THE ROLE OF LIMPOPO LEGISLATURE OVERSIGHT COMMITTEES IN DEEPENING DEMOCRACY AND ACCOUNTABILITY FOR THE USE OF PUBLIC RESOURCES

Nyathela Hlanganani* and Makhado Rudzani
Limpopo Legislature, P/Bag X9309, Polokwane, 0700

*Corresponding Author: Email: nyathelah@limpopoleg.gov.za

Abstract

The primary aim of this paper is to contribute to the body of knowledge and discourses around oversight and accountability. The paper also broadens the understanding of the concept of oversight and accountability as played by the Members of the Parliament. The paper also argued that effective service delivery can be achieved through conducting rigorous oversight. The Executives need to be summoned to appear before the oversight committees in order to account on how public resources have been used.

The paper also highlights the processes followed by oversight committees of the Limpopo Legislature when holding the Executive to account for their decisions. The paper has also identified various challenges hindering effective oversight. Amongst those challenges include budget constraints. Possible way forward in addressing the identified challenges has been discussed.

It is also argued in the paper that effective oversight is not all about micro-management; it is about raising relevant questions in relation to the implementations of what was agreed in the Annual Performance Plan or Strategic Plan. It is about effective monitoring of the budget in relation to service delivery.

Keywords: oversight, accountability, Committees, Legislature
1. Introduction

The primary aim of this paper is to contribute to the body of knowledge and discourses around oversight and accountability over and above the different definitions attached and the roles and responsibilities thereof. Also to broaden the understanding, its implications and strengthen the roles and responsibilities of those involved in the process of oversight which aims at improving service delivery than paying attention to minor details that do not improve services.

2. Defining Oversight and Accountability

In the South African context, oversight and accountability are constitutionally mandated functions of legislatures to scrutinize and oversee executive action and any organ of state. Oversight entails supervision, watchful care, management or control, strategic and structured scrutiny exercised by legislatures in respect of the implementation of laws, the application of budget and the strict observance of statutes and the Constitution. Some scholars suggested that oversight involves watchdog function over ongoing activities of an agency (Caparine 2002). Oversight also involves learning, especially about an organ of state or agency, and controlling its behavior (Smith 2003). Ogul (1979) further defines oversight as a behavior of legislators and their staff, individually or collectively, which results in an impact intended to or not on bureaucratic behavior.

As also proposed by Smith (2003) oversight can also be defined in terms of what the legislatures and their Members do, which involves reviewing, monitoring and supervision of the executive and other organs of state programmes, activities and policy implementation. Oversight activities may seek to determine the efficacy of agents, or their capacity to fulfill their mandate. Efficacy is about whether a service has made sufficient use of public funds and whether it provides good value for money. It may as well seek to identify or determine the propriety of actions that is whether an agency acted correctly and complied with legal or ethical norms in its activities and objectives.

The Oversight Model of the South African Legislative Sector (2012) refers to the legislature’s review and evaluation of selected activities of the executive branch of government. The legislative branch conducts oversight activities because it not only enacts new programs for the state but also has a duty to ensure that existing programs are
implemented and administered efficiently, effectively and economically, and in a manner which is consistent with the legislative intent. As one of the core functions of the legislature, it is an integral part of the legislative process that is often difficult to separate from the lawmaking process. Oversight is the focus of select committees and special oversight committees and can be part of the hearings and work of standing committees.

The oversight role of the legislature is different to that of the executive, the legislature focus more on accountability for performance rather than to resolve management issues or problems. It is the last point of accountability and should in general only check that the Executive has acted appropriately when there are problems.

On the other hand, accountability refers to a social relationship where an actor (an individual or an agency) feels an obligation to explain and justify his or her conduct to some significant other (the accountability forum, accountee, specific person or agency) (Ghutto, Sonega and Mothoagae 2007). Accountability is therefore considered as the hallmark of modern democratic governance. This means that without accountability democracy will be compromised if those in power cannot be held accountable in public for their acts or omissions, for their decisions, their expenditure or policies. It should be noted that historically the concept of accountability was closely linked to accounting in the financial sense. Current analysis shows that the concept of accountability has however moved far beyond its origins to include performance, and has become a symbol of good governance both in the public and private sectors. Accountability can thus be simple defined to refer to institutionalised practices of giving account of how assigned responsibilities are carried-out (Legislative Sector Support, 2012).

**2.1 The purpose of an oversight**

As also indicated in the Guideline for Legislative Oversight through Annual Reports (2005), the portfolio committees need to have a clear understanding of what they are seeking to achieve through the oversight of the state’s strategic reports. In other words the purpose of conducting oversight should be clearly defined so that the outcome of such exercise can be measurable. However, in the first instance, the purpose of oversight it is to fulfill the obligation which the Constitution places on the National Assembly and the provincial legislatures to ensure that all executive organs of state in the national/provincial spheres of
government are accountable to it; and to maintain oversight of the exercise of national/provincial Minister/MEC, including the implementation of legislation and organs of state.

