



# Report

## SALSA Development Seminar 2012

Building stronger legislatures through collaboration  
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The role of Parliament and Provincial Legislatures  
in a Democratic Developmental State

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## Introduction

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The 2012 Secretaries' Association of the Legislatures of South Africa (SALSA) AGM and Development Seminar is a biennial engagement between the Secretaries of the South African Legislative Sector (SALS) and the Professional Forums of SALSA with the support of the Legislative Sector Support (LSS), Parliament and Provincial Legislatures. The seminar is designed as a platform to exchange ideas on the implementation and co-ordination programmes in the National Parliament and Provincial Legislatures. Speakers within the country and around the globe are invited to make a contribution to shaping the direction of the SALS and capacitating legislative institutions to serve as instruments for deepening parliamentary democracy.

The seminar represents an opportunity for the legislative sector to gauge the progress made by SALSA in the past two years to look at current practices, identifying institutional weaknesses, learning from the previous lessons, and engaging with each other to pave a course in moving forward. Parliaments and parliamentarians have a critical role to play in spurring on and sustaining national action towards development, and are powerful agents of change. They are therefore a strategic entry point for programming, policy development and transformation, and play a key role in speeding up the process leading up to South Africa becoming a fully-fledged developmental state.

## Purpose and Objectives of the Seminar

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The objectives of the 2012 Developmental Seminar were summarised as follows:

- To interrogate the concept of a democratic developmental state and the critical role to be played by Parliament and Provincial Legislatures.
- To deepen and strengthen the capacity required by legislatures to support initiatives towards building a democratic developmental state.
- To enhance understanding of the role of legislatures and policy matters and development in the achievement of a democratic developmental state.

# 1. Opening Address



## The Speaker of the Eastern Cape Provincial Legislature, Hon. F D Xasa

The 2012 Development Seminar began on a good note with the opening and welcoming of delegates by Honourable FD Xasa, the Speaker of the Eastern Cape Provincial Legislature on behalf of the Eastern Cape Legislature, SALSA and the Speakers' Forum of the Republic of South Africa. The seminar was coined as a “Gathering of Festival of Ideas”. The Speaker congratulated SALSA for its inclusion and involvement of young people in the programme. He viewed the seminar as a platform to help to improve the functioning of the Executive and Legislature arms of Government; as an opportunity for encouraging public participation; closing the gap between the governing and the governed; making laws work for the citizens of South Africa; improving service delivery and helping the elected to become better public representatives.



The Speaker commended SALSA for the initiative and taking the right course in realizing that South Africa is not a country in isolation but can look beyond its boundaries to encourage and ensure quality service by the Government. He stated that the seminar will help the sector to remain mindful of the way it conducts its business and how it manages public funds. It will assist with addressing challenges relating to the law-making and oversight functions and work towards helping legislatures to receive clean audits as a sector. He concluded by highlighting the significance of the seminar in forging partnerships, and sharing perspectives and strategies that will enhance the role of legislatures in building stronger legislatures in a democratic developmental state.

## 2. Announcement of the New SALSA Executive

The Chairperson of SALSA, Mr P Skosana, introduced the new SALSA Executive, which was elected on 1 October 2012. The following office bearers were duly elected for the forthcoming (2012 – 2014) term of office:

- Mr P Skosana, Secretary of Gauteng Provincial Legislature, elected as Chairperson
- Mr TL Mofokeng, Deputy Secretary of the Free State Provincial Legislature, elected as Secretary
- Ms N Naidoo, Secretary of the KwaZulu-Natal Provincial Legislature, elected as Treasurer
- Two Additional Members: Adv E Phindela, Secretary of the NCOP and Mr M Kgantsi, Secretary of the North West Provincial Legislature



The new executive was welcomed, including the new SALSA Professional Forums.

### 3. Overview of SALSA Performance



The Acting Secretary of SALSA, Mr T L Mofokeng, presented the overview of the SALSA 2010 – 2012 Biennial Report. The report was adopted as a true reflection of the work conducted by SALSA over the last two years. The report focused on SALSA's performance on projects and activities, assessment of organizational efficiency, and operational interventions. The period 2010 – 2012 was viewed as a successful phase for the South African Legislative Sector (SALS). SALSA was able to consolidate the gains achieved by the previous Executive and met most of its targets as set out in its strategic and action plans.

