once the sample was decided on, the dissertation sought assistance from the African Legislatures Project (ALP), run by the Centre for Social Science Research.

The purpose of the ALP was to undertake comparative research into the internal functioning of the African legislatures. Based on the project description, the ALP has one foot in academic research and another in practice. The project was guided by three overarching questions relating to the functioning of African legislatures, the development and transformation of African legislatures as institutions to support fragile democracies and what constitutes best practice for strengthening African legislatures.

In attempting to answer these questions, the ALP developed a range of measures to look at legislative performance in order to assess and compare African legislatures comparatively over time. This dissertation has made use of some of the variables utilised by the ALP in assessing the performance of legislatures in Africa – such variables included the structure of committees (for example, how many members serve on the committee), parliamentary staff (for example, if the legislature has a research unit, if IT services are provided to the legislature and if it has a library) and physical infrastructure of the legislature (for example dedicated office/meeting spaces). While the ALP focused on the legislature in its entirety, this dissertation focuses solely on committees of the South African parliament so only variables applicable to committees were utilised from the ALP. The ALP also developed a survey for Members of African legislatures – this dissertation made use of the questions posed in this survey for the interviews conducted with the chairpersons of the South African parliament. The questions related to members' background (chairperson in the case of this dissertation), the role of the member (or chairperson in the case of this dissertation) and parliamentary resources. While the ALP survey required MPs to select from various answers, the interviews this dissertation made use of allowed for qualitative answers by the respondents and were thus more open-ended.

The dissertation collected a variety of data to compile these committee worksheets which worked as useful "fact sheets" on basic information related to each committee in the sample. These fact sheets are attached in addendum to the dissertation. Detailed minuted reports were collected from the Parliamentary Monitoring Group (PMG) which provided useful accounts of the interactions of the sampled committees with departments and entities in various oversight-themed discussions and

considerations as well as the legacy reports produced by committees at the end of a parliamentary term.

To form the various chapters which relate to the literature review and other theoretical concepts, the dissertation collected a number of secondary research pieces and papers from both global and local academics and parliamentary commentators as well as previous work on the topic of this dissertation. Data was also collected about the formal rules and organisational structure of the legislature through a number of secondary sources such as the Constitution of the Republic of South Africa, Rules of the National Assembly and committee legacy reports

This data collected was complimented by interviews conducted with chairpersons and content advisers of the committees in the sample. Interviews were carried out with five chairpersons and five research associates (committee content advisers and researchers). Some of the research associate interviews were filled out via email while one, along with all interviews with the five chairpersons, were conducted in person. The interviews were held between the months of February and June 2015.

It should be stated however that for some of the surveys, interviews were conducted with chairpersons of the committees in the current Fifth Parliament due to the difficulties alluded to earlier in securing interviews with chairpersons who had not returned after the Fourth Parliament rose. These were only for two of the committees and it was discussed that the chairpersons were not new to the National Assembly having chaired previous committees or been MPs previously. The sample of committees were not amended to reflect this because it would have rendered the sample not as representative as it could have been, Difficulties were also experienced in securing interviews with content advisers and researchers of committees in the sample so it was elected to contact as many research support staff members as possible. As a result, a two of the interviews were conducted with content advisers who did not work on the committees in the sample but seeing as the interview questions were not very committee-specific, the responses were adequate for use. Again, the sample of committees were not amended to reflect this because it would have rendered the sample not as representative as it could have been. Although one researcher was interviewed, content advisers were aimed for as

they are the most senior staff member on the committee and so were assumed to be pivotal sources of information. Limitations were experienced with some chairpersons and research staff having moved on from the national legislature after the Fourth Parliament rose while further limitations were experienced with some research staff expressing unwillingness to participate in the interviews – these limitations prompted the interview of content advisers and researchers who were willing to participate. To reiterate, the sample was not amended in order to maintain its representative character and due to the interviews questions not being too committee-specific, the findings were not negatively affected.

The interview questions for research associates related mostly to resource and structural capacity probing opinions on sufficient capacity and support, committee budgets, other committee staff and physical resources. The interviews for chairpersons directly probed the backgrounds of the chairpersons before moving on to question issues relating to oversight and accountability, impediments to oversight, relations with the executive compliance and members through which to develop findings related to political dynamics. The chairpersons were probed on variables relating to structural resources in order to draw inferences on physical resource capacity.

Chapter Outlines:

Chapter Two:

This chapter will survey the relevant literature, both at local and international level, on institutional capacity of legislative committees. The review will look at what studies have addressed the question area of this study. Specifically the review will address the approaches, methods and evidence produced in the body of literature surveyed and importantly the main assumptions or conclusions reached. This chapter assists in establishing an important basis for comparative discussion and to set the scene for further debate on the theoretical framework to follow. The chapter will also consider relevant theories for studying legislative capacity. As highlighted in the introduction, when discussing legislative capacity, there is a large body of work contributing toward the relevant theories. This chapter will explore how the issue of legislative capacity was addressed by various papers and authors

particularly in terms of its link to institutionalism and then also challenges with this capacity.

Chapter Three:

In this chapter research design and methodology will be stated and discussed and the choice of such design and methodology will be qualified in detail. This chapter will elaborate on data collection methods, data analysis, research sample and population, data validity and reliability, ethical considerations as well as research constraints and significance of the research.

Chapter Three

Chapter three describes the hard resources making up one half of the concept of institutional capacity as envisioned by this dissertation. Discussion will be held on a number of subvariables falling within this variable using the committee sample explained earlier. The direction for the analysis is to consider findings related to how the various subvariables contribute to the institutional capacity of the South African legislative committee system. The central spotlight remains on legislative oversight and how the committee system is capacitated to fulfil this crucial function.

Chapter Four:

Chapter four is concerned with the complementary variable – political dynamics - forming the concept of institutional capacity as envisioned by this dissertation. Discussion will be held of a number of subvariables falling within this variable using the committee sample explained earlier. The direction for the analysis is to consider findings related to how the various subvariables contribute to the institutional capacity of the South African legislative committee system. The central spotlight remains on legislative oversight and how the committee system is capacitated to fulfil this crucial function.

Chapter Five: Conclusion

The concluding chapter summarises the findings of this dissertation as contained in chapter four and five, returning the discussion to some of the research questions posed at the beginning of this paper and overall making key closing observations on the discussion of institutional capacity.

Summary

This introductory chapter has established the conceptualisation of institutional capacity in the case of the committee system of the South African legislature. The primary thought behind this concept is that institutional capacity is a two-fold notion comprising of hard resources on the one hand and political dynamics on the other. Oversight is one of the salient functions of any legislative institution and it is the objective of this dissertation to draw critical conclusions on the institutional capacity the committee system of the National Assembly of the South African parliament to carry out this essential function. This chapter has established the overall framework from which the analysis contained in this dissertation will develop. The introduction has also covered research design and methodology and qualified the choice of design and methodology. It has also elaborated on the sampling method, data sources as well as constraints.

CHAPTER TWO

Reviewing the Literature on Legislative Oversight

The aim of this chapter is to provide an understanding of the conceptualisation of institutional capacity as it relates to legislative committee systems. This chapter also has the purpose of reviewing and presenting studies and research, both locally and internationally, on the ideas of institutional capacity in terms of legislative committees with a specific focus on the oversight role of legislatures. The main thrust of reviewing the literature in this chapter is to establish the general assumptions, findings and conclusions drawn in terms of institutional capacity of legislative committees as is in line with the theme of this dissertation

It seems fitting that this review chapter be kicked off by looking at the study from which this dissertation draws its inspiration – Joel Barkan looking at the South African National Assembly after ten years of democracy and if the institution could be named an emerging legislature or rubber stamp (2005). Barkan sets off his research by highlighting the salient variables which make any legislative institution, in essence, powerful especially when compared to executive bodies which they oversee. He outlines that a functioning legislature needs to be grounded in formal rules, offer competitive salaries to its members (so that they do not rely on clientalism), resources, the divide of seats between the ruling and opposition parties and the party political composition of the legislature (2005: 2).

Barkan then goes on to discuss the structural and political context of the South African National Assembly (Barkan's unit of analysis in this paper) as an exception to other African legislatures. He notes "few systematic studies exist of the South African National Assembly. In marked contrast to South Africa's constitution and electoral system, the national legislature has attracted little scholarly attention" (2005: 5). Before he outlines his research findings and analysis, the author clearly sets out the main assumptions (or what he terms "conventional wisdom") of the South African National Assembly. These assumptions include that the institution is weak and serves as a mere rubber stamp even though it has all the "formal accoutrements" of a developed legislature i.e. a broad committee system, established rules, supporting staff and advanced physical capacity (Barkan, 2005: 5). To further contextualise,

Barkan bases his “conventional wisdom” assumption on the fact that South Africa is, or at the time the paper was written, a one-party dominant political system. Furthermore, members of the National Assembly are elected via a closed list PR system – this prompted members to always act in line with party allegiances. Added to this was the fact that the ANC (dominant party) was largely centralised under the leadership of previous President Thabo Mbeki – this extended to ANC behaviour in Parliament and the general “culture” of parliamentary politics at the time (Barkan, 2005: 6; 7 & 11). This centralised culture has changed substantially since 2006 and no longer comes to characterise the legislature, or ANC caucus, in the current context.

After debating further political dynamics especially around internal politics of the dominant ANC and the electoral system used, Barkan finds there is more to the conventional wisdom of the South African National Assembly than assumed. The author then comes to explain the framework of the paper by laying out what institutional capacity comprises of. This includes a host of variables relating to the training of members, how active members are in committee, effective leadership by the chairperson, support staff, financial resources, technology and physical infrastructure (Barkan, 2005: 14).

This study found the conceptualisation of institutional capacity as defined by Barkan, an interesting stepping stone to use for a current discussion of the capacity of the South African committee system as the Barkan paper is quite dated. I say this because not only was the paper written more than 10 years ago but many of the assumptions Barkan based his conclusions on, as described earlier in the review, has changed. For example, parliamentary politics and the growth of the opposition in Parliament are starkly different to what it was in 2005 and the centralised culture of the ANC, as discussed by Barkan has changed.

Where Barkan makes reference to the National Assembly in its entirety, this study intends to use the framework laid, draw on it and apply it to committees specifically to allow for a narrower and more focused discussion. In looking at the variables analysed by Barkan, this dissertation came to find that some of the variables lent themselves to a more structural analysis of capacity based on “hard” findings. This was compared to other variables which fell into a category which was more political

in nature and so lent itself to an analysis of “soft” findings. Whereas Barkan does not disaggregate his findings along such lines, it would make for interesting discussion to contrast the “hard” to the “soft” variables. Furthermore the study aims to build on the analysis of the conventional wisdom of the South African legislature and to challenge simple assumptions made about the capacity of the legislature and specifically its committee system.

Barkan concludes that the answer to the question of whether the South African National Assembly is a rubber stamp or emerging legislature is ambiguous at best and depends on how one views the discussion outlined (2005: 20). These are points on which this dissertation hopes to build.

A paper looking at African legislatures collectively in terms of an analysis of institutional capacity and public perceptions is that belonging to Nijzink, Mozaffar and Azevedo (2006). The authors find that the existing literature on African legislatures tend to review these institutions uniformly instead of being cognisant of cross-national nuances (Nijzink *et al.*, 2006:4). This is potentially due to the fact that not much is written about individual African legislatures, according to the authors, and that there are a number of internal dynamics, variables and factors to consider about African legislatures before assumptions can be made about the legislative capacity of the continent broadly. The authors note that these dynamics are linked to varying constitutional provisions and formal rules, internal structure of the legislatures and available resources (Nijzink *et al.*, 2006: 4). Furthermore, the authors discuss that poor conclusions are drawn about Africa legislatures because studies fall short in providing criteria against which to analyse or measure the institutions in terms of key legislative functions (Nijzink *et al.*, 2006: 4).

In their observations on the capacity of African legislatures, the authors note that Africa has a varying picture of capacity as it could be determined by the diverse development trajectories of countries. Analysis by Nijzink *et al.* find that a country like South Africa received support from donor programmes and international organisations which went a long way in propping up the legislative capacity of the country in the early 90s. This is in contrast to, for example, the parliaments of Cameroon or Swaziland which lacked this “support to strengthen their institutional capacity” (Nijzink *et al.*, 2006: 5). The authors further remark that African legislatures

have differing access to resources, power and autonomy which impact on legislative capacity. To make this point, the parliament of South Africa again is juxtaposed in terms of resources to that of Malawi - the former is relatively well resourced in terms of extensive office space, support staff of the legislature and a substantial budget while the latter worked from temporary office space and lacked adequate support staff (Nijzink *et al*, 2006: 6).

Legislative capacity in Africa also varies according to the size of the institutions from country to country where the spectrum would range from 63 members in Botswana to a 400-member strong legislature in South Africa. The authors elucidate that the size of the parliament primarily influences capacity in that human resources are one of the most important components of capacity – members have skills and, simply put, the more members there are, the more legislative work can get done (Nijzink *et al*, 2006: 7). Further analysis of the paper brings to the fore the fact that resources and member-size of the legislature are intricately tied – legislatures with larger member numbers have the resources to sustain those members. These resources relate to funds to cover salaries, employ more staff and ensure an adequate working environment. African legislatures with far less members lack that particular resource as well as other structural and financial resources (Nijzink *et al*, 2006: 7). The Nijzink *et al* paper was useful for exploring potential variables to use in the discussion of legislative institutional capacity such as resourcing and size of the legislature in terms of members. The paper was also constructive when looking at powers conferred to African legislatures as informed by constitutional design.

Capacity is a wide area in which there lie many definitions and varying conceptualisation of the term. Bagenholm put forward that capacity is closely related to performance and capability where effectiveness, efficiency and efficacy are the trio of terms often used to discuss this capacity (Bagenholm, 2008: 25). This is further used in reference to outcomes or outputs or where there is some result to talk of. For the effectiveness of outcome-related activities then, some capacity is needed for the institution to be able to perform (Bagenholm, 2008: 25). The paper rightly outlines that there are then various indicators of capacity, which vary depending on the study in question, and from there, findings or assessments could be made about institutional performance (Bagenholm, 2008: 26).

This conceptualisation is complemented by Krause who discusses legislative capacity as the means through which the institution carries out its primary functions and roles. Such a characterisation is useful because it makes the distinction that a legislative institution could be emboldened through legislative rules or empowered through the constitution but then could lack the means, or capacity, to effect its functions optimally (Krause, 2003: 6). To further build on this conceptualisation, Krause is ultimately outlining that legislative rules and constitutional provisions are the tools at the disposal of committees while capacity is the capability or means through which the conceptual tools are used. There is then often a disjuncture between the committees having the power to effect change and the capacity to in fact do so.

Nijzink *et al* also offer a useful conceptualisation of capacity as “the instruments that give parliaments the potential to exert influence and perform their main responsibilities of law-making, oversight and representation” (2006: 6). This is further specified as the powers and the extent of autonomy the legislature enjoys and then the physical resources, namely, infrastructural, financial and human resources, which the institution can make use of (Nijzink *et al*, 2006: 6). In unpacking this further, Nijzink *et al* conceptualise capacity as the means or the space in which legislative committees carry out their salient functions and influence political/government decisions or actions. Effective capacity in this sense is dependent on material resources and autonomy/power to act. The paper outlines that the physical resources relate chiefly to research and administrative support (human resources) and office space while political autonomy as a resource is thought of as constitutional design and executive-legislative relations (extent of the separation of powers).

Capacity is commonly associated with physical resources particularly in terms of infrastructure, equipment and human resources but in the case of legislatures, political capacity is a vital component of ensuring that legislative committees fulfil their mandate. Norton argues that physical resources and support staff do not necessarily ensure a function is executed or in fact “may count for nought if they [parliamentarians] lack the will to question and challenge the executive especially if their party is in power” (Norton, 2011: 7). Resources and the political will to execute

functions are thus equally vital components of legislative capacity. In analysing the paper further, Norton states that political will is a critical component of the capacity of committees as it is a means to effectively carry out essential functions and influence policy or decisions taken by government or the executive. Members of committees have to possess the determination to carry out the task of maintaining oversight and accountability – the legislative function this dissertation is focused on (Norton, 2011: 7). Norton makes the point that political will and adequate resources work hand in hand when conceptualising legislative capacity (2011: 8).

Institutional capacity is the foundation of the legislature and its committees so then it could be argued that where this capacity is lacking, the adequate execution of the institution's mandated functions is compromised. Legislatures are often viewed as strong or effective when there is sufficient capacity to enable the institution to fully carry out its core functions. Capacity is then essential for institutional functioning and is the base from which all legislative action springs.