However, in fulfilling this constitutional obligation it is suggested that the aim of the oversight process is to give the portfolio committee (and through the legislature) the confidence that the department, constitutional institution or public entity under review is actually delivering:

✓ high quality services; economically, efficiently and effectively,

✓ in line with its constitutional and/or legislative mandate, strategic plans and budgets, and

✓ that it is contributing meaningfully to the realization of government’s overall objectives.

Furthermore, the portfolio committee’s oversight work should also aim at gathering information on the views of customers and clients of the departments, constitutional institutions or public entities being reviewed and to take this into account when evaluating the performance of the particular entity and making recommendations as to how it can improve the responsiveness and quality of its services and functions. In this respect, for service delivery departments like Education, Health or Home Affairs, it may be useful to develop a process where ward councilors from each municipality are provided with an opportunity to submit written reports on the quality of services offered by the various service delivery departments in their particular municipal ward. This could be done by members seeking such reports from ward councilors in their constituency. They would thus be the eyes and ears of members of provincial legislatures and the Parliament as well.

2.2 The purpose and functions of accountability

• To enhance the integrity of public governance in order to safeguard government against corruption, nepotism, abuse of power and other forms of inappropriate behaviour.
• As an institutional arrangement, to effect democratic control.
• To improve performance which will foster institutional learning and service delivery.
• In regard to transparency, responsiveness and answerability, to assure public confidence in government and bridge the gap between the governed and the government and ensure public confidence in government.
• To enable the public to judge the performance of the government by the government giving account in public.

Generally, the above listed functions of the accountability shows that the core role of the accountability is in respect of holding the executive organ accountable and influencing them to justify and explain their action for the legitimacy of their action. The justification behind the need to hold the government officials accountable is to ensure that they discharge their responsibility within the limits of their power and without violating the Constitutional rights of the people.

Notwithstanding the fact that section 55 of the Constitution enables the National Assembly to maintain oversight over all organs of state and section 92 which enables Parliament to hold the Cabinet accountable operationally, organs of state at national level and Ministers and their departments are generally held to account by Parliament. At national level, there is direct accountability to Parliament by national departments, national public entities and national bodies such as commissions.

It is thus critical that when conducting oversight and accountability, the principles of co-operative government and intergovernmental relations must be taken into consideration, including the separation of powers and the need for all spheres of government and all organs of state to exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere (LSS, 2012).

2.3 Tools for oversight and accountability

There are various tools which can be used to effectively hold the executive accountable for their action or decision when spending public resources. These oversight and accountability tools need be to used maximally in order to promote good governance and effective financial management. As also proposed by Makhado, Masehela, Motimela, Mokhari and Nyathela
(2012), oversight and accountability tools should include amongst others, but not limited to the followings:

Oversight tools include amongst others:

- Annual reports
- Financial statements
- Audit reports
- Investigation reports
- Performance and Compliance reports

While accountability tools includes:

- Budget vote or Integrated Development Plan (most direct tool to enforce accountability)
- Public hearings (the power to summon the executive bodies to explain their actions or decisions)

3. The role of Portfolio Committee in an oversight process

According to the Guideline for Legislative Oversight through Annual Reports (2005), given their involvement in the legislative, budget and in-year monitoring processes, portfolio committees are ideally placed to exercise oversight of the service delivery performance of departments and public entities that fall within the same portfolios. Indeed, the portfolio committees’ role in overseeing annual reports is crucial to closing the accountability loop of planning, budgeting, implementation, reporting, auditing and, finally, oversight. In essence, the portfolio committees should exercise oversight as to whether departments, public entities and constitutional institutions have delivered on the service delivery promises they made in their strategic plans or annual performance plans, which was approved by the legislature.

To give effect to this role, it is proposed that portfolio committees should consider the annual reports focusing on:

- Whether entities report on each and every performance target specified in their strategic plans and budget;
The quality of the performance information as highlighted by any audit of performance information which the Auditor-General may perform, or in the light of any other information that comes to the committee’s attention;

The economy, efficiency and effectiveness of service delivery as measured by the performance indicators presented in the annual report, or as measured by the Auditor-General in a performance audit, or by way of other information that comes to the committee’s attention;

The implementation of the entity’s service delivery improvement programme;

Evaluating management’s explanations as to why the entity’s service delivery performance did not attain the targets set in the strategic plans and budgets;

Investigating the circumstances that led to under- or over-expenditure of the entity’s budget, the impact this had on service delivery and the measures taken by management to comply with the budget.