There has been continuity in the implementation of sector programmes. Several sector strategic frameworks, guidelines and models were conceptualized and developed to encourage the implementation of common standards in the co-ordination of sector work. A successful training programme was developed and implemented for Members of Parliament and Provincial Legislatures, and excellent work was recorded in the area of financial auditing. Regular SALSA and Forum meetings were convened under the leadership of the SALSA Executive and Convening Secretaries.

The Acting Secretary also commended LSS, SF and SALSA for taking the legislative sector forward, the sound relations between the EU and LSS, and the growth in the staff complement of the LSS, which is contributing positively to the organization of SALSA and the development of legislatures and forums.



## 4. Democratic Developmental State – Implications for Parliament and Legislatures



### Dr Jaya Josie, HSRC Economic Performance and Development Unit

The paper focused on the developmental state and its implications for parliaments and legislatures. It described the characteristics of a developmental state and the role of state intervention in the economy, with the focus on the South East Asian economies in the presence of market failures. Inequality, the devastating impact of poverty and disparity in society were regarded as serious threats to the economy and the interests of the wealthy, which may provoke conflict between the rich and poor.



The presenter cited the work of Adam Smith and Alfred Marshall which laid the foundation of modern microeconomic theories. These scholars considered inequality and poverty as key variables in undermining economic growth and development. Access to public infrastructure services is considered a determinant factor in defining capabilities in the creation of wealth and how its unequal distribution and inadequacy generates poverty.

He also articulated the idea of a democratic developmental state for South Africa which was raised in November 1991 by the then President of the ANC, and later first President of South Africa, Nelson Mandela. President Mandela gave a vision for a democratic state which is now expressed in the National Development Plan's Vision 2030. The plan very specifically reflects broadly indicative 20-year policy objectives and targets for economic and social development within the framework of South Africa's constitutional democracy. The plan implicitly recognizes the need to balance the imperative of meeting the social and economic obligations of the Bill of Rights against the financial and budgetary requirements and considerations of Chapter 13 of the Constitution.

The presentation emphasized the passing of budget votes as the most important entry point for the legislatures to influence the trajectory of the South African democratic developmental state. It stressed that legislatures have to play a key role in ensuring that budgets are equitably allocated and take account of all constitutional and legal requirements. In fact, MPs must be adequately briefed and informed about the budget





allocation rule targeting developmental policy objectives. The Peyton Young (1994) allocation rule method is used as the formula to allocate supply of goods in any state. The method suggests the principles of *parity*, *proportionality* and *priority* as central to the system of the equitable sharing of national revenue through the budget. *Parity* means that all claimants should be treated equally. *Proportionality* recognizes that goods and services must be divided according to the established differences amongst claimants. *Priority* affirms that the person with the greatest need is entitled to a first claim on the goods or services. The method emphasized that public finance legislatures should be informed about the budget preparation processes that underlie a public sector gearing up for the implementation of a National Development Plan.

The paper considered the annual budget as a key planning tool that can be utilized to implement a financial plan according to the policy objectives and targets set in the NDP. The government must balance constitutional requirements against the availability of nationally collected revenues. In its deliberations the legislatures must be acutely aware that achieving a balance in allocations must involve accounting for differences in the resources required to achieve comparable service levels across regions.

There is widespread agreement that differences in fiscal requirements ought to be included in equitable allocations. This is especially true in systems where provinces have little revenue-raising capacity of their own. In the South African context, the problem is made more challenging by the requirements that the norms and costs of providing basic services inform not only the horizontal division of funds across the provinces, but also the vertical division of the equitable share.

## 5. United Nations Development



### Programme on Challenges and Developing Strategic Partnership with Parliaments And Legislatures Towards the Achievement of Developmental States

**Ms Geraldine Frazer-Moleketi, Director: Democratic Governance Group, Bureau for Development Policy, UNDP**

The paper reviews the role parliaments can play to strengthen their role towards the achievement of democratic and developmental states, focusing on four areas of the United Nations Development Programme (UNDP) on parliaments. The programme included crisis prevention management and recovery, women's political representation, representation of indigenous peoples, economic development and pro-poor policies such as the MDGs. The paper shares lessons learned based on the UNDP's vast network of country offices and regional service centres and provides a mix of policy options and concrete examples of good practices for parliament-strengthening projects worldwide.