2.1 Constitutional Framework: Oversight in the case of the South African Parliament

The progressive South African Constitution outlines the primary responsibilities of the legislature as being threefold – passing of legislation, providing a national forum for the consideration of issues and scrutinising and overseeing the executive. While the Constitution does not speak specifically to committees as such, it provides the institution with powers through which to conduct its responsibilities. In terms of legislative oversight, section 55 highlights the National Assembly must ensure all executive organs of state must be accountable to it and to maintain oversight of these executive bodies. The subsequent section speaks to the fact that the House and its committees have the right to:

- a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;
- b) require any person or institution to report to it; and
- c) compel, in terms of national legislation or the rules and orders, any person or institution to comply with a summons or requirement in terms of paragraph (a) or (b)

These powers and constitutional provisions function to empower the legislative committees to fully execute its mandate of oversight for the ultimate aim of accountability. Academics and commentators, such as Nijzink & Pombobo², remark that these powers are simply theoretical and appear ideal on paper but it could be argued that this does not negate the fact that those powers do stand and could be used should a committee require it. This provides a solid base from which capacity is built on and clearly lays out what is expected from the executive and what can be expected if there is non-compliance. This is reinforced by section 92 (2) “Members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their function” and 92 (3) “Members of the Cabinet must - (a) act in accordance with the Constitution; and (b) provide Parliament with full and regular reports concerning matters under their control”. In its discussion on this section, Corder, Jagwanth and Soltau highlight that executive responsibility is brought to the forefront and this responsibility to be held accountable by the legislature is enforced by the highest piece of legislation (1999: 14). There is a two-sided dynamic at play here that Corder *et al* underscore in that as much as these constitutional provisions emphasise the importance of executive accountability, on the other hand, there is a “corresponding recognition that the National Assembly has a constitutional obligation to scrutinise and oversee executive action” (Corder *et al*, 1999: 14). This point is further clarified when the authors explain a court would usually not compel a minister to resign for mismanagement of his or her portfolio without the legislature putting the framework in place to hold the executive member accountable in such respects.

In reviewing the literature on committee effectiveness, Honeyman highlights Larkin who finds that analysis of committee systems must be cognisant of the powers available to legislative committees such as whether committees can instigate enquiries or set its agenda without interference – such characteristics are the cornerstone of what are considered effective committees (Honeyman, 2013: 7). In thinking of this paper further, positive connections are drawn between committee effectiveness and the extent of powers conferred to it. It is from this starting point

² Nijzink, Lia & Piombo, Jessica. 2004. “The Institutions of Representative Democracy”. *Centre for Social Science Research (CSSR) Working Paper No. 58*. Page 6. Retrieved: 10 June 2015 **From:**

that this chapter will consider and discuss the network of powers, rules and provisions embedding portfolio committees as the nucleus of the institution.

Unpacking the concept of legislative oversight

In my understanding, at its most basic core, oversight is one of the paramount functions of legislative institutions and drills down to the very crux as to why legislatures were established and designed. Oversight is conceptually grounded in its very name – the legislature keeping a watchful and scrutinising view over the executive and government action to ensure there is good governance and transparency, public funds are being used appropriately and that generally the will of the public is represented. With oversight being a primary function of the legislature, holding government/executive accountable, accountability is the tool through which oversight is carried out – oversight and accountability are thus intrinsically linked. Accountability is thought of as putting oversight into action – oversight is carried out by the legislature when it holds the executive/government answerable or responsible for, example, a particular policy developed, how public funds were utilised or why a certain appointment was made in a public entity. The legislative committee system is a key conduit through which oversight plays itself out as it is in committee that Ministers and government officials are directly held responsible. In essence, much of the work of the legislature is rooted in the function of maintaining oversight – Friedberg and Hazan highlight the definition of oversight as captured by Ogul (1976) “[oversight is] behaviour by legislators and their staffs, individually or collectively, which results in an impact, intended or not, on bureaucratic behaviour” (Friedberg and Hazan, 2012: 3).

Understanding and conceptualising the web of legislative oversight, accountability and responsibility is coherently dealt with in the Corder Report, on parliamentary oversight and accountability, when the authors frame oversight, as a function of the legislature, as grounded in the separation of powers. To carry out the function optimally, the institution requires specific powers -primarily the power to hold the executive accountable. It is acknowledged that the legislature is conferred extensive powers but the many ways in which these powers are used and the execution of the function of oversight, varies (Corder *et al*, 1999: 3). The Report posits oversight as the “monitoring or review of actions” (1999: 2).

The scope of legislative oversight by the South African parliament over public institutions and organs of state was addressed in a 2006 study by the Human Science Research Council (HSRC). The study made a number of pertinent remarks in reference to oversight and accountability particularly linking it to provision and access to information (HSRC, 2006: 10). Further discussion shows that accountability is effective when truthful information is made available to legislators, and ultimately the public, and it is through this provision of information that the legislature keeps the executive/government accountable for what it says it has done (HSRC, 2006: 10). The report cites Coghill who argued that “the flow of information was the lifeblood of accountability” (HSRC, 2006: 11).

The aim of the report is to strengthen the role of parliament in performing its oversight mandate and ensuring accountability specifically in reference to organs of state. The report situates itself in discussion on oversight and accountability and how it can best be understood and for this it extensively quotes the Corder report. The report also makes a compelling argument that “legislative oversight is largely an instrumental means designed to ensure as well as influence executive accountability”. Ultimately that translates as oversight being part of the core rationale and deeply rooted in how legislatures are designed – this oversight function is there to ensure the executive is accountable, answerable and responsible to the legislature. This is useful to state because, as the report goes further to elucidate, the quality of executive accountability is an almost direct reflection of the strength of parliamentary oversight (HSRC, 2006: 10).

Oversight in the case of South Africa has also been written extensively on by Judith February - in one article she finds that the institution has carried out this pertinent function patchily at best (February, 2006: 2). She also makes specific reference to committees of the National Assembly that tie in with existing arguments, namely, that some committees exercise its oversight responsibility with greater vigour than others (February, 2006: 2).

The legislature in itself is not absolved of accountability – the Constitution clearly outlines that the legislature is comprised of public representatives having acquired their seats in a democratic election. These representatives are accountable to the

electorate - this responsibility is one of the primary drivers for executing the mandate of oversight (Corder *et al*, 1999: 10).

Although not within the scope of this study, there is also a body of empirical studies into legislative oversight at the provincial level and, as cited in a Human Science Research Council (HSRC) report into organs of state accountable to and overseen by parliament, the executive is undoubtedly accountable to the National Council of Provinces (NCOP) and the Council has a significant oversight role to play as part of an intergovernmental framework (2006: 7 - 8). Furthermore, the Report outlines that the Constitution speaks to the executive being accountable to Parliament as a whole – as Parliament is comprised of two Houses, the function of oversight does include the NCOP and the executive is as accountable to the Council as it is to the Assembly (HSRC, 2006: 7). The Report also points out that the oversight function of the NCOP is unique in that it holds the executive/government accountable in terms of particular provincial interests as is the rationale for the establishment of this House (HSRC, 2006: 7).

Rapoo has written on rating the effectiveness of legislative oversight methods and techniques at provincial level where a number of interesting observations were made. The paper makes the point that oversight techniques utilised in the provincial legislatures can be grouped into two broad camps – “house based” or internal oversight such as scrutinising annual reports and performance plans and then “fieldwork” oversight techniques which pertain largely to oversight trips to physical sites. Rapoo highlights that provincial legislatures have used both methods of oversight to “varying degrees” (2004: 3). There are both positive and negative aspects of each oversight method but Rapoo finds that the provincial legislatures make more use of “house based” techniques (2004: 4). He says that this is due to constraints faced by the legislatures given the Westminster-based system and that the “executive has tended to dominate the legislature...[which] tends to render the legislature institutionally weaker than the executive” particularly at the provincial level (Rapoo, 2004: 5). Furthermore, provincial legislatures lack the resources to conduct comprehensive “fieldwork” oversight. Useful for the findings to follow in this dissertation, Rapoo also makes reference to institutional relations between the executive and legislature especially in relation to asymmetries of resources,

particularly information – such structural dynamics impacts the provincial legislatures as they do the national legislature.

In terms of an analysis of the findings of the most effective techniques of oversight as rated by senior public service officials, the method which allows for departmental officials to appear directly before the legislative committee is deemed highly effective because of the direct line of oversight and accountability it is perceived to carry (Rapoo, 2004: 13). This is due to the nature of such in-house meetings where senior officials and the executive appear directly before the committee, are obligated to answer questions there and then and submit reports and required information for the committee to use to fulfil its mandate of oversight.

2.2 Oversight as a dynamic in legislative-executive relations

Oversight is mandated to legislatures as part of the check and balance system which stems from the separation of powers between the three branches of state (Corder *et al*, 1999: 3). Shephard (2004) writes that in parliamentary systems, usually those of Westminster character, oversight is constitutionally set out owing to the blending of executive and legislative branches of the state. Calland (2006: 62) makes reference to Walter Bagehot, who when writing of *The English Constitution* (1867) states, “the efficient secret of the English constitution may be described as the close union, the nearly complete fusion, of the executive and the legislative powers...A cabinet is a combining committee – a hyphen which joins, a buckle which fastens, the legislative part of the state to the executive part of the state. In its origins it belongs to the one, in its functions it belongs to the other”. This is starkly juxtaposed against a presidential system, of which the US Congress is a prime example, where the legislative and executive branches are elected separately and function completely independently of each other. The differentiation is neatly laid out by Calland who explains that “[T]he Westminster system does not offer a true separation of powers between executive and legislature - it separates functions rather than powers” (Calland, 1999: 8). This is significant for this study because it lays bare the dynamics at play when discussing oversight and accountability in the South African legislature due to its Westminster roots and institutional design. Friedberg and Hazan argue that this design “greatly weakens” legislative oversight (2012: 8). They further state that this structure makes for a “reactive legislature” given the weakened oversight

function as compared to the “infinitely stronger oversight evident in a presidential democracy” (Friedberg and Hazan, 2012: 9 & 10).

Calland outlines that the differentiation of systems holds different assumptions for the “power relations between the legislature and the executive” (Calland, 2006: 46). The executive is viewed to, more often than not, dominate the legislature because of clear resources imbalances or asymmetries. As elaborated on by Calland, this is often discussed in terms of expertise, resources and budgets (Calland, 1999: 8). This is a point which this study will discuss in greater length in subsequent chapters in relation to the South African parliamentary committee system.

To attempt to tie these strands laid out together, parliamentary oversight fulfils an essential democratic function of being a check and balance on executive power and authority. The idea of parliamentary oversight functioning as an effective check and balance is met with the idea of ensuring accountability – of the executive by the legislature through mechanisms of oversight (Corder *et al*, 1999: 9). Senay and Besdziek (1999) interestingly remark that the function of effective and thorough parliamentary oversight over the executive is emphasised because of the intimate connection between the executive and legislature in the case of South Africa - because of South Africa’s Westminster roots and the constitutional design of fusion between executive and legislative arms of the state given that they both originate from the legislature, this fusion further emboldens the *need for* parliamentary oversight to ensure the legislature keeps the executive in check. Besdziek and Senay state that in the US system, because there is already such a strict separation of powers between the executive and legislature, the check and balance function occurs more organically (1999).

An assumption and point made that repeatedly makes itself clear when reviewing the body of work on legislative committees and oversight, as is the case with the South African literature, is that the executive tends to be better resourced than legislatures. This is so in terms of financial resources, human resources, infrastructure etc. This has come to skew executive-legislative relations where access to resources arguably leads to the common assumption that the executive is the more powerful of the two institutional arms of state. The point is highlighted by Alabi who states that “the US Congress, like all other legislative bodies in the complex world of the 20th century,

declined relative to that of the so-called executive branch of government” (Alabi, 2009: 234). This decline, Alabi argued, was in part due to strengthening cabinets and executives, and in the case of the US, a President with veto power and power to make policy decisions (2009: 234). He goes on to say that this assumption has also displayed itself in the less developed parliaments of Africa citing the examples of Uganda and Nigeria. The Alabi paper on legislatures in Africa highlights legislative-executive relations and how these dynamics play themselves out in different institutional designs – pertinent assumptions are made which applies to this dissertation in its discussion on findings particularly in relation to political dynamics, for parliamentary committee capacity. The paper also forms part of the literature reviewed by this dissertation in establishing the general assumptions of legislative capacity.

Alabi states that not only are executive arms of the state more superior compared to the legislative in terms of significant resources and access to funds, but also in terms of infrastructure and training (Alabi, 2009: 239). A fascinating point made in this piece is that it has become commonplace that while legislatures and their committees remain the face of robust, functioning democracy, it is more so in a figurative way as opposed to the reality where the executive disproportionately tilts the scales in power relations between the two arms of the state (Alabi, 2009: 240). Speaking specifically on the legislatures in Africa, this argument is centred on the premise that while these legislatures have well-designed constitutional powers to carry out their functions effectively, they fall short on possessing the capacity to carry out these functions as theoretically intended. The executive however is not lacking in this capacity. This gives rise to the “relative institutional dwarfing” of the legislature by the executive (Alabi, 2009: 239). This complements the firm assumption that while legislatures are grounded in formal statutes, rules and constitutional frameworks (where the symbolic power comes from), it is in fact the executive that enjoys access to a far wider range of resources and budget and this is where the authentic power lies in the relationship.

This point is further illuminated in the conclusions made by Baldwin in terms of scrutinising legislative weakness and strengths where he states that “the reality of the position today is that real power resides in the executive – not in the legislature”

(Baldwin, 2006: 297). To provide some substance to this point, Baldwin outlines that not all legislatures can be painted with the same brush due to differences, mainly, in-political factors such as whether policy or legislation is made by the executive or the legislature or whether the institutional design is presidential or parliamentary and electoral factors such as the electoral arrangement used in composing the legislature, and a host of other variables, has effects and plays itself out in relations between the executive and legislative arms of the state and how robustly the functions, namely, oversight, are carried out. Baldwin states the above outlined varying factors influences how the legislature behaves (2006: 299). Therefore, “[I]t is only by taking into account all such variable factors at any given time that one can assess the nature and status of the relationship between the legislature and the executive and determine whether it is the legislature or the executive that has the upper hand” (Baldwin, 2006: 300).

It should be noted that Baldwin makes this argument in specific reference to the function of policy making. He uses three categories of executive-legislative relations in terms of the legislature’s capacity to influence policy. Policy making legislatures are stronger than the executive because the legislature itself proactively initiates policy (like the US Congress) while policy-influencing legislatures, legislatures with minimal or marginal policy effect and legislatures with no real policy effect, are overshadowed or dominated by the executive. These two last categories of legislatures vary between simply amending or rejecting executive policy (e.g. the British Parliament) or having no choice but to agree to executive policy (e.g. People’s Republic of China and North Korea) (Baldwin, 2006: 295 & 296).

A point that Baldwin makes which I had not come across in reviewing the literature for this study and which may contribute towards explaining why executives seem to tilt the scales of power with legislatures, is that more and more, voters are turning to executives in presenting solutions to issues or challenges (Baldwin, 2006:301). However it is important to bear in mind that, especially as this dissertation moves on, relations and the balance of power between the executive and legislative institutions is a multifaceted one and concerns a myriad of variables. To elaborate using the Baldwin paper, the author argues that the executive-legislature relationship is influenced by variables such as whether institutional design is presidential or

parliamentary, the electoral system made use of, the unity and quality of the opposition and general party politics (2006: 299 & 300).

Baldwin writes that the relationship is not plainly polarised where it could simply be said that one institution is more powerful than the other or holds the upper hand i.e. there is not “total insubordination” and the legislature is still able to influence actions (Baldwin, 2006: 301). Analysis of executive-legislative relations must then be informed by a discussion of such influencing variables as outlined above.

The point could also be made that much of the literature reviewed here tends to focus on the committees of the United States Congress and those of the British Westminster Parliament, and to an extent, those committees of the Commonwealth, namely, Australia, who embody the Westminster character. This is attributed to that fact that the US Congress is characteristic of a presidential system and Westminster legislatures are typical of parliamentary systems. Another point elucidated is that the committee system of Congress is widely studied because it is so vastly different from the legislative committee systems of other countries. Furthermore “it should be emphasised...that the committee system in American Congress is not only the strongest system in the present study; it is by far the strongest” (Shaw, 1998: 227). The theory of the separation of powers is central to understanding parliamentary oversight. The theory has its roots in the postulation that there needs to be an effective separation of the three arms of state, namely, the executive, legislature and judiciary. Strictly speaking, the legislature creates legislation, the executive provides the means for legislation to be put into action and the judiciary puts the legislation into force (Calland, 1999: 8). This essentially means that there is a neat division between the three arms of state in terms of structure, function and authority. The theory is justified in the central tenant that ensures there is an even spread of power so that too much power is not located in one institution or arm of the state (Taljaard, Venter and Jolobe, 2011: 21).