Commenting on the Minister’s or MEC’s evaluation of the accounting officer’s performance and the appropriateness of the proposed performance bonus or sanction.

Though portfolio committees will focus primarily on service delivery, they must also consider entities’ financial performance. This is to ensure that the portfolio committee develops a holistic understanding of the department or public entity’s performance in the exercise of its oversight responsibility. Figure 1 provide the proposed summary of the process of that need to be followed to conduct effective legislative oversight activities.
Figure 1: The proposed summary for an effective oversight

LEGISLATURE OVERSIGHT CYCLE

ACT. 1: May /June
- Portfolio Committee Debate and recommendations made on Strategic Plans & Budget, APP and Quarter 4 Reports

ACT. 2: August / September
- Portfolio Comm. Exercise oversight on Quarter 1 and Annual Reports

ACT. 3: September / October
- Exercise oversight of Quarterly reports on SCOPA questions
- SCOPA Public Hearings on the two previous FY

ACT. 4: October / November
- Budget Committee debates, amends and passes Adjustments Budget

ACT. 5: October / November
- Comm. Exercise oversight of Quarter 2 Reports
- SCOPA resolutions send to the departments on the two previous FY

ACT. 6: November / December
- Budget Committee debates and makes recommendations on the draft DOR Bill
- Oversight visits

ACT. 7: February / March
- State of the Nation Address
- State of the Province Address
- Budget Speech
- Oversight on Quarter 3

ACT. 8: February / March
- State of the Nation Address
- State of the Province Address
- Budget Speech
- Oversight on Quarter 3
4. Challenges towards effective oversight by the portfolio committee

There are number of factors that hinder effective oversight ranging from committee’s available support staff, knowledge, capacity and planning. Currently oversight and accountability are exercised by committees of legislatures in an *ad hoc* manner hence the customisation of oversight model by the different legislatures in South Africa. The availability of an oversight model to be followed will ensure the effectiveness and efficient oversight.

Due to the manner in which oversight was done, committees often failed to notice problem areas in budgets. Committees are reactive rather than proactive to documents they receive from departments and in most cases will be dealing with the past issues. Committees have failed to reconcile departmental expenditure with policy priorities, or even to focus on actual policy priorities; portfolio committees almost never track performance in any key programme area over a period of time due to overlapping of activities. Committee support staff also needs to be well capacitated in their roles and responsibilities for a better understanding of what is expected of them. Sufficient support in the form of necessary resources needs to be provided for an effective support to the committee.

Proper planning for an effective oversight well in advance is very necessary, support staff should ensure that enough information is available on the sites to be visited, pre-oversight should be conducted on time to learn and understand issues on discussion so as to prepare the Committee before the actual oversight. Such will ensure that members of the Committee ask relevant questions, address issues, take informed decisions and avoid micromanagement where minor issues are followed which does not add value to issues of service delivery.

In addition, poor planning has also caused members of the public to ignore visits by different stakeholders due to oversight stampede where different groups will come for the same issue on different times and dates but without providing any solution to their problems.
5. Conclusion and Recommendations

The National Assembly and the provincial legislatures are required by the Constitution to provide for mechanisms to ensure that all executive organs of state within their respective spheres are accountable to them, and that they maintain oversight of the executive and any organ of state, including the implementation of legislation. For an effective and efficient oversight, it is very crucial to ensure that committees are well resourced in terms of both well capacitated support staff and financial. Committee support staff should also be in a position to support members of the committees and be responsive to issues of oversight stampede and micromanagement. There is also a need for continuous capacity development for Committee Members in order to strengthen their understanding on the concepts of oversight and accountability.

The oversight reports should be made available since they are important in providing the National Assembly and Provincial legislatures with an opportunity to give input into the current planning and budgeting processes. It is therefore crucial that the whole oversight process is managed to ensure that the oversight reports are finalised on time. Most importantly, risk of service delivery failures can be minimised through conducting effective and rigorous oversight and better management. Better oversight is critical for improving the quality of service delivery to the public.

Over and above, the legislatures need to have and follow the oversight model that clearly outlines the roles and responsibilities of committees, support staff and also provides a framework of how the committee should function. The presence of oversight model in the legislature will enable committees to respond and address issues of service delivery.

In order to conduct effective and efficient oversights it is therefore recommended that,

- Continuous capacity development of Members of parliament and support staff attached to committees is necessary ranging from information and communications technology, budgeting practices and other skills required to enhance their oversight capacity.
- Committee support staff should be provided with necessary resources and upgraded in terms of technologies related to oversights and accountability.
- Stakeholders should be informed well in advance on issues of their interest to avoid oversight stampede.
Committees should be well prepared for oversight, be provided with necessary information for proper questions to be phrased which directly relate to the issue of service delivery than micromanagement questions.
6. References