The paper views crisis as not only a threat to human rights, but also a barrier to development. Violent conflicts can reverse decades of developmental gains. In fact, the costs of preventing conflict are far lower than the costs associated with recovery. Effective and responsive programming in the field of democratic governance can be a major component of work to prevent violent conflict and support post-conflict peace-building.

In 2010 the UNDP launched a programme to empower parliaments as actors in conflict prevention and recovery (CPR) at global, regional and national levels. New research on emerging CPR themes has been produced and shared with parliamentarians and practitioners in the regions better to inform parliaments on important CPR challenges such as electoral and political violence, gender-based violence, armed violence, regional crisis prevention mechanisms, the role of political parties and state-building. The UNDP supported capacity development and awareness-raising of MPs and parliamentary staff on CPR-related issues.



It was made clear that parliaments and parliamentarians have an important role to play in ensuring that progress is made in achieving the MDG targets. Effective parliamentary engagement was seen as a catalyst for accelerating progress towards the achievement of the MDGs and improving the lives of citizens in every country. The leadership role of parliamentarians is to ensure and highlight that the goals and targets are not only government targets, but are nationally owned. Members of Parliaments should represent, understand their communities and reflect their interests so that development is more equitable, effective and sustainable. Parliaments can target particular development areas that require legal reform and work with both government and parliament to develop the political will to enact legislation. They can contribute to national poverty reduction efforts by investigating and highlighting the results of poverty initiatives, engaging in the creation of new ant-poverty initiatives, and providing oversight into the implementation and budgetary matters of programmes.

Furthermore, women's political participation was considered as a fundamental prerequisite for gender equality and democracy. Women's direct engagement in public decision-making can ensure better accountability to women. What is required is gender-sensitive governance reforms that will make all elected officials more effective at promoting gender equality in public policy and ensuring their implementation.

The paper identified the slowness of political parties to respond to women's interests, underinvestment in women's campaigns, cultural barriers, and conflicting demands on the time of women candidates due to their domestic and social responsibilities as factors hindering women's political participation. In fact, the UNDP has embarked on a worldwide programme to strengthen structures that promote gender equality and equity, and enhance the full participation of women within parliament.

The paper viewed the parliamentary representation of minorities and indigenous people as essential for ensuring effective participation of these groups in public affairs. Such participation has the potential to benefit everyone in a society. It can help to strengthen democracy, improve the quality of political life, facilitate societal integration and prevent conflict. It was revealed that while a number of international legal and political documents guarantee the rights of minorities and indigenous people to political participation, implementation of these mechanisms has proved challenging.

The paper further states that the desire to engage youth forms a fundamental part of many parliamentary initiatives. Many youth parliaments, such as the Denmark bi-annual series, have gone virtual, with interactive components designed to excite young minds about the parliamentary process. The rationale behind these initiatives is the recognition that if

citizens can be engaged at a young age, they are likely to stay engaged. There is the recognition that a youth parliament is vital to the development of democracy. The inculcation of democratic culture in society and development of tools, mechanisms and systems that can facilitate the exposure to democratic system to citizens should be welcomed.

The paper argues that to address the current low level of trust in parliaments, parliaments must engage with citizens, stay closely attuned to their needs and make every effort to meet them. Parliaments should keep up with the public by displaying responsiveness and resilience and continually renewing the relationship with citizens. Each individual state should enhance parliamentary representation and outreach by using innovative techniques to provide greater access and more information on parliament and improve public understanding of parliament. It was indicated that UNDP is currently working with parliaments to foster mechanisms for public participation by supporting parliaments' capacity to collaborate with external organizations to strengthen links with the public.

In conclusion, the paper summarized that parliaments have crucial responsibilities in national and local development policies, and must engage in the development and implementation of policies and laws that are pro-poor