2.3A Closer Look at Portfolio Committees

Committees are one of the mechanisms through which the function of oversight is practically carried out. It has already been alluded to that this study will focus only on the committees of the National Assembly, otherwise known as portfolio committees.

These committees shadow government departments overseeing the activity of the portfolio department in a quintessential Westminster fashion for the tenure of a parliamentary term (five years). Mahiuddin outlines that this typically Westminster structure is made use of as it is intended to “reinforce parliamentary supervision over the executive” (Mahiuddin, 2009: 9). Essentially dividing the House into committees allows for specialised work to be conducted and allows for a narrower and more detailed space in which focused work is done than which the plenary can accommodate.

Committees are guided by the Rules of Parliament, or in the case of this dissertation, the Rules of the National Assembly. The Rules, in part 10 (section 225) state that functionally, portfolio committees must deal with legislation and maintain oversight of the executive, organs of state and other bodies within its ambit, monitor, investigate and make recommendations in terms of the executive/entities within its ambit (Rules of the National Assembly, 2016: 141 & 142). Whereas the Constitutional framework sets the overall powers and provisions from which the National Assembly in its entirety can act, the Rules of the National Assembly colour and fill this constitutional framework by outlining the operations and procedures for committees. This framework constructs the institutional design in terms of how committees ought to function and be composed and provide an enabling environment for the exercise of legislative oversight. These provisions structure the various mechanisms for how oversight is practically conducted such as the scrutinising of departmental annual reports or calling a member of the executive to appear before the committee- these mechanisms are further discussed in the proceeding section.

2.4 Tools for conducting oversight in the case of the South African Parliamentary Committee System

As much as the Constitution provides for the powers through which the legislature conducts its oversight function, there are a number of clearly stipulated constitutional obligations on the executive and its departments to provide the legislature with the information necessary to execute this function effectively. This is outlined in section 92 (3) (b) which states that “Members of Cabinet must provide Parliament with full and regular reports concerning matters under their control”. This effectively speaks to the importance of information in conducting optimal oversight – a variable this

study will discuss later on more comprehensively. One of the tools which the committee depends on in holding the department or entity accountable is through the annual report. According to a commissioned National Treasury research paper with the aim of improving the process for using annual reports as a key oversight tool, these annual reports provide committees with the capacity to assess the financial and non-financial performance of a department at the end of a financial year (2005: 3). Annual reports are an instrument for committees to ascertain how a department performed, both financially and not, against targets and budgets set out in the Strategic Plan (National Treasury, 2005: 4) – another important document in the informational toolbox of committees for conducting oversight.

The process is intended to be so that the committee would measure performance, as contained in the annual report, against objectives, as contained in the strategic plans, to make recommendations on the entire process in time for the department or entity to compile the coming year's strategic plan and budget allocation (National Treasury, 2005: 4). Key provisions, obligations and, importantly, deadlines, in terms of this process, are comprehensively dealt with in the Public Finance Management Act (PFMA).

The Act is clear on when annual reports and audited financial statements should be submitted to the legislature but in some respects the legislation could be stronger in terms of reports and statements not submitted on time. Section 65 (2) (a) of the PFMA outlines that a Minister who fails to table reports on time must table a written explanation in the legislature providing reasons why the report was not tabled on time (National Treasury, 2005: 6). Such a key piece of legislation is one that empowers committees in terms of oversight and so it must be argued that such legislation should be much stronger in punitive measures for the executive that effectively impedes accountability in such a way. It should however be qualified that tabling of annual reports and financial statements by the executive for the committees utilised in the sample of this study for the time frame under review was completed on time. The National Treasury Report notes that the level of compliance is not as high or consistent for public entities (National Treasury, 2005: 6).

The National Treasury Report goes on to coherently outline ideal and practical means through which oversight should be carried out through a step by step

process. Points are made around the fact that efficient oversight depends on thorough preparation – it requires that the committee, both in terms of support staff and members, should know and understand what it is required to do, work according to strict timelines and undertake specific tasks such as carefully reading through reports, comparing performance against what was reported in the previous year and outlining which key aspects to scrutinise the department on when meeting with the officials and Minister (National Treasury, 2005: 28 – 30).

Parliament also has at its disposal an Oversight and Accountability Model (Asserting Parliament's Oversight Role for Enhancing Democracy) to fulfil the mandate of legislative oversight as a primary function of the institution. The model aims to:

- provide the framework outlining how parliament conducts oversight;
- streamline components;
- enhance Parliament's capacity to execute its oversight mandate; and
- improve existing tools of legislative oversight (Oversight and Accountability Model, 2011: 5).

In its aim to “provide the framework outlining how parliament conducts oversight”, the model outlines mechanisms at the disposal of parliament to conduct oversight such as interacting with civil society and other organisations in terms of departmental performance within its ambit, directly calling the executive/government to account in committee meetings, considering annual reports and strategic plans, posing questions in plenary sessions, conducting on site trips and calling for comments by the public (Oversight and Accountability Model, 2011: 17 & 18). While the Model speaks at length on the mandate of parliamentary committees, constitutional provisions to express the function of oversight and current mechanisms and tools for oversight, it also proposes how oversight could be strengthened. Namely, committees acting jointly on transversal issues, establishing an overarching oversight committee to synchronise the oversight work of portfolio committees and, in a similar vein, establishing an oversight and advisory section to assist in guiding, supporting and advising committees with their oversight function (2011: 31 & 32).

The model goes further to comprehensively outline how committees could optimally use information provided by the executive, departments and entities, namely, annual

reports, quarterly reports, performance reports, financial statements etc to maintain oversight and ensure accountability. This would occur through ensuring members are adequately prepared even before the information is formally submitted, using the previous year's documents for comparison, hosting public hearings for insight from others on the information submitted and then ensuring responses of the department are tracked for when the process commences the following year (Oversight and Accountability Model, 2011). Such a cycle would inculcate the legislature in terms of developing a "long-term view of oversight", prevent the activity seen as a once-off and allow for the growth of building institutional memory (Oversight and Accountability Model, 2011). Such reform would need to be matched with committee/member support in terms of researchers, content advisers, library resources, admin support and meeting rooms, according to the Model. It would also include training to ensure members fully understand their institutional role in terms of oversight as well as practical training on I.T, budget analysis, policy analysis and methods of work – this training would also extend to research and support staff (Institutional and Accountability Model, 2011). The National Treasury Report also highlights that oversight depends on institutional memory in the sense that reviewing, scrutinising and generally working through essential information, should be conducted in a systematic way according to timelines each year so that there is a continuous cycle of oversight (National Treasury, 2011: 67).

2.5 Comparative Research on Legislatures and Legislative Oversight

Mahiuddin neatly summarised how legislatures, particularly the case of the mother British Parliament, were initially seen as the apex of the governance system during the 1800s or what was broadly identified as the "golden age" of the British Parliament (Mahiuddin, 2009: 5). The writings then of Lord Bryce began to question imbalances of power between the legislature and executive which eventually became known as the "decline of parliament" thesis – primarily this conclusion was reached due to law making powers becoming increasingly vested with executives and no longer with parliament as well as the growth of pressure groups and political parties. It was concluded that where party politics was strong, legislators were driven by party interests and so the dominance of the executive pushed through, the legislature began to decline. Furthermore, "...party discipline dictates that the cabinet

is answerable not to the parliament but to the caucus of the majority party” (Mahiuddin, 2009: 6).

Mahiuddin then goes on to show how, on the other hand, there were a number of legislative academics who did not support the decline of parliament thesis because they argued it was not substantiated by empirical data and that it could not be claimed that legislatures were waning in an unlimited manner (Mahiuddin, 2009: 7). This was based on the argument that evidence of the so-called “golden age of parliaments” did not exist empirically and that the spread of democratic theory in fact further strengthened the standing of legislatures (Mahiuddin, 2009: 8). Furthermore, as legislative activity progressed to include debates and specialised committees, it has “made the parliament a more effective body in terms of executive scrutiny than at any previous time this century” (Mahiuddin, 2009: 9).

Mahiuddin interestingly examines and analyses the committee system of the Bangladesh Jatiya Sangsad to identify the role of historical forces and factors in the evolution and development of the country’s committee system (Mahiuddin, 2009: 34). Besides looking specifically at the Bangladesh case study, the paper lays a thorough framework for the discussion by presenting theories on parliamentary committee structures, its significance and the historical literature surrounding mostly Western legislative systems. The paper also usefully outlines broad factors, based on existing literature and theoretical assumptions, which arguably affect effective committee functioning in terms of:

a) Political environment:

- State structure: influence of the type of political system, namely, presidential or parliamentary, on carrying out of the oversight function by committees. As the literature review has shown, it is widely argued that oversight by legislative committees is not as strong in parliamentary systems as in presidential systems due to legislators belonging to the majority party holding back on criticism of the leaders of the party in their capacity as the executive
- Political situation: wider environment in which parliament operates such as whether governance is authoritarian or democratic. It is

argued that under non-democratic regimes, legislatures hold no real power or influence on government action/decisions and opposition parties are almost unheard of. Furthermore, frequent changes to the political environment negatively affect legislative committees by working against continuity

- Political parties: political parties are a chief variable in the discussion of legislative committee capacity – parties determine which of their members serve on which committee and factors such as the extent of party loyalty are a strong determinant on how the committee member carries out his/her legislative oversight. Dynamics between the members of the majority party on the committee and the opposition also influences the work of the committee especially when consensus is required. Mahiuddin highlights the “new institutionalists” who find that “committees are strongest when party control is weak”.
- Interest groups; groupings with specific interests can influence committee decisions or action taken should they lobby members
- Civil society: an active civil society that seeks to promote participation, transparency and accountability working closely with committees form part of enhancing legislative capacity of the committees
- Media: the media play a role in disseminating information stemming from committee activity and making the decisions of committees known. This assists in fostering transparency.

b) Committee structure:

- Formal-legal framework: the fundamental basis of the mandate of the committee stem from where the committee obtains its formal power. This comes from the state’s constitution and procedural rules of the legislature. The paper argues that the formal legal framework from which committees draw its power outlines the mandate of the committees, the scope of committees and, essentially, identify powers the committee have in its arsenal

- Committee types: it is argued that permanent committees, which mirror government departments, have greater opportunities for influencing government policy and creating continuity in maintaining oversight than temporary, or ad hoc, committees
- Committee selection process: allocation of members to committees is a central variable in analysing committee performance. The paper argues that in majoritarian systems, government dominates committee membership whereas in proportional representation systems, membership in committees reflects the ratio of parties represented in the legislature. This influences the relations between members on the committee with the view that the PR system allows for greater consensus and cooperation.

c) Committee capacity:

- Social standing of committee members: social backgrounds (occupational status, education, age and sex) and expertise (previous parliamentary experience, experience in public office and expertise on certain subject matters) of members can affect committee behaviour. It is argued that seniority, expertise and experience positively affect committee capacity
- Staff and support services: sufficient resources and support to legislative committees are chief among the variables for effective committee capacity. Qualified staff and researchers greatly assist in keeping committee members clued-up and this promotes committee effectiveness through enabling active committee members

Mahiuddin, using four ministerial standing committees as the sample (Committee on the Ministry of Finance, Committee on the Ministry of Planning, Standing Committee on the Ministry of Social Affairs and the Committee on the Ministry of Home Affairs), applies the above framework over a historical period of time to arrive at a number of findings relating specifically to the legislative and oversight functions of the committees.

Khmelko and Beers (2011) write interestingly of the Ukrainian Parliament, or Rada, on the views of MPs as to whether they view oversight conducted by committees as an expansion of partisan politics, a further platform for making the views of their constituents known or as a process independent of partisan considerations. Interestingly the authors find that partisan politics did not take the limelight in how MPs viewed committee oversight (Khmelko & Beers, 2011: 501). This adds fibre to the thread already forming in the literature review so far that what might seem obvious of parliamentarians and legislatures generally, is more often not the case or, to go back to the Barken paper, the “conventional wisdom” that legislatures are essentially rubber-stamps for ruling party policies, action and decisions (2005: 1). In other words, while it might seem the dominating thought would be that MPs are driven by partisan considerations when conducting oversight, this study in fact finds it is not the primary motivation. Khmelko and Beers (2011) reiterate this point by stating that “the findings of this study are significant, in part, because they offer an important challenge to recent accounts of Ukrainian politics, which tend to emphasise the highly partisan, politically polarised nature of Ukrainian democracy without acknowledging the on-going developments of both democratic institutions and political actors in the post-communist period” (Khmelko & Beers, 2011: 521). This paper was looked at by this dissertation as part of the comparative research and parliamentary oversight and legislative committee capacity.

2.6 Testing Committee Effectiveness

While not looking at the legislature as a whole or even specifically the legislative committee system, Volden and Wiseman investigate the effectiveness of US legislators in Congress (Volden & Wiseman, 2009: 4). The authors theorise that legislator effectiveness is comprised of (1) innate ability, (2) developing a critical skill set over time and (3) using these skills through the institutional framework of Congress to achieve results with an emphasis on legislative results or effectiveness (2009:5). Such literature could prove important for later discussion in this study particularly around the conceptualisation of political dynamics. Within the variable of political dynamics, the Volden and Wiseman paper could have particular relevance when looking at legislative committee capacity comprising members and, more so, chairpersons. This is highlighted when the authors state that “some (legislative)

positions are more valuable than others. Parties work hard to gain...committee chairmanships” (Volden & Wiseman, 2009: 21).

Although there are various systems and methodologies through which they are conducted, there is a collective body of work looking at assessing the impact of legislative committees by scrutinising the extent to which recommendations in committee reports are taken up by governments. One such study was conducted by Benton and Russell (2012) looking at the select committees of the British House of Commons. As alluded to in the introduction to this study, broad assumptions are frequently made about the status of legislatures being weak, strong or a rubberstamp. These studies evaluating the extent to which report recommendations are implemented find that government does not disregard committee reports and their recommendations but in fact implement changes based on recommendations – a conclusion drawn by Benton and Russell (2012: 3). The comprehensive study by the authors covered a sample of seven select committees (i.e. those covering non-legislative work, including oversight, as opposed to standing committees which only look at legislation) from 1997 to 2010 gathering all reports produced by the committees over this period specifically looking at recommendations made (Benton & Russell, 2012: 5-6). This paper is included in this literature review for the purposes of assessing how a committee system and its effectiveness was systematically studied and the factors identified in the analysis of committee influence over government action in the carrying out of the function of legislative oversight.

Each recommendation was then coded against a number of variables. This quantitative data was supplemented by 56 semi-structured interviews with individuals participating in the work of the sample committees resulting in “the largest dataset ever gathered about the House of Commons select committees” (Benton & Russell, 2012: 6-7). Not only did the study assess whether recommendations were accepted by government, as it is easy to simply say that, but also whether they were indeed put into effect.

Broadly, both findings were that more recommendations than not were accepted and more recommendations than not were implemented. The authors find that this counters incorrect assumptions that committee reports are merely paid lip-service to by government but that they in fact are treated seriously both in terms of acceptance

and implementation for both minor recommendations and those requiring greater change, in the case of the British House of Commons (2012: 11).

Interestingly, the variables associated with the committee itself were the style and reputation of the committee, the nature and culture of the department it oversees, the personality and effectiveness of the chairperson and the drafting style of the committee clerks (Benton & Russell, 2012: 11). The authors acknowledge that such studies may over or underestimate the influence of the committee because there are various other activities behind the scenes which could also have an effect on report recommendations being accepted and implemented and then went on to identify potential influencing factors supplemented by qualitative information from interviews (Benton & Russell, 2012: 15-17).

The Benton and Russell paper fundamentally confronts the notion or assumption that committee outcomes, in the form of reports, do not hold significant weight or are taken seriously by the executive and government proving that more report recommendations than not are implemented and put into effect even those reports recommending major policy change (Benton & Russell, 2012: 1). The entire process and practice is crucial to the legislative function of oversight (Benton & Russell, 2012: 22).

David Monk, in developing a framework for testing the effectiveness of parliamentary committees, finds that the body of research attempting to assess committee systems are limited to:

- a) Studying the effect of committees on public policy including the attitude of governments and related public debate. Here researchers use case studies, observation and key interviews as opposed to quantitative data.
- b) Studying the implementation of committee recommendations as a measure of committee system effectiveness. Here, data collected is used to aggregate averages.
- c) Studies focusing more on quantitative data by allowing “the data to guide the research process and their conclusions” in terms of

assessing potential gaps between common assumptions and perceptions and the reality on the ground (Monk, 2009: 1).

In further explaining the development of his committee system effectiveness framework, Monk elaborates on how performance is measured through inputs, usually staff hours or money spent against outputs i.e. what the committee is supposed to do or achieve in order to develop findings of effectiveness or “the essence of what success means for an agency” (Monk, 2009: 3).

Monk (2009) acknowledges that there are various subjective nuances which studies based on quantitative data solely cannot explain. He writes that there are various political dimensions to the work of committees and the decisions they reach which have a significant role to play, as an indicator, in articulating why some committee reports and recommendations are more successful than others. While this dissertation looked at the variables used by both Benton and Russell (2012) and Monk (2009) in terms of whether they could be used as part of studying committee capacity in the South African parliament, it was found the variables used by these authors best suited their individual framework and methodology and not necessarily the methodology and aims of this dissertation. Nevertheless, the papers by the authors were useful for the review of literature and existing studies in preparation of this dissertation.

CHAPTER THREE: FINDINGS

An Analysis of “Hard/Physical” Variables in the Discussion of Committee Capacity in the South African National Assembly

This chapter presents and discusses the findings related to the fieldwork conducted for this study. To recap the methodology utilised, the findings stem from practical interviews anonymously conducted with committee chairpersons and staff, researchers and content advisers, for purposes of gaining a first-hand account of the complexities of structural and tangible variables in forming a vital part of the institutional capacity at the disposal of committees. Broadly these structural variables comprising capacity are conceptualised as the tools of the trade that enable committees to carry out its oversight functions optimally. Here we are specifically looking at what the committees can, have the ability or are able to do in terms of executing the oversight function. Arter usefully frames legislative capacity as the potential the committee possess to carry out its salient functions or influence government/executive action (Arter, 2007: 249).

The chapter will be constructed in such a way so as to broadly categorise the findings according to themes as well as to compare and contrast these direct findings with what the existing literature and body of research assumes. Overall the assumption is that the limits in which committees can conduct its oversight function is reliant on a number of dynamics and this chapter will be discussing the dynamics related to hard resources or those of a physical nature (Mahiuddin, 2009: 13).

3.1 PHYSICAL RESOURCES

The chairpersons interviewed were asked if they were of the opinion that the committees over which they presided had a sufficient amount of physical resources overall to conduct its oversight function. Physical resources here are conceptualised as hard, tangible and practical mechanisms which committees require to perform optimally, particularly, sufficient physical office space to meet, budget and other resources relating to printers, computers, technology to relay presentations to the

committee members etc. Three out of five of the chairpersons interviewed were of the opinion that there were sufficient resources for their committees to conduct its oversight function. Two of the chairpersons significantly pointed out that the South African parliament, and specifically the committee section, did not always have the sufficient resources but had acquired and created the necessary physical resource capacity as the years went on. Sufficient resources were not always at hand because of smaller budgets and the fact that there were fewer committees. As the number of committees grew and the budget of parliament increased incrementally, more resources were acquired to meet the needs of the growing committee section.

3.1.1. Legislative Library

The chairpersons were also asked to rank various resources as to whether they were deemed to be very important, moderately important or not that important. Parliament has a very extensive legislative library for members to make use of yet three of the chairpersons interviewed ranked it as only a moderately important resource while one chairperson felt it was not that important at all. My personal observation is that the library is more for individual members to acquire more knowledge on a particular matter or to conduct additional research but it is not a resource which aims to serve the capacity of the committee as a whole. Perhaps chairpersons perceive that any information they require is provided by the committee secretariat and so there would be no reason to conduct further research on any given area. It could also be that should Members wish to delve further into a matter of interest, they solicit the help of their political party researchers instead of the legislative library directly. This however was not confirmed through an interview question but instead a deduction made from the way in which the chairpersons ranked the importance of the resource.

The 2014 Parliament Budget Speech³ by the Speaker of the National Assembly also points to the underutilisation of the legislative library without delving into the reasons for this evident underuse. The Speaker, in the speech, pushes Members of Parliament to make use of the library “to learn more about the advantages of the new

³ Fourth Parliament Budget Vote (2014) Retrieved 10 June 2015, From: www.parliament.gov.za/live/contentpopup.php?Item_ID=3587&Category_ID=

system. There are simply no more excuses”. The speech highlights the upgrade of the library and “digital content delivery application”⁴.

3.1.2. Physical Infrastructure

When chairpersons were asked to rank the variations in importance of physical infrastructure, what the study conceptualised of this specific variable was in terms of the sufficient space in which to conduct meetings, sufficient computers, printers and other technology which forms part of the capacity of committees to generate reports, documentation and the like. Interestingly, only one⁵ of the chairpersons to whom the question was posed viewed this as an important variable in playing its role as part of the resource capacity of committees while the other chairpersons viewed it only as moderately important. Thinking of these findings further, the Parliament of South Africa does indeed have all the trimmings of what one might assume of a modern day legislature. Most of the venues in which committees operate are spacious, obviously depending on the size of the delegation expected for a particular meeting, the venues are maintained, and there is air-conditioning and microphones to hear those speaking adequately and to formally record all inputs. Furthermore, the venues have technology on which to present inputs (projectors), electrical end-points for connecting laptops etc. and some even have cameras to televise proceedings live onto the parliamentary channel. Based on my observations, while some of the venues are older than others in look and style, there is sufficient physical resource capacity for committees to conduct their work. However, perhaps, when it really comes down to the essentials, it might be that the vital physical capacity is simply that the committee has the means to produce the documentation it requires to operate and of course a meeting space for all to come together. This was however not directly alluded to by any of the chairpersons interviewed but could be a plausible account for this specific finding.

3.1.3. Civil Society Organisations and Academia

Committees at times interact with civil society organisations and academics so this was included in the options of which to rank the importance, or non-importance of

⁴ Fourth Parliament Budget Vote (2014) Retrieved 10 June 2015, From: www.parliament.gov.za/live/contentpopup.php?Item_ID=3587&Category_ID=

⁵ Interview 1: 5 March 2015, Parliament of South Africa

hard resources. The organisations often provide information to the committee when there is a particular topical discussion on the agenda or to brief the committee before the department or entities presents their annual performance plans, strategic plans, quarterly reports, annual reports or budgets. It is essential to qualify that I have observed that some committees have a longer standing relationship with certain civil society organisations or academics which for many years have been involved in the relevant policy sector compared to other committees where the relations between the organisations and committees are not as close. This would impact how the chairperson interviewed would respond on the interaction or research received by the civil society organisations or academics. By this I mean with the committees with longer standing relations with civil society organisations, the chairperson was more likely to rate civil society organisations as an important resource. This indeed was the outcome in the interviews conducted – the chairpersons of committees with stronger ties to civil society did indeed rate it as a resource which was more important than not important. This is further supported by the interviews conducted with the content advisers – the content advisers from the committees which had longer standing relationships with civil society organisations indicated positively that their committees did often solicit research from civil society or academia.

Taking the correctional services committee for example, in the committee legacy report, special mention was made of the fact that the committee established close working relations with research, NGO and academic institutions along with labour organisations. These civil society groupings regularly commented on matters relating to the department of correctional services and general matters pertaining to the correctional services environment. The report goes on further to say the committee found the interactions useful because it allowed for a “broad spectrum of commentators” which also served to supplement internal committee research. The police committee also made special mention of the fact that in the method of work of the committee, it involved many partners in civil society and academics to present evidence in preparation for engaging with the department and/or entities usually before hearings on the annual reports and budget. The legacy report of the police committee then went on to outline a comprehensive list of civil society organisations and academic institutions the committee regularly engaged with. Similarly, the social

development committee also highlighted that one of the objectives of the committee was to forge relations with civil society in the social development arena⁶.

Only one of the chairpersons answered that this was an important resource⁷ while the other chairpersons indicated that it was a resource which was not that important. This could point to the fact that this sub-variable could be considered an important resource to the committee in some cases where their input is drawn into committee oversight deliberations while in other cases, the committee could consider civil society input as less significant when it comes to oversight.

3.1.4. Committee Budget

When asked to rank this vital component of the resource capacity of committees, all the chairpersons interviewed deemed it a very important variable. This does seem to be the obvious assumption to make because on a very basic level, most, if not all, systems conducting operations require a sufficient budget in order to function. One of the chairpersons highlighted the fact that there was not so much a problem of a lack budget but rather that, at times, funds were not spent or adequately deployed in the areas they were required. The chairperson said that it might be that chairpersons were provided with TVs in their offices as opposed to spending money on acquiring a researcher for that chairperson – “(I don’t think it’s) a money problem – it was how we use the money”⁸.

Each committee is provided with a standard or uniform budget distributed equitably across the board. According to a content adviser surveyed, additional allocations were made to committees who were particularly busy or had particularly high workloads⁹. An example would be if a committee was holding public hearings across a number of provinces (perhaps on a pending piece of legislation) then additional funds would be allocated, over and above the initial standard allocation, to facilitate the public participation process as one of the primary functions of the legislature, and by extension, the committee.

⁶ Legacy Report of the Portfolio Committee on Social Development, 2014, page 3

⁷ Interview 2: 18 March 2015, Parliament of SA

⁸ Interview 1: 5 March 2015, Parliament of SA

⁹ Interview 8: 10 March 2015, Parliament of SA

In the legacy report of the communications committee, reference was made to the fact that its budget allocation needed to be reviewed “in light of its workload”. The report elaborated to note that the committee’s activities required more budget than the committee was allocated. The report said that in future, thought should be given to allocating committee budgets as the national budget was i.e. taking in consideration the scope of the department, its personnel and services provided etc. This implied that the process of allocating committee budgets uniformly was ineffective. The Legacy Report of the Communications Committee noted that its budget was exceeded by the third quarter of each financial year for the duration of the Fourth Parliament¹⁰.

This is a significant finding as it speaks to the fact that committee budgets are not drawn up according to the scope of a department’s work which will invariably vary widely across departments. Departments themselves vary greatly whether this be in terms of staff complement, the number of entities reporting to the Minister or whether it is a service-delivery orientated department or not. These differences help in explaining why budget allocations differ between departments. One could argue that since committees themselves vary in their scope of oversight, budgets should be differentiated among the committees as they are among the departments themselves. Having a uniform budget effectively means that those committees with demanding workloads overseeing large departments and a vast number of entities, struggle to manage its budget according to this wide scope while another committee, with less of a demanding workload for instance, could end up with a surplus of funds.

A key aspect of an institutionalised legislature is one which has autonomy and, specifically, autonomy over its budget – this autonomy is an integral part of an independent legislature. The fundamental importance of a budget is easily thought of as the one structural or physical capacity indicator upon which almost all other structural indicators depend- without an adequate budget there would simply be no funds to pay a host of sufficiently qualified staff, procure the technical equipment needed or simply maintain the resources committees already have.

¹⁰ Legacy Report of the Portfolio Committee on Communications. 2014. Page 53 & 59

3.1.5. Human Resources: Committee Staff

Chairpersons in the sample were asked to rank the importance of the staff working for the committee both in terms of administrative staff (secretaries, document officers and assistants) and research staff (researchers and content advisers). All the surveyed chairpersons found this structural variable to be a “very important” one both for administrative and research staff. Without a doubt this finding proves that committee staff are a crucial aspect of the structural capacity of committees.

Two chairpersons interviewed made reference to the fact that, like physical resources, parliament had few staff working for an individual committee specifically but over the years this capacity had increased. One chairperson went on further to elaborate that when she started off as a chair of the committee, there was one committee secretary and a researcher who served also as a researcher for various other committees. Six years later, her committee now has two secretaries, a dedicated researcher and content adviser and an assistant to deal with printing and logistics – this was a total of five dedicated committee staff members as opposed to only one dedicated staff member six years prior¹¹. It is also worth mentioning that each chairperson has a dedicated executive, or personal, secretary to run the diary of that chairperson. One could argue that such a post further adds to the staff capacity of committees albeit in a less direct way than the staff that work for the committees solely. Another chairperson added that when he first came to parliament, there was no such post as content adviser or dedicated researcher/s but over time that capacity had been created for committees to function more effectively¹². This is further supported by the one researcher interviewed who said that when committees were functioning on a very minimal human resource capacity, the staff employed were horribly overworked and committees were understaffed¹³.

3.2 Resource Sufficiency

Of the seven committees which comprise the sample utilised in this study, all seven had the full complement of human resources meaning each portfolio committee had a secretary, document officer/assistant, researcher and content adviser. It should be

¹¹ Interview 3: 24 March 2015, Parliament of SA

¹² Interview 2: 18 March 2015, Parliament of SA

¹³ Interview 9: 12 March 2015, Parliament of SA

noted one committee had two secretaries and another committee had two researchers due to their increased workload. Furthermore, each chairperson had an executive personal secretary but as this position is not directly linked to the functioning of the committee, it is not included in the below table:

Committee	Content Adviser	Researcher	Committee Secretary	Assistant/document officer
Communication	1	1	1	1
Correctional Services	1	1	1	1
Energy	1	1	1	1
Police	1	2	1	1
Social Development	1	1	1	1
Trade and Industry	1	1	2	1
Water and Environmental Affairs	1	1	1	1

In surveying research staff of committees, it is evident that there is not a clear cut sum of resource capacity which one could pinpoint as being sufficient. Two content advisers and the researcher interviewed indicated that what could be deemed a sufficient amount of resources varies depending on the committee in question. Similarly to the ineffective system of uniform budgets, unvaryingly allocating committee staff could be argued to be just an ineffective. A uniform allocation of staff does not take into account the varying scope of committees and this makes for inefficient operation. Those committees overseeing big departments and a large number of entities simply have to make do with what is available to them.

The one researcher interviewed stated that some committees are incredibly busy while others are not so much¹⁴. This is certainly what the literature and existing research concludes as well. Not only is each parliament distinct but each committee is in itself distinct – each committee oversees a different department and a varying number of entities. Simply looking at the sample utilised by this study, these varying distinctions are clear. Taking for example the number of entities the committee oversees, the portfolio committee on water and environment affairs, which in fact oversees two government departments, oversees a combined total of 21 environment and water-sector entities. In its Legacy Report, the Portfolio Committee on Water and Environmental Affairs outlined that with the Committee essentially overseeing two departments, its work load was doubled – whereas other committees would scrutinise one annual report, strategic report and one budget, the Committee on Water and Environmental Affairs was scrutinising two sets. This was in addition to overseeing over 20 entities all within the same timeframe in which to complete the work. The report added that the “public demand on these two large departments in terms of service delivery is woefully huge and complex”¹⁵.

Another example is the portfolio committee on trade and industry which oversees 14 entities. This is in contrast to a portfolio committee such as social development which oversees two entities while the rest of the committees in the sample oversee various amounts along the spectrum¹⁶. This is indeed why the study aimed to utilise as representative a sample as possible to highlight variations among portfolio committees. Despite these differences, as one of the content advisers surveyed pointed out, the more resource capacity a committee has, the more it would be able to do¹⁷.

Earlier, under the committee budget subparagraph, it was pointed out that committees are allocated uniform budgets with additional allocations provided as the need arises. Perhaps budget allocation, as a key component of the resource indicator, should acknowledge these variances in committee workload for allocation to take place on an individual committee basis as opposed to the across the board fashion. One of the content advisers surveyed also indicated that a uniform approach

¹⁴ Interview 9: 12 March 2015, Parliament of SA

¹⁵ Legacy Report of the Portfolio Committee on Water and Environmental Affairs. 2014.

¹⁶ See Addendum 1 and 4 for the complete number of entities overseen per committee in the sample

¹⁷ Interview 8: 10 March 2015, Parliament of SA

to budget allocation might not be the best option simply because of varying workloads – one committee might use its entire budget because it is that busy while another committee might only use a percentage of its budget¹⁸. These points thus far find that committees are not resourced according to the scope of oversight i.e. the size of the department overseen, the complexity of the sector portfolio or the number of entities within the committee's ambit.

If this point could be made for the budget then this study argues it could be made for the staff complement as well. It has already been stated that one of the committees in the sample, trade and industry, has two committee secretaries because of a high workload, while the other committees only have one. In the sample, all the committees only have one researcher and one content adviser except for the police committee who have two researchers because of increased workload due to the large size of the department it oversees. Surely for those committees which have an increased workload, more entities to oversee and bigger departments to hold accountable, this complement of staff should be increased or at least for it to be considered on an individual committee basis as opposed to uniformly. As one content adviser outlined, the uniform approach in terms of committee research support and budget allocations, might not be the best option¹⁹. The suggestion is that these allocations should be made based on the strategic plans of each committee which would provide an indication of what the committee aims to achieve and work through for the five-year term.

Although a committee might oversee only a handful of entities, for example the portfolio committee of police which oversees three entities, the committee, however, oversees a very big department – the police department has a staff complement of 197 946 members and a budget allocation of R67 917 billion, based on 2013/14 National Treasury information²⁰. This would certainly explain why a content adviser would attest that for some committees, there could never be enough research capacity – there are various and specific areas over which the committee must maintain oversight and where great research depth is needed. It can therefore be argued that having two researchers and one content adviser for such a committee is

¹⁸ Interview 9: 12 March 2015, Parliament of SA

¹⁹ *Ibid*

²⁰ See Addendum 1 for the full complement of departmental budgets, staff complement and entities

not sufficient. Although this is one researcher more than other committees in the sample, it could still be argued this capacity is not nearly sufficient given the large scope of oversight of the committee.

A content adviser indicated that not only should the research capacity of very busy committees be increased but so should the secretariat capacity because an increased workload equates to meetings being held more frequently²¹. However the research complement and secretarial complement of committees work together to form the human resource capacity and both sides provide essential support to the committee in conducting its oversight mandate. The number of meetings a committee might hold is a strong indication of the workload of that committee. Looking at the sample of committees used in this paper, committees differed in the amount of meetings held in the year under review – the social development committee held the least amount of meetings (21) while other committees met an average of 40 times. The committee on trade and industry, however, held a whopping 74 meetings for the year under review. It could strongly be argued that such considerations should account for how resources are allocated to committees but this dissertation has come to show this is not the case.

One of the content advisers explained that when a committee is extraordinarily busy with a special hearing meeting or on an oversight visit, the committee is able to request for additional assistance from another committee assistant in this particular instance²². Although this would be useful, it could be argued that it is best for such additional capacity to be permanent instead of on an ad hoc basis.

3.3 Resource Asymmetries

In the literature review of this study, when discussing the institutional capacity of the legislature particularly in terms of fulfilling the function of oversight, it is widely assumed, and repeated reference was made, to the resource inequality or imbalance between the legislature and the executive. This assumption can be argued to be true in the case of the South African National Assembly legislative committee system. Three of the chairpersons interviewed, mentioned the fact the executive has access

²¹ Interview 6: 10 November 2014, Email Correspondence

²² Interview 6: 10 November 2014, Email Correspondence

to a vast amount of experts, both inside and outside the department. In addition to access, the department has the time to engage these experts whether it is in preparation for certain special hearings, policy papers or preparing for legislation to come before the committee. A typical department has complete branches dedicated to legislation and legal services while the committee, to which it is accountable, only has a handful of staff to prepare members. One chairperson highlighted that committees do not have the ease of access to such experts as a department would nor enough time to process policies or legislation²³.

One chairperson pinpointed this imbalance of resources, and effectively power, between the legislative and executive branches to the executive having access to more resources²⁴. This asymmetry of resources between the executive and the legislature applies to all areas of structural resources. It could then be argued that the legislature has the theoretical power of oversight and accountability, embodied through the Constitution and Rules of Parliament, yet in terms of structural capacity to physically wield this power, the legislature falls short in comparison.

Another instance of how this resource imbalance could be conceptualised is thinking about the inequalities of time between the legislature and the executive. It has been noted that committees often have a limited amount of time to balance varying tasks while at the same time Members have individual commitments in plenary, party business and constituencies. Members of the executive, on the other hand, do not face these pressures of time or at least have a host of staff to alleviate the balancing of various tasks. One chairperson made reference to this when she highlighted her lack of time was part of insufficient resources – she only had one executive secretary even though she was expected to address a variety of issues²⁵. This is in stark contrast to a member of the executive who would have a host of personal staff.

The issue of time was again raised in a civil society conference paper on South Africa's Legislatures (2012 Report of Proceedings and Issues at the People's Power Conference) where, in discussing oversight and accountability, it was noted that committees deal with an array of complex and intricate information in relation to

²³ Interview 4: 26 March 2015, Parliament of SA

²⁴ *Ibid*

²⁵ Interview 3: 24 March 2015, Parliament of SA

carrying out its oversight function whether it be in the form of departmental or entity reports, budgets or plans. For these to be dealt with sufficiently, the committee does not only need the necessary structural or resource capacity, specifically in the form of its researchers, but both researchers and Members require time to consider all the information (People's Power, People's Parliament, 2012: 43). The paper argued the point further by noting that a typical department would mull over its annual budget with National Treasury for months while on the other hand, committees only had a few weeks to review the budgets of its departments and entities (People's Power, People's Parliament, 2012: 44).

The resource asymmetry between the legislature and executive was also outlined by one of the chairperson's interviewed who spoke to the variances specifically in light of human resource imbalances. It has already been stated that the committees in the sample only had one or two researchers, one content adviser, one or two secretaries and an assistant which comprised the staff ensuring everything related to the committee was on track and its mandate was being met. The chairperson said this was vastly different to the average department who would have a staff complement in the thousands working in many specialised divisions. Simply put, he said, the committee had no "one up" on this capacity²⁶.

The same chairperson also highlighted a pertinent point where, because of this glaring resource capacity inequality between the legislature and executive, committees often have no choice but to simply rely on the information provided to them by entities or the department because there is no time or human resource capacity for the committee to "look beyond what the department presented or provided"²⁷.

This might be conceptualised as information asymmetry between the legislature and executive where the latter provided committees with hordes of information and data while the committee did not have the capacity to match to develop its own sources of information or data. The chairperson saw this as a concern because "the committee could not only rely on what the department said"²⁸. He found this was particularly so

²⁶ Interview 5: 9 June 2015, Parliament of SA

²⁷ *Ibid*

²⁸ Interview 5: 9 June 2015, Parliament of SA

in terms of research capacity of the committees where the only way to work towards evening out this particular resource imbalance with the executive, was for committees to build teams or armies of researchers instead of one or two who were to be knowledgeable in all areas of work of the department²⁹.

The point that “the committee could not only rely on what the department said”, raises interesting questions about the relationship between committees and civil society. Ideally, civil society should augment committee capacity in critically analysing information or perhaps as a mechanism through which departmental information could be assessed. However earlier in the chapter, the study established that three of the five chairpersons interviewed, attached moderate levels of importance to civil society as a committee resource. It should be a point for committees to review relations with civil society organisations to augment their capacity particularly in terms of analysing departmental information. It should be pointed out that some of the chairpersons interviewed were new to the position following the beginning of the Fifth Parliament. It could be that operations simply followed from what was maintained during the previous committee (i.e. from the Fourth Parliament). This meant that if the previous committee did not have close relations with civil society in the sector, the new committee would simply maintain that status quo. Perhaps the new chairpersons still required time to familiarise themselves with civil society in the sector and possibly develop a relationship over time. Such considerations would influence the perception of the chairperson as to whether civil society input was important or not as a resource.

3.4 Factors impeding legislative oversight

Chairpersons surveyed were asked, based on their experiences and opinions, about the aspects they viewed as some of the largest impediments to conducting effective oversight over executive bodies, whether this be the department or entities. Many of the chairpersons raised the issue of resources or the fact that there could be more structural resources, especially in terms of human resources, as one such impediment.

²⁹ *Ibid*

A chairperson also raised the point that a great deal of oversight work is cross-cutting in nature but parliament lacked a structure for committees to easily work in a transversal fashion or in a clustered way to consider issues which would arch over a number of committees³⁰. The chairperson found that committees operated in too great of a silo-like fashion when there are many issues which needed joint-consideration³¹. There are means for two or more committees to meet jointly but, based on my observation, such meetings require a great deal of planning in order to coordinate the staff, Members and agendas of the committees added to which there are a number of logistical issues. Mention has also previously been made of the fact that some committees are simply busier in terms of workload than others and committee staff would compile committee programmes months in advance to ensure the committee has enough time to get through its workload. Nevertheless, cross-cutting oversight work is pertinent and recommendations in this area would be important to look into.

Another chairperson made reference to the fact that, as information was central to legislative oversight, a lack of data or data that was not easily available is an impediment to effective oversight³². This itself adds to the fact that the findings alluded to in the previous discussion on information asymmetries, is considerably important to committees successfully executing its oversight function.

In the same way as information imbalances are found to be a large impediment to oversight as referenced by an interviewed chairperson, another chairperson made reference to the fact that lack of time, especially when compared to the executive, impedes the capacity of the committee to undertake effective oversight³³. The chairperson said that the time allocated to get through certain tasks related to oversight was simply inadequate to allow for sufficient preparation. She made note of the fact that her committee oversaw a variety of very technical entities besides the large department itself. Experience had taught her that it was simply impossible for everything to be covered in terms of oversight but the committee had developed the skill of ring-fencing key areas to laser in on. She alluded to the fact that perhaps the “secret” to oversight and accountability meant effective prioritisation of the

³⁰ Interview 5: 9 June 2015, Parliament of SA

³¹ Interview 5: 9 June 2015, Parliament of SA

³² Interview 2: 18 March 2015, Parliament of SA

³³ Interview 3: 24 March 2015, Parliament of SA

committee's tasks because one "cannot exercise oversight over everything – you simply can't"³⁴.

³⁴ Interview 3: 24 March 2015, Parliament of SA

CHAPTER FOUR: FINDINGS

An Analysis of “Soft/Political” Dynamics in the Discussion of Committee Capacity in the South African National Assembly

This chapter will present and discuss the findings related to the fieldwork conducted for this study. To recap on the methodology utilised, the findings stem from interviews anonymously conducted with committee chairpersons and staff, namely, researchers and content advisers, for purposes of gaining a first-hand account of understanding the complexities of political variables and dynamics in forming a vital part of the institutional capacity at the disposal of committees. Broadly these political variables comprising capacity are conceptualised as the political will and political autonomy to enable committees to carry out its oversight functions optimally. Here variables or dynamics are intangible, “soft” and not as straightforward when compared to the discussion on structural capacity variables.

Overall the assumption is that the limits in which committees can conduct its oversight function is reliant on a number of dynamics. This chapter will be discussing the dynamics which are political in nature and arguably issues relating to governance and partisan politics which may manifest themselves in the legislative committee system and so play an important part in the conceptualisation of “soft” capacity.

4.1 Committee Membership: Chairpersons and Members

This dissertation argues that committee chairpersons and its members could be considered as primary elements of the political capacity committees enjoy. Essentially the rationale is that chairpersons and members are party-political individuals having achieved parliamentary seats and positions through internal party lists – a defining feature of the proportional representation electoral system South Africa makes use of. The committee support staff were conceptualised as forming part of the structural or hard resource capacity in the previous chapter. It could then be put that committee chairpersons and members form part of the political capacity committees require to operate efficiently.

4.1.1. Education and Experience

Bearing in mind that only chairpersons of the committees in the sample utilised by the study were interviewed, a picture developed of the educational and professional background of the chairpersons. The thinking that follows is that a committee requires chairpersonship and general membership that is arguably well qualified and skilled, particularly in the sector in which the committee is based. Of the chairpersons interviewed, all except one, had a university-level of education. One of the chairpersons had a Bachelor of Commerce degree while the other chairpersons had Masters Degrees in varying fields. While the survey did not delve deeper into the field in which the degrees were based, the fact that more than the majority of chairpersons in the sample bring to the position basic skills and knowledge acquired at university level is an advantage.

An interesting comparative snapshot was provided in the Perspectives Paper on African legislatures and the advance of democracy of the percentages of MPs with university degrees. Surprisingly, South Africa was exceeded by a number of other African legislatures and the country was only slightly above the median percentage with 68% of MPs having a university degree (2012: 6). During the 2014 budget vote speech of Parliament, the Speaker of the National Assembly did allude to the fact that Parliament did have an agreement with the Public Administration Leadership and Management Authority (PALAMA) to provide training to members. In April 2014, the Speaker outlined that 225 members of Parliament, and the provincial legislatures, achieved advanced certificates in Governance and Leadership at Wits University through this agreement³⁵.

It could be the case that chairpersons might not have the educational qualification to match the work of the committee it chairs but may have working experience in the sector of the committee. For the chairpersons surveyed as per the committee sample, this was however not the case. Before entering the National Assembly, chairpersons worked primarily as lawyers and lecturers. Again the interview did not delve into the details about the positions chairpersons occupied before elected to Parliament. However, it could be argued that having experience in the positions

³⁵ Fourth Parliament Budget Vote (2014) Retrieved 10 June 2015, From: www.parliament.gov.za/live/contentpopup.php?Item_ID=3587&Category_ID=

outlined above, provide skills which would assist in committee work but the point is that this is a less direct application of experience to committees.

In much of the literature reviewed, positive correlations were drawn between the number of years individuals had formed part of the membership of legislative committees and, specifically in terms of chairing, the number of years fulfilling the position of chairperson and increased effectiveness of committees. Of the chairpersons surveyed, a collective picture was painted of chairpersons who had years of experience in the National Assembly with two chairpersons even forming part of the first crop of MPs in 1994. This forms a great part of the institutional memory vital to the discussion of legislative committee capacity. Collectively, between the chairpersons surveyed, there is combined legislative experience of almost 70 years and 40 years specifically chairing legislative committees. In more definite terms, none of the chairpersons sampled had less than 10 years experience in the national legislature while others began their legislative careers in provincial legislatures.

4.1.2. Political Environment

Chairpersons interviewed were asked if they had ever served or worked in local, provincial government or national government either in an elected position or in an administrative role. The question was posed to get a sense of perhaps how close ties were between the chairperson and party. Of the chairpersons surveyed, one was a former Deputy Minister, one held a senior position working for the ANC itself nationally, one was a Deputy Chairperson of an ANC Gauteng region and another was a member of the Gauteng Provincial Legislature. The remaining chairperson served in national government in an administrative role.

A cogent line of thinking is that if chairpersons seemed to be working closely in political party matters or even hold senior positions in the party, then that chairperson would spend a considerable amount of time on party-related activities. This however does not seem to be the case when chairpersons were probed about the amount of time they spent on activities attributed to what would assumed to be usual for a chairperson to engage. Namely, committee work, plenary work, constituency work and party work outside of the constituency. As echoed in the

previous chapter, the chairpersons interviewed unanimously responded that most of their time was consumed by committee work. This was even more significant in that the amount of time spent on committee activity was above 50%. Party work was in fact rated as the activity the surveyed chairpersons spent the least amount of time on. Although more research and work could go into the relationship between time spent on party-related activity and seniority in the party, at a superficial level, this finding reveals that close relations with the political party or occupying seniority in the party does not mean committee work is neglected or does not come first to committee chairpersons, at least for those interviewed.

This is further supported by the fact that, amongst the interviewed chairpersons, not much use was made of party - political researchers. When chairpersons were asked to rate the importance of party research staff as “very important”, “moderately important” or “not that important”, findings varied between “not that important” and “moderately important” with only one chairperson in the survey finding the resource was “very important”³⁶. Taking then the median of the responses, inferences could be drawn that party political research is not important to the work of committees or as an aspect of political capacity. This could further be substantiated by the fact that chairpersons did not raise the variable as an important or lacking resource in the qualitative findings either. It could be argued that the low level of importance attached to party researchers is that committee members and chairpersons find the information provided by the committee secretariat sufficient to serve their immediate needs. It could be that party researchers are there to provide further research particularly with the ideology of the party in mind. Perhaps the surveyed chairpersons were of the view that there was no need to solicit political research provided that information was already received from the committee secretariat.

4.1.3. Understanding Legislative Oversight

It could be put that a key component of the political capacity of legislative committees is how well the chairperson understands the oversight obligations of their committee. Of the responses provided by the interviewed chairpersons, important links were made between oversight as a sort of input mechanism and accountability

³⁶ Interview 3: 24 March 2015, Parliament of SA

as the result of carrying out effective oversight. One of the chairpersons remarked that “you exercise oversight in order to achieve accountability”³⁷.

All of the chairpersons interviewed noted the fact that legislative oversight was a constitutionally entrenched obligation for committees to carry out. Furthermore, the function was embedded in the substantial Rules of Parliament as well as various other instruments of legislation. The chairpersons also paid attention to the fact that the oversight function was carried out by committees as part of the public representativeness mandate on behalf the electorate who voted for the parties represented in parliament. Thinking about this point in greater detail, the ability of a legislative committee to constantly keep in mind the importance of executing legislative oversight as a key mandate on behalf of the electorate could be argued to form a key component of the political capacity committees require to function optimally. Ideally, a committee, in carrying out its oversight duty, should be led by the notion of serving citizens of the country as public representatives and although difficult to definitively quantify, this forms a great part of the conceptualisation of political legislative committee capacity. One of the chairpersons interviewed went as far as to exclaim that, in his opinion, effective legislative oversight required the function to be rooted in the constituencies or on the ground to ensure that the ultimate result of accountability was being brought about to serve the interests of the South African public³⁸. He went on to say that “you can’t have effective oversight unless you as committees and as members are engaging actively in the communities out there”³⁹.

What was found most interesting, which one chairperson outlined, was that oversight was simply much more than an in-locum site visit⁴⁰. Oversight is carried out in a myriad of ways which included key tasks such as examining, evaluating and studying the performance of the department and entities the committee oversees⁴¹. Another chairperson indicated that oversight was comprised of a host of activities falling under the same banner of accountability such as ensuring that departments and entities are spending their budgets effectively and productively in line with their own

³⁷ Interview 3: 24 March 2015, Parliament of SA

³⁸ Interview 4: 26 March 2015, Parliament of SA

³⁹ *Ibid*

⁴⁰ Interview 3: 24 March 2015, Parliament of SA

⁴¹ *Ibid*

stated objectives⁴². Oversight further serves to ascertain that departments met targets set out in their Annual Performance Plans, strategic plans and generally as mandated through their establishment.

Looking back at the findings in terms of how chairpersons understood the function of legislative oversight and accountability, the two most common opinions were that the function was linked to scrutinising, measuring and evaluating what departments achieved against stated targeted aims and the budget it was allocated in order to achieve the above, i.e. spending vs. outcomes, or what one chairperson referred to as “following the money trail”⁴³. The other common opinion involved the dynamic of holding the executive accountable as an important part of the role of public representatives. All five of the chairpersons interviewed mentioned one of these two major areas of legislative oversight. In terms of the literature reviewed, these two dynamics are critical in understanding the function of oversight so it could be argued that chairpersons positively grasped a primary obligation of their committees. Considering that it is one of the obligations of chairpersons to guide committee discussions and keep members united in collective tasks, leading with this understanding of oversight in mind bodes well for the political capacity of the committees sampled.

The importance of fully understanding constitutional obligations and mandated functions behind the need for an accountable government and its democratic objective was highlighted by Jacobs, Power and Calland, when discussing the Corder Report, as a key aspect of effective oversight. The authors go on to say that “accountability and oversight can be at their most effective if recognised by those in power as the central organising principle” (Jacobs *et al*, 2001: 65).

4.1.4. Role of the Chairperson

As touched on in the preceding chapter, the position fulfilled by a chairperson is a crucial component of the capacity of a committee particularly looking at it through a politically-tinted lens. This argument is further supported in a civil society conference paper which argues that the quality of oversight is dependent on members of the committee but even more so the chairperson and the quality of leadership shown by

⁴² Interview 2: 18 March 2015, Parliament of SA

⁴³ Interview 1: 5 March 2015, Parliament of SA

the chairperson (People's Power, People's Parliament, 2012: 45). All the chairpersons interviewed agreed that the role they play chairing the committee is to lead members. One of the chairpersons elaborated on this further to note that chairpersons are required to get to know the team of members it works with well enough specifically to get acquainted with each of their own skills set and qualities and then to harness this potential to ensure primary functions of the committee are carried out effectively⁴⁴. The ability of chairpersons to understand the fundamental importance of their role and to actively execute it when chairing the committee is an important dynamic of the political capacity of a committee.

The chairpersons interviewed agreed that they had the ability of providing leadership that was not biased and unreasonable but partial and fair given that a variety of political parties, each with their own interests and agenda, are represented on the various committees. The chairpersons interviewed acknowledged that they were obliged to justly and accurately represent the committee as a collective with one consenting voice that transcended party lines.

Dynamics between the ANC chairs and committee members of other parties did not shine through brightly in the interviews. Mention was made of the fact that committees were essentially politically contested terrain but there was no indication of tension or strain between the chairs and members of differing political affiliation. Chairs surveyed reinforced the notion that "oversight weighs stronger than political affiliation"⁴⁵. Looking however at the PMG minutes of the sampled committees within the timeframe of this study, insight into relations between members are at times highlighted. One such example is in the Portfolio Committee on Police where a DA member thanked the chairperson (ANC member) for chairing the particular meeting well "even though they did not always see eye to eye"⁴⁶.

It could be argued then that a committee is better capacitated when party-political dynamics do not hamper the work or operations of the committee which ultimately does require consensus and collective vision. More often than not a chairperson, as the committee leader, would guide the committee in cooperating in a unified fashion

⁴⁴ Interview 3: 24 March 2015, Parliament of SA

⁴⁵ Interview 2: 18 March 2015, Parliament of SA

⁴⁶ PMG Minutes of the Portfolio Committee on Police. 19 April 2013.

as this is what is best in carrying out the mandate of committee work and reach definitive decisions. As already highlighted by an interviewed chairperson, the chair should harness the potential of members in the committee⁴⁷ and this surely requires a sense of management or mediation should there be great political tensions between members. Where this is done and its evident the committee works through politically characterised differences assisted by strong leadership provided by the chair, political capacity would be deemed to be strong in such committees and would allow for the committee to operate optimally.

However, it could be argued that where a chairperson lays down a set of guidelines perhaps on how the committee would be run or perhaps on issues which are non-negotiable, ground rules are established for the particular committee specifically when it comes to an impasse or when decisions need to be taken. Should a chairperson display this ability and finesse it could be put that the said committee has increased capacity, in a political sense, in carrying out its primary functions, pertinent of which is oversight.

Looking at the outcomes of the chairperson's interviewed, it was found that some chairpersons were strict in laying such ground rules to guide the operation of the committee. One chairperson made it clear to the department and entities, when accounting to the committee, that no documents would be accepted seven days prior to the arranged meeting⁴⁸. This makes it clear to those coming before the Committee what is acceptable and what is not and aids in the committee being taken seriously – a significant dynamic of the political capacity of the committee.

Another example of how a committee chairperson sets clear guidelines in how the committee would be run, arose during an interview when the chairperson relayed that it was important for the committee to come together at the beginning of a particular session or term to map out the priorities of the committee, particularly in relation to its oversight mandate⁴⁹. This committee compiled a numbered plan to prioritise how it would begin tackling oversight in relation to various aspects of the big department it oversees which also had a large number of entities in its ambit⁵⁰.

⁴⁷ Interview 3: 24 March 2015, Parliament of SA

⁴⁸ Interview 1: 5 March 2015, Parliament of SA

⁴⁹ Interview 3: 24 March 2015, Parliament of SA

⁵⁰ *Ibid*

One could argue that such a committee has a clear direction or sense of how it would approach the department and entities in carrying out its oversight function. Furthermore, it could be argued that such a committee, in coming together to plan its approach before hand, has a unified sense of collective where members, staff and the chairperson met at the beginning of a particular work period to agree on the best way of operation in terms of a priority-driven approach. In both senses then, the political capacity of the committee is elevated as far as these findings go. Similar reference is made in the Legacy Report of the Portfolio Committee on Correctional Services where mention is made of the practice of the Committee identifying focal areas to be zoned in on during the tenure of the Committee⁵¹.

4.2 Executive - Legislative Relations

Being the majority party, the ANC occupies the most seats in the National Assembly – this also means members of the party dominate committee membership and the executive arm of the country. This forms the basis for a large connective link between majority of members on the committee and the executive – both stem from the same party but the former is mandated to oversee the latter. The tensions between these two branches of the state are commonly highlighted. The literature review made extensive mention of this dimension which is common to parliamentary systems i.e. the degree of fusion between the executive and legislature and that while both branches differ in function, they share the same origin.

However, dynamics of the often complex relationship between the minister, as the head of the department, and the chairperson, as the head of the committee, provide key insights into the political capacity that committee is said to have. Having said this, it would be difficult to analytically dissect such a relationship because there are many behavioural dynamics which could lead to many inferences or suggestions. However there are instances of where the political capacity of the committee could be constrained. For one, if there is a tense relationship between the chairperson and minister, this could make the function of oversight difficult in many ways. A minister could also not avail him or herself often enough to the committee and this too could have adverse effects on the committee ensuring executive accountability. Similarly, the chairperson could take a softer approach when dealing with the minister, as the

⁵¹ Legacy Report of the Portfolio Committee on Correctional Service. 2014

political senior, and this could affect for example, taking definitive committee decisions on a particular matter.

All of the chairpersons interviewed found it very important that a sound working relationship develops between the chairperson and minister of the portfolio it oversees. What were most important to this relationship were shared values regarding oversight and the need for accountability. One of the chairpersons explained that ministers are involved in the input and output stage of the department's activity i.e. involved in planning and setting targets and objectives (inputs) and ensuring the inputs yielded results most often in the form of service delivery (outputs). The legislature then found its role in keeping a watchful eye over the process overall and to measure or evaluate inputs against outputs. Oversight then, according to the chairperson, formed a vital part of service delivery to ensure it was carried out in a satisfactory manner⁵². At times, during committee meetings, members would express their thoughts on ministers heading the departments they oversee – such an example is seen in the PMG minutes of the portfolio committee on Trade and Industry where an opposition member felt that “the Department was fortunate to be led by a hardworking Minister”⁵³. This same member, in another meeting, noted that he “appreciated the Minister for always being on top of his game and it was always good to see a professional doing a good job”⁵⁴.

One of the chairpersons made an interesting point that committee members were quick to point out where a department or entity went wrong or did not achieve in a certain area of operation. However it is also part of legislative oversight for the committee to oversee the strategic plans and predetermined objectives, indicators and targets of the said department and entity. This would include assessing whether plans and targets were feasible given resources and budget etc. and generally identify weak areas or if the department was being too ambitious in certain areas – information which would then often be communicated to the Minister⁵⁵. One could argue that, to an extent, where departments fail or fall short particularly in targeted areas of work, it could speak to the fact that the committee, led by the chairperson, did not carry out the mandate of oversight effectively, responsibly or robustly enough

⁵² Interview 3: 24 March 2015, Parliament of SA

⁵³ PMG Minutes of the Portfolio Committee on Trade and Industry. 23 April 2013.

⁵⁴ PMG Minutes of the Portfolio Committee on Trade and Industry 11 March 2014,

⁵⁵ *Ibid*

– as was highlighted by this particular chairperson. Should this be the case, it could offer a useful period in which the committee could reflect on its operations, regroup dynamics of political capacity in respect of the relationship with the minister and establish how best to mitigate such an occurrence in the future. It could easily be said that a successful department and entities meeting targets and objectives as strategically planned out is as much a positive reflection of the department/entity itself as it is on the committee responsible for overseeing these processes and activities.

Another chairperson made a point about the fact that there is often useful creative tension between the chairperson and minister as to the carrying out of differing mandates. He went on to explain that such tension could be complementary in that the mandates have in common serving the citizens of the country however from two different arms of the state and that any vibrant, thriving democracy had a level of healthy tension between the legislature and executive⁵⁶. He also affirms the point brought up earlier that “where a committee exercises stringent and rigorous oversight this serves, in fact, to strengthen the executive”⁵⁷.

Moreover, in reviewing the findings on this particularly complex dynamic related to the political capacity of legislative committees, the interviewed chairpersons raised that fact that relationships between the chairperson and minister, like any other relationship, needs to be worked on – one chairperson remarked that working on the relationship was not easy at first but tensions were soon ironed out⁵⁸. The most basic advantage of a sound working relationship between these political agents is that if issues arose, for instance a media report in the public domain, that the chairperson could easily and comfortably raise it with the Minister and ascertain from there how best to deal with the occurrence – the emphasis, from the findings, was on dealing with issues which may arise. Emphasis was placed on the respect that the two principals needed to have for the roles each played but with the shared ultimate objective of serving the needs of South Africans. The way in which this relationship plays itself out is a key dimension of the political capacity of the committee.

⁵⁶ Interview 4: 26 March 2015, Parliament of SA

⁵⁷ *Ibid*

⁵⁸ Interview 1:5 March 2015, Parliament of SA

4.3 Reconciling Positions

One of the chairpersons interviewed noted that, due to the electoral system and those dynamics of partial fusing of the executive and legislature, there is contested terrain between party positions and fulfilling the position of chairperson. The chairpersons recognised that although both he and the minister came from the same parties, they each had roles to play in different arms of the state. It was noted that it was constitutionally mandated that the legislature oversees the executive and, on the flip side of the coin, the executive is thus accountable to the legislature. The chairperson believed that there was an understanding of these roles which was respected by all political parties and from the side of the legislature and members of the executive.

As has been repeated throughout this chapter that committees are essentially politically-charged entities simply due to the different political parties that members represent, a chairperson highlighted that there would also be political differences in committee because of this. She said that there were certain issues parties would never agree on and this should be recognised but “not everything you tackle is ideological”⁵⁹. She found it important to tackle committee tasks robustly by allowing everyone to air their views freely and that this could actually make for a more effective committee because one party might raise something that another party overlooked. From there, compromise could be attempted. She highlighted that it was important for the committee to maintain the united vision of working together mainly because the committee was working to improve the lives of all South Africans⁶⁰. For a committee to operate bearing this in mind and with it reinforced by the chairperson, it could be said such a committee is working from a strong base of political capacity.

One of the chairpersons highlighted that issues were not shied away from in his committee simply because of “political business” or if an issue was controversial⁶¹. The chairperson made it clear that issues were dealt with in committee as “oversight weighs stronger than political affiliation”⁶². Another chairperson was more adamant of the fact that there was no need to reconcile chairmanship or legislative

⁵⁹ Interview 3: 24 March 2015, Parliament of SA

⁶⁰ *Ibid*

⁶¹ Interview 2: 18 March 2015, Parliament of SA

⁶² *Ibid*

membership with membership of a political party⁶³. He outlined that one of the primary functions of the committee was oversight particularly in the sense that the committee oversees the plans of the department and implementation thereof against the budget the legislature endorsed for that specific department. He said that this was a task to carry out and “there was no party in that”⁶⁴. If the committee, as led by the chairperson, can maintain that issues would not be shied away from and that arguably issues of party simply do not have place in committee work then such a committee would have the political capacity to execute its oversight tasks without fear or favour but through the powers conferred to it in the Constitution, legislation and Rules of Parliament.

4.4 Compliance

The above discussion of recognising the mandates of the executive and the legislature could be said to be a normative or ideal argument and the reality might not always play itself out in that way. Chairpersons interviewed were questioned about executive and departmental forthrightness in providing information needed by the committee to carry out meaningful oversight.

The findings in this regard point to departments and entities compliance with providing information as widely varied, inconsistent, erratic and dependent on the committee and department in question. It was highlighted that some departments were generally more accommodating while other departments needed to be asked more than once⁶⁵. It might also depend on the executive and DG of the department and the general quality of staff in terms of timeous submission of information, according to one chairperson⁶⁶. It was highlighted in the legacy report of the communications portfolio committee that there were a number reports outstanding from the department and its entities – this is a practical example of non-compliance in terms of submission of information.

However, three of the five chairpersons interviewed found that departments were reasonably cooperative. The ability of the committee to ensure that they were taken seriously and departments or the executive did not appear to be treating the

⁶³ Interview 1: 5 March 2015, Parliament of SA

⁶⁴ Interview 1: 5 March 2015, Parliament of SA

⁶⁵ Interview 2: 18 March 2015, Parliament of SA

⁶⁶ *Ibid*

committee with contempt, could be argued as the committee having the political capacity to carry out its oversight function meaningfully.

Two of the chairpersons interviewed did not experience problems with the executive or department providing information required from the committee⁶⁷. However it would be important to qualify this particular finding - both chairpersons had been part of the legislature and chaired committees for many years and so had the time to build a foundation and stamp their authority, if you will, as chairpersons in terms of what was acceptable and not acceptable. One of the chairpersons mentioned previously made it clear that the department or entities accounting before the committee could not submit documents or information less than seven days prior to the arranged meeting⁶⁸. This ensured members had adequate time to engage the information and arrive at meetings fully prepared. It could be argued that should such ground rules be laid out in terms of the department and executive providing information, it provides the committee with the political capacity to execute its oversight tasks.

PMG minutes of the Portfolio Committee on Water and Environmental Affairs for February 2013, where the Committee was meeting with the Department of Water on its methodology and criteria used to decide on the performance targets and indicators reflected in its strategic plan and annual performance plan, point to the fact that some committees do at times struggle with non-compliance – the minutes state “the Chairperson was disappointed that the documents had arrived only that morning. It was very hard for Members to engage properly unless they had a chance to read briefing documents at least the night before”⁶⁹.

Another such example is from the Portfolio Committee on Police where the Committee was not pleased with the quality of the presentation delivered to the Committee during a meeting where the SA Police Service (or Department of Police) was due to report back to Members on progress made implementing the Budgetary Review and Recommendations Report (BRRR) recommendations of the Committee. PMG minutes reflect that the Chairperson “demanded a fully re-worked document must be returned to the Committee...even if the Department worked through the

⁶⁷ Interview 1: 5 March 2015, Parliament of SA & Interview 3: 24 March 2015, Parliament of SA

⁶⁸ Interview 1: 5 March 2015, Parliament of SA

⁶⁹ PMG Minutes of the Portfolio Committee on Water and Environmental Affairs. 27 February 2013

night. If SAPS thought this Committee would be satisfied with the presentation, then it clearly did not know the Committee well enough⁷⁰. This is an example of how some Committee's experience the challenge of non-compliance.

One chairperson made the fascinating point that the committee should work closely with departments by a) giving them sufficient time to prepare for meetings and b) aid them in understanding why oversight over certain tasks or areas of the department are carried out⁷¹. The chairperson said this would prevent oversight being seen as an "obstacle test" and so would allow the department to be more responsive to the committee in terms of provision of information. It would also make for a better prepared department when appearing before the committee because of a newfound understanding of why certain questions were asked or what information would be interrogated. The chairperson alluded to the point that oversight was not necessarily an exercise to test which arm of the state was stronger but a mutually strengthening effort⁷², if you will, and if the committee operates with this in mind, it would enable responsiveness from the department.

Interviewed chairpersons were also asked about instances in which the executive and department failed to comply with specific committee requests. The findings largely corresponded to what was discussed above in that three of the five the chairpersons interviewed highlighted that there were definite cases of non-compliance and only two chairpersons interviewed found that this was not something that their committee experienced⁷³. It was found that cases of non-compliance with minor matters such as providing responses to questions which might not have been answered in a previous committee meeting or failure to submit reports by a certain deadline, was a regular occurrence for some committees. One of the chairpersons who had a different experience indicated that she did not have the misfortune of having the executive or department not comply with a specific committee request⁷⁴. She also acknowledged the rarity of her experience after speaking with her colleagues from other committees⁷⁵. Typically, the responses to the question were

⁷⁰ PMG minutes of the Portfolio Committee on Police. 4 March 2014

⁷¹ Interview 3: 24 March 2015, Parliament of SA

⁷² Interview 3: 24 March 2015, Parliament of SA

⁷³ Interview 1: 5 March 2015, Parliament of SA

⁷⁴ Interview 3: 24 March 2015, Parliament of SA

⁷⁵ *Ibid*

along the lines of “all the time” and “of course” etc. which gave rise to the inference drawn that it was a regular occurrence.

Significance could be attached to this finding because it provides evidence of the practical and realistic dynamics of the relationship between the executive and the legislature in contrast to the theoretically ideal cooperative relations painted earlier on in the chapter. The finding also supports earlier arguments relating to the asymmetry between the executive and the legislature especially so in terms of the provision of information required for oversight and scrutiny. Noting in the previous chapter the importance of information as the source of power when conducting legislative oversight, such a finding raises concerns with regard to political capacity. To touch on just one of the reviewed pieces of literature, the HSRC, reporting on organs of state accountable to and overseen by Parliament, highlighted that “the flow of information was the lifeblood of accountability” (2006: 11).

The two chairpersons outlined above whom did not experience problems with departments complying with committee requests, were the same chairpersons mentioned previously who stamped their authority and formed the springboard of committee action by laying distinct ground rules in terms of what was acceptable to the committee and what was not⁷⁶. From this we can also infer that the agency of the committee chair is therefore an important variable in ensuring greater executive responsiveness. Furthermore this agency is absent from committees which experienced unresponsive departments. It could also be argued that this agency still needed to be developed amongst some of the chairpersons interviewed who were relatively new to the job.

Coming back to the original point, the finding that departments and the executive often did not provide information needed by the committee timeously or at all, is a concerning one given the important link between information and oversight. It also points again to asymmetries of power highlighted extensively in the previous chapter. It clearly elucidates the fact that the department and executive hold information that the committee requires and so then the committee is dependent on the executive or department for this vital requirement. The committee and chairperson however could

⁷⁶ Interview 1: 5 March 2015, Parliament of SA & Interview 3: 24 March 2015, Parliament of SA

use its political capacity by evening out asymmetries or inequalities by making it clear that the department is obliged to provide information it might require by a strict deadline the committee sets out and that there would be implications if this was not done. The two chairpersons mentioned have laid this basis from which the committee works and so has built the political capacity to ensure it gets what it wants from the executive, department or entity. From those committees which experienced unresponsiveness, we can assume that the chairperson did not lay down these ground rules but that if they did, it could be sufficient to change the situation.

4.5 Impediments to conducting effective oversight

One of the chairpersons, when posed with this question, noted that at times the understanding and expertise of committee members presented itself as an impediment to conducting effective oversight⁷⁷. Although he linked this to being caused primarily by structural capacity deficiencies, he outlined that committee members lacked content knowledge⁷⁸. This ties in with one of the research findings of this study – in looking at the committee sample in more detail, specifically the members of the committee, it was found many members did not have experience or an educational background in the sector of work falling within the scope of the committee. This finding is given more substance in that another chairperson also noted it as one of the largest impediments to effective legislative oversight conducted by the committee⁷⁹. In terms of how MPs are allocated to committees, parties nominate their own members to the Speaker of the National Assembly for approval. It is not known what determinants parties use to make these allocations and if they take into account members' knowledge and experience of particular sectors. Being unable to determine this, it could imply that sector knowledge is not sufficiently taken into account.

Not only did the expertise of members come up as an impediment but more than one chairperson noted the negative effect of a lack of continuity of committee membership. One of the chairpersons elaborated on this point to say that he felt five years was a relatively short amount of time in that just as members were beginning to fully comprehend the work of the committee in relation to maintaining oversight

⁷⁷ Interview 1: 5 March 2015, Parliament of SA

⁷⁸ *Ibid*

⁷⁹ Interview 2: 18 March 2015, Parliament of SA

over the executive, department and entity, a new election year would bring in a new crop of members and this capacity had to be built from its foundation again⁸⁰. This argument points to a loss of institutional memory and this in itself is a large component of the political capacity of committees as discussed in the beginning of this chapter.

The argument is raised further in one of the ranking questions in the interview where chairpersons were asked if they viewed the understanding of members of the committee of the work of the executive and departments they are meant to oversee as well as the members' ability to ask informed questions during meeting time as "very poor", "poor", "good" or "very good". Looking at the results, the outcomes do not reflect the qualitative answers highlighted in the previous paragraph. All the chairpersons surveyed rated both items as "good".

On further analysis it could be there that there should have been another ranking grade between "poor" and "good" – this would explain why the chairpersons thought the performance of committee members in these areas were more on the good side than the poor side. In fact one of the chairpersons surveyed stated that he was of the opinion that both items fell between the "poor" and "good" categories⁸¹. It could also be argued that none of the chairpersons noted the performance as "very good" which could indicate that there are definite elements lacking in the capacity committee members bring to committee. This analysis, together with the qualitative data discussed above, point to decreased political capacity in this particular dynamic of the committee.

Another politically characterised dynamic which could impede legislative oversight as raised by at least two interviewed chairpersons was non-cooperation of the department or entity especially in terms of making information or data available⁸². It has however been discussed earlier in the chapter that this was a challenge applicable to some committees and not others. Links between oversight and information available were also explicitly discussed in this dissertation so given this,

⁸⁰ Interview 1: 5 March 2015, Parliament of SA

⁸¹ *Ibid*

⁸² Interview 1: 5 March 2015, Parliament of SA & Interview 2: 18 March 2015, Parliament of SA

this impediment is a serious obstacle in the execution of effective legislative oversight.

This is even more so as findings show, at least in the sample this dissertation made use of, that non-cooperation or a lack of forthrightness by the executive or department is something more committees than not are limited by. It is important to reiterate the vital links between information and the power having the correct information is to carrying out successful oversight by committees so having this access impeded negatively impacts on the political capacity of the committee. This impediment succinctly ties in with the impediment speaking to the asymmetry between the executive and legislature in terms of information and access to it in the chapter discussing resource or physical capacity.

CHAPTER FIVE: CONCLUSION

This chapter will provide a summary of the main findings and outcomes of the primary discussion surrounding legislative capacity.

The conceptual framework of this study was outlined in chapter one where a foundation was laid for the discussion to ensue later in the paper. Establishing an understanding of the dynamics and key variables relating to legislative capacity as thought of by this dissertation along the lines of physical resources and political characterisations of the committees, is essential to understanding what comprised the entire picture of capacity. This was particularly framed around one of the salient functions of the institution, namely, oversight.

This dissertation discussed oversight as one of the salient functions of any legislative institution and furthermore set up a greater understanding of this function by situating it within a wide literature review looking at the broader assumptions relating to oversight, the theory of separation of powers and complex executive-legislative relations. The dissertation also looked at theoretical assumptions relating to institutionalisation laying the foundations for a more practical discussion on the significance of capacity for executing this constitutionally emboldened function of oversight and accountability.

5.1 Summary of Findings

This dissertation primarily set out to investigate and provide insights into the institutional capacity of the legislative committee system of the South African National Assembly. Parliamentary committees are key centres of power in the institution and so developing a clearer, and importantly current, picture of their operations is key in framing a broader debate on legislative strength or weakness.

The aim was further to narrow this discussion on operations down to one of the chief functions of committees, namely oversight. The study then took its cue to look at the polar ends of capacity i.e. elements of capacity relating to physical resources and those relating to political dynamics, and develop findings or outcomes on capacity to execute this particular legislative function.

Institutional capacity was conceptualised as comprising of two complementary camps – on the one hand, variables relating to structural or “hard” resources and then variables relating to aspects and dynamics that were more political or “soft” in nature. Conceptually it was proposed that both structural or physical resources and then political dynamics form the institutional capacity which ground committees and from which their actions, decisions and operations spring from.

The chapters outlining the first hand findings and outcomes provided insight into an assessment of legislative capacity and largely pointed to a mixed result – in some areas of “hard” resources and some areas of political, or “soft”, dynamics, capacity was bold and enriched the committee operations while in other areas it was evident that the institution needed to work harder to build and develop capacity for effective oversight. It was also prominently revealed that capacity, in its entirety, differs from one committee to the next as demonstrated by the survey of seven portfolio committees this study developed as outlined in the methodology.

This study began on the point that not much scholarly and academic attention had been paid to a comprehensive overview of the most important instrument to conduct oversight and maintain accountability, namely, legislative committees. It could be argued that this study makes progress in wading through the dense scenery of oversight and providing greater, updated insights into the operations and working of these parliamentary engine rooms. It could also be argued that this study has contributed to discussion on the capacity committees draw from to conduct the exercise of oversight and developed a sound framework through which to conceptualise of this capacity. The discussion is useful considering that, as highlighted by the framing Barkan paper, often great broad stroke assumptions are made of legislative performance without qualifying these assumptions with detailed substantiation.

Although the findings are mixed and show that there are certain variables or elements in both structural capacity and capacity relating to political dynamics that are lacking, much of the qualitative interviews conducted make reference to the fact that capacity in its entirety has increased substantially over the years. Chairpersons and research staff surveyed pointed out committees often made do with much less than the capacity enjoyed by committees currently. This infers that legislative

committees of the National Assembly have come a long way in making strides to improve and increase capacity – if this trajectory is followed and there is a concerted effort to identify and work areas of capacity that are lacking, legislative effectiveness could increase across the board.

5.1.1 Hard resources impacting committee capacity

The study looked at a variety of sub-variables relating to “hard” or physical resources comprising legislative committee capacity. These were broadly categorised according to physical resources, budgetary allocations and human resources, in the form of support staff. To recap on methodology, findings and outcomes stem from the anonymous interviews with committee chairpersons and research staff – mostly content advisers – of the committees comprising the sample utilised by this study. Primary data was also collected on a number of quantitative variables to develop a dataset on each sample committee.

As previous highlighted this chapter, outcomes and findings related to “hard” resources were varied and differed from one committee to the next. The study provided insight into the fact that some committees have a larger department to oversee and/or more public entities to oversee as well which generally translates to a greater workload for such a committee. This would invariably impact on the capacity of resources available to the committee across various sub-variable categories. However this paper has shown that resources are provided equitably across the board to committees therefore not taking cognisance of the fact that workloads vary from one committee to the next. This was displayed in both the way budgets were allocated and human resources, or support staff were allocated – all committees in the sample had one secretary, one executive secretary for the chairperson, one assistant, one research and one content adviser – the only outliers in this finding were the committees of police and trade and industry where the former had two researchers and the latter had two secretaries.

Inferences were also made around the fact that although chairpersons were largely happy with the quality of work displayed by overworked support staff, particularly from the research side, committees critically required more skills with the aim of forming team of research and secretariat staff rallying behind Members and the

chairperson to provide that technical assistance instead of having the current bare minimum.

Related to this was the fact that this dissertation found that budget and human resources were arguably chief in terms of resource capacity while other sub-variables, such as library, equipment and technology etc. were secondary. This provides a significant indication of how salient these two aspects are to committee capacity. In line with what the Barkan paper found ten years ago, the South African Parliament indeed does have all the trimmings one might assume a modern day legislature would enjoy – I refer here to spacious committee meeting rooms with microphones, Powerpoint presentation facilities and air conditioning with some venues even equipped with cameras to live stream proceedings on Parliament's dedicated DSTV or YouTube channel.

The importance of committee capacity, both in terms of “hard” resources and politically “soft” dynamics, were revealed through the interviews with chairpersons - out of varying options of where chairpersons spent the most time in legislative work, the unanimous finding was that all chairperson surveyed spent majority of their time, i.e. over 50 per cent, working in and chairing the committee.

This study also made the point that it is evident that there is not a clear cut amount of resource capacity one could argue as being sufficient. However findings show, both from the qualitative data gathered from interviewed chairpersons and research staff, that there is undoubtedly a need to develop further capacity especially for those committees which oversee bigger departments, more entities and generally have a higher workload. The ultimate argument here is that the more resource capacity a committee has, the more it would be able to do in terms of oversight.

The study also spoke at length about clear resource asymmetries or imbalances between the resource capacity of the legislature *vis-a-vis* that of the executive. This was a considerable factor arising during the literature review and it was confirmed through the qualitative information provided by the interviewed chairpersons and research staff. The paper discussed various manifestations of this resource inequality but a pertinent aspect of this asymmetry, especially in relation to the legislative function of oversight, was the imbalance of information between the two

arms of the state. The study repeatedly pointed to the salience of independent information when conducting oversight and the fact that the legislature is largely dependent on the executive and departments for information leaves a considerable gap in the capacity of structural resources.

5.1.2 Political environment/soft dynamics impacting committee capacity

This study looked at a variety of sub-variables relating to political, or “soft” dynamics comprising legislative committee capacity. These were largely conceptualised as including committee membership and chairpersonship – as members were thought of as largely political commodities in their seats and positions were acquired according to political partisan processes, it was argued that these individuals would such form part of political capacity. Other sub-variables included variances of political involvement, understanding of legislative oversight and executive-legislative relations. This chapter of findings was distinct from the first in that political dynamics are intangible and “soft” and so outcomes stem from inferences, arguments and general discussion on the elements of capacity as opposed to the more straight forward points regarding structural or “hard” resources. Overall the underlying conceptualisation of these elements of capacity was the political will and political autonomy to enable committees to carry out its oversight mandate optimally.

As previously highlighted in this chapter and in much the same vein as the concluding remarks on structural resource capacity, findings and outcomes for legislative committee capacity relating to political dynamics pointed to a mixed picture where capacity was at best varied and differed from one committee to the next.

While having not looked into the educational and employment history of all members of the seven portfolio committees sampled, this study did look into this history for chairpersons. While only one of the chairpersons did not have a university degree, all the other chairpersons had degrees, with many also achieving postgraduate status. Coupled with work experience that could arguably be beneficial to the committee in an indirect way (i.e. not in the direct sector of work of the committee), an initial good picture developed of political capacity looking at these sub-variables.

Outcomes also revealed that the committee chairpersons sampled had a firm grasp and understanding of the notion and salience of executing an oversight mandate. The argument was that as chairperson, the individual led committee discourse, debate and ultimately decisions taken and so it was an important aspect of political capacity for committee operations. Important links were drawn between oversight, accountability, checks and powers and constitutionally enshrined mandates. This is also an essential aspect of capacity given that committee work generally, and holding the executive, departments and public entities accountable specifically, requires unified committee membership and a collective understanding so it was important for chairpersons to lead the committee with this thinking.

This chapter argued that the position fulfilled by committee chairperson was critical to the political capacity enjoyed by the committee. It was highlighted that complex political dynamics relating to varying relations between committee members is distinct from one committee to the next – each committee has a different character and disposition of members and between members. One of the important roles of the chairperson is to provide leadership and coherently guide the ship so that such varying relations do not hamper carrying out oversight. The ability of the chairperson to do so is arguably an important aspect of political capacity for optimal oversight. The paper further positioned that the chairperson set the tone for what was acceptable in the committee and what was not in terms of departmental compliance, methods of working etc. and the finesse and management style of the chairperson to lay ground rules and boundaries was another important dimension of political capacity.

In discussion on compliance by the executive, departments and public entities in terms of providing information, responding to requests and general submission of documents required by the committee, it was found that committees, or those of the sample anyway, lacked political capacity to enforce that such non-compliance was unacceptable. Only two of the interviewed chairpersons expressed that they had no real problems in terms of compliance while the other chairpersons indicated that this was a potentially challenging area. This could be tied in with the discussion on information asymmetries discussed earlier in this conclusion. This is concerning giving the crucial links between information and carrying out legislative oversight.

It is pertinent to reiterate that there are diversities in political, or “soft”, dynamics comprising political capacity from one committee to the next. While the findings discussed displayed a varied picture in terms of political capacity, the study made it clear that some committees have a deeper well of capacity to draw from while others needed to develop this capacity to a greater extent.

However, as the conceptual framework of this study had laid out, both sides of institutional capacity (structural resources and political dynamics) are crucial for the committee to conduct oversight optimally and in the most effective manner.

5.2 Areas for future consideration

One of the points elucidated in this study was that the function of oversight was an on-going, continuous and cyclical exercise that had no real definitive limit or by simply engaging one or a few documents could it be said the exercise was complete. Much of the literature echoed this and thus highlighted the need for committee capacity to be able to systematically track department and entity performance and progress constantly. This is further substantiated by Murray and Nijzink who state that it is important for the entire legislative committee system to “be geared to oversight” and this entails the execution of systematic oversight and not the function being carried out on an ad hoc basis (2002: 111).

Another pertinent point which has emerged is that although oversight and accountability are mutually inclusive and the assumption has been such that oversight is executed to achieve accountability, Jacobs *et al* highlight that the process of oversight is crucial to improvement of service delivery and administration of the public sector (2001: 63). This was further elucidated at length in the chapter on political dynamics of capacity where it is essential that a committee is politically capacitated to the extent that the committee operates as a cohesive unit with a common objective in mind which should be to ensure improved and progressing service delivery. The point was further emphasised by one of the chairperson’s interviewed who alluded to the fact that the committee should be with the department in every step of its processes in terms of setting targets, allocating budgets and the ensuring the predetermined outcomes are met. In this way, an effective government department is very much a reflection on the quality of committee oversight should the

common objective of service delivery and quality of government be kept in mind. Jacobs *et al* additionally argue the point by indicating that “an effective parliament should be the basis for effective government” (2001: 69).

According to Murray and Nijzink, the function of oversight is one of the most difficult of the legislative mandates (2002: 111). The function however is salient and intrinsic to effective democratic governance so impediments in the way of effective execution of oversight vitally needs to be addressed especially so in terms of ensuring the committee system is empowered through capacity to match a comprehensive theoretical framework. While the variables discussed in this study are only a portion of indicators relating to legislative committee capacity, the discussion and findings provide information and keen insight into the work of these centres of institutional power.

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Addendum One: Committee Sample

CLUSTER	COMMITTEE	BUDGET (Final Appropriation)	No. of Entities (Reporting to the Minister)	Staff Size (Posts Filled)
1. Infrastructure Development	<u>Energy</u>	R6 503 billion	6	550
2. Economic Sectors and Employment	<u>Trade and Industry</u>	R9 515 billion	14	1286
3. Justice, Crime Prevention and Security	<u>Correctional Services</u>	R18 748 billion	0	41 825
4. Economic Sectors and Employment	<u>Communications</u>	R2 372 billion	7	333
5. Social Protection and Community Development	<u>Social Development</u>	R118 511 billion	3	678
6. International Cooperation, Trade and Security	<u>Water and Environmental Affairs</u>	R10 375 billion + R5 206 billion = R15 581 billion	16 + 4 = 20	7336 + 1588 = 8924
7. Justice, Crime Prevention and Security	<u>Police</u>	R68 791 billion	3	194 852

Addendum Two: Full Complement of Portfolio Committees in the National Assembly for the Year under Review

- | | |
|---|--|
| <ol style="list-style-type: none">1. Agriculture, Forestry and Fisheries2. Arts and Culture3. Appropriations Standing Committee4. Auditor-General Standing Committee5. Basic Education6. Communications7. Cooperative Governance and Traditional Affairs8. Correctional Services9. Defence10. Energy11. Finance Standing Committee12. Health13. Higher Education14. Home Affairs15. Human Settlements16. International Relations and Cooperation17. Justice and Constitutional Development18. Labour19. Mineral Resources20. Police21. Private Members' Legislative Proposals and Special Petitions22. Public Accounts Standing Committee23. Public Enterprises24. Public Service and Administration25. Public Works26. Rules of the National Assembly27. Rural Development and Land Reform28. Science and Technology29. Sport and Recreation30. Social Development31. Tourism32. Trade and Industry33. Transport34. Water and Environmental Affairs | <ol style="list-style-type: none">35. Women, Children and People with Disabilities |
|---|--|

Addendum Three: Governmental Cluster Structure

1. Infrastructure Development Cluster:

Communications	Cooperative Governance and Traditional Affairs
Economic Development	Energy
Finance	Human Settlements
Public Enterprises	Public Works
The Presidency: National Planning Commission	Transport
Water and Environmental Affairs	

2. Economic Sectors Cluster:

Agriculture, Forestry and Fisheries	Communications
Economic Development	Finance
Higher Education and Training	Labour
Mineral Resources	Public Enterprises
Rural Development and Land Reform	Science and Technology
Tourism	Trade and Industry

3. Governance and Administration Cluster:

Cooperative Governance and Traditional Affairs	Home Affairs
Justice and Constitutional Development	Finance
Public Service and Administration	The Presidency: Performance Monitoring and Evaluation

4. Human Development Cluster:

Arts and Culture	Basic Education
Health	Higher Education and Training
Labour	Science and Technology
Sport and Recreation	

5. Social Protection and Community Development Cluster:

Cooperative Governance and Traditional Affairs	Environmental and Water Affairs
Human Settlements	Labour
Public Works	Rural Development and Land Reform
Social Development	Transport
Women, Youth and People with Disabilities	

6. International Cooperation, Trade and Security Cluster:

Defence and Military Veterans	International Relations and Cooperation
Finance	Trade and Industry
Tourism	Rural Development and Land Reform
Water and Environmental Affairs	

7. Justice, Crime Prevention and Security Cluster:

Correctional Services	Defence and Military Veterans
Home Affairs	Justice and Constitutional Development
Police	State Security

Addendum Four: Entities Reporting To Committees in the Sample

1. ENERGY:

The Central Energy Fund (CEF) Group of Companies (SOC) Ltd	The National Nuclear Regulator (NNR)
The National Energy Regulator of South Africa (NERSA)	The South African Radioactive Waste Disposal Institute
The South African Nuclear Energy Corporation (Necsa) SOC Ltd	The South African Energy Development Institute (SANEDI)

2. TRADE AND INDUSTRY:

Companies and Intellectual Property Commission (CIPC)	National Empowerment Fund (NEF)
	National Gambling Board (NGB)
Export Credit Insurance Corporation (ECIC) SOC Limited of South Africa	National Lotteries Board (NLB)
National Consumer Commission (NCC)	National Metrology Institute of South Africa (NMISA)
National Consumer Tribunal (CT)	National Regulator for Compulsory Specifications (NRCS)
National Credit Regulator (NCR)	Small Enterprise Development Agency (Seda)
South African Bureau of Standards (SABS)	South African National Accreditation System (SANAS)
Companies Tribunal	

3. CORRECTIONAL SERVICES: 0 FOR THE YEAR UNDER REVIEW

4. COMMUNICATIONS:

South African Post Office (SAPO)	South African Broadcasting Corporation (SABC)
Sentech	National Electronic Media Institute of South Africa
Universal Service and Access Agency of South Africa (USAASA)	.za Domain Name Authority
Independent Communication Authority of South Africa (ICASA)	

5. SOCIAL DEVELOPMENT:

South African Social Security Agency (SASSA)	National Development Agency (NDA)
The Central Drug Authority (CDA)	

6. WATER AND ENVIRONMENTAL AFFAIRS:

Environment:	Water:
South African National Biodiversity Agency (SANBI)	Transcaledon Tunnel Authority (TCTA)
iSimangaliso Wetland Park Authority	Water Research Commission (WRC)
South African National Parks (SANParks)	Catchment Management Agencies (CMAs): Inkomati (ICMA) Breede Overberg (BOCMA)
South African Weather Service (Saws)	Water Boards: Amatola Water Botshelo Water Bushbuckridge Water Bloem Water Lepelle Northern Water

	Magalies Water Mhlathuza Water Overberg Water Pelladrift Water Rand Water Sedibeng Water Umgeni Water
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7. POLICE:

Civilian Secretariat for Police (CSP)	Independent Police Investigative Directorate (IPID)
Private Security Industry Regulatory Authority (PSIRA)	

Addendum Five: Chairperson Interview Template

University of Cape Town
Master's Dissertation; Department of Political Studies
Survey of Parliamentary Committee Chairpersons

You have been selected to participate in this representative survey. You are not obliged to take part in this study. You may refuse to answer any question. All of your answers will be kept **strictly confidential**. Your name is not on this questionnaire, and your name will **NEVER** be used with the answers you provide. Your answers will be put together with the answers of your colleagues who have also been randomly selected for this survey to get an overall picture of the views and opinions of the Chairpersons of this parliament.

Please feel free to answer openly and honestly.

If something is unclear to you, or you want further explanation, please ask me. Most importantly, there are no right or wrong answers. Instead, we are interested in what *you* think and *your* opinions.

The results of this study will be used for the purposes of the Master's Dissertation **only**.

According to the research ethics policy of the University of Cape Town, I am obliged to tell you that there is no penalty for refusing to participate, and to ask you whether you wish to continue with this interview?

	Hour	Minute
<i>TIME INTERVIEW STARTED: ENTER HOUR AND MINUTE, USE 24 HR CLOCK</i>		

Before we begin, let me give you a brief overview of what we will be speaking about. While the questions may not be in this exact order, they all deal with these four broad areas.

1. Your background and how you came to be in parliament.
2. Your views about the role of parliament in terms of legislative oversight and your role as Chairperson.
3. Your assessments of how parliament performs and the resources parliament makes available to you.
4. And finally, your views about parliamentary committees.

If you don't have any questions, may we now begin?

A. Chairpersons' Background

I would like to begin by asking you a few things that will help us get an idea of the background of Chairpersons.

A1	When were you first elected to the South African Parliament? (Write Down Year Elected)
-----------	---

A2	How many years have you been a Chairperson?
-----------	--

A3	What was your <u>main</u> occupation <u>before</u> entering [Parliament]?
-----------	--

A4	What is your highest level of education?
	Completed college, obtained a Diploma
	Some university
	Undergraduate Degree (BA, BS)
	Post-Graduate Diploma
	Honours Degree
	Masters Degree (MA, LLM)
	Ph. D. Degree

B. Recruitment

B1	A. Before you became a Chairperson, did you ever work or serve in local or provincial government?
	No
	Yes
	B. [IF YES] What kind of position was it? DO NOT READ OPTIONS. TICK ALL THAT APPLY
	Local or Ward Councillor (elected)
	Mayor
	Premier
	Member of Provincial Legislature
	Provincial Minister/Deputy Provincial Minister
	Senior Official in a Provincial Department or Municipality

B2	A. Before you became a Chairperson, did you ever work or serve in national government?
-----------	---

No
Yes
B. [IF YES] What kind of position was it? DO NOT READ OPTIONS. TICK ALL THAT APPLY.
Senior Official in a Government Department
Chief Executive/Managing Director of Parastatal
Senior Official in a Parastatal
Deputy Minister
Cabinet Minister
Senior Official in the President's Office
Other:

B3	A. Before you became a Chairperson, did you ever hold a senior position in a political party (e.g. leader at the national, provincial or local level)?
	Yes
	No
	B. [IF YES] What level of party organisation? DO NOT READ OPTIONS. TICK ALL THAT APPLY.
	Local (constituency, area, branch) level
	Provincial party organisation
National party organisation	

C. Parliamentary Oversight

C1	How do you understand the function of performing oversight and accountability?
-----------	---

C2	In your opinion and experience, what are the biggest impediments to conducting effective oversight over Executive bodies?
-----------	--

C3	In your experience, have sufficient resources (e.g. budget, personnel, time, space) been made available to Committees to effectively conduct oversight?
----	---

	How is the function of oversight carried out when considering the power that Parliament has to influence Executive action?
C4	C5 Specifically, have there even been instances in which the Executive failed to comply with Committee requests?

C5	Based on your experience, how would you describe the relationship between Committee Chairpersons and the Ministers responsible for the relevant portfolio?
----	--

C6	How forthcoming are Executive bodies in providing information needed by Parliament to meaningfully carry out oversight?
----	---

C7	Given your experience as Chairperson, how does a Committee reconcile party positions and fulfilling the mandate of oversight and accountability?
----	--

D. Role of the Chairperson

D1	How would you describe the role of the Committee Chairperson?
-----------	--

D2	In a year, approximately what percentage of your time is devoted to each of the following?	
	A. Plenary Work	Percent %
	B. Committee Work	
	C. Constituency Work	
	D. Party Work (outside your constituency)	

E. Parliamentary Resources

E1	In your role as a Chairperson, how would you rank the importance of these resources?			
	<i>[Tick in each column]</i>			
		Not that Important	Moderately Important	Very Important
A	Committee staff			
B	Library/Library staff			
C	Parliamentary research staff			
D	Physical Infrastructure			
E	Budget			
F	Civil society organisations/Think Tanks/Universities/Academics			
G	Party Research Staff			

F. Committee Work

F1	Thinking of the Committee you chaired, how would you rate:				
		Very Poor	Poor	Good	Very Good
	A. Members' understanding of the work of the Executive institutions				

	they are meant to oversee				
	B. Members' ability to ask informed questions during public meetings				
	C. The quality of research provided				
	D. The quality of Committee Reports				

	Based on your experiences in Parliament, over the past five years, has the <u>overall effectiveness of Committees increased, decreased or stayed the same when conducting oversight?</u>				
F2	Increased a great deal				1
	Increased somewhat				2
	Stayed about the same				3
	Decreased somewhat				4
	Decreased a great deal				5

Thank you very much for your time [END OF INTERVIEW]

	Hour		Minute	
<i>TIME INTERVIEW ENDED: ENTER HOUR AND MINUTE, USE 24 HR CLOCK</i>				

Addendum Six: Research Associate Interview Template

University of Cape Town
 Master's Dissertation; Department of Political Studies
 Survey of Research Staff of the Parliament of **South Africa**

You have been selected to participate in this representative survey. You are not obliged to take part in this study. You may refuse to answer any question. All of your answers will be kept **strictly confidential**. Your name is not on this questionnaire, and your name will **NEVER** be used with the answers you provide. Your answers will be put together with the answers of your colleagues who have also been randomly selected for this survey to get an overall picture of the views and opinions of the research staff of this parliament.

Please feel free to answer openly and honestly.

If something is unclear to you, or you want further explanation, please ask me. Most importantly, there are no right or wrong answers. Instead, I am interested in what *you* think and *your* opinions.

The results of this study will be used for the purposes of the Master's Dissertation **only**.

According to the research ethics policy of the University of Cape Town, I am obliged to tell you that there is no penalty for refusing to participate, and to ask you whether you wish to continue with this interview?

	Hour	Minute	
<i>TIME INTERVIEW STARTED: ENTER HOUR AND MINUTE, USE 24 HR CLOCK</i>			

Before we begin, let me give you a brief overview of what we will be speaking about. While the questions may not be in this exact order, they all deal with these four broad areas.

1. Research Capacity of Parliamentary Portfolio Committees
2. Parliamentary Portfolio Committee Budgets
3. Parliamentary Portfolio Committee Staff
4. And finally, your views about Parliamentary Committee resources

If you don't have any questions, may we now begin?

A. RESEARCH CAPACITY:

A1- What is your exact role [as a content advisor] on the Committee? Do you as a content advisor meet and consult, either on a formal or informal basis, with other content advisors on matters of mutual interest?

A2- How long have you been a content advisor for this particular Committee?

A3- How has your Committee sought to separate the roles and responsibilities of the content advisor, researchers and secretarial support functions?

A4- What in your opinion constitutes sufficient research support for Committees?

A5- Are Committee's sufficiently equipped with research support?

A6- Is research support specific to each Committee or does Parliament evenly distribute research capacity across all Committees?

A7- How is a balance maintained between parliamentary research support provided to Committees and party-specific research provided to individual Committee Members?

A8- Does the Committee ever solicit research from external sources like civil society organisations, academics or think tanks?

B. COMMITTEE BUDGETS:

B1- How are Committee budgets determined? Are budgets Committee specific or is there a uniform budget for Committees across the board?

B2- Who is responsible for managing Committee budgets?

C.COMMITTEE STAFF:

C1- Are Committees provided with sufficient non-research staff?

C2- Do Committee staff, secretarial and non-secretarial, fulfil any plenary duties or do their responsibilities lie exclusively with the Committee?

D. COMMITTEE RESOURCES:

D1- Are Committees provided with sufficient physical resources? This is in reference to meeting room space, office space, work related material, technology, audio etc.

D2- Is Parliament's research unit adequately equipped to meet the research needs of the Committee? [this applies both in terms of quantitative and qualitative sufficiency]

Thank you very much for your time [END OF INTERVIEW]

	Hour		Minute	
<i>TIME INTERVIEW ENDED: ENTER HOUR AND MINUTE, USE 24 HR CLOCK</i>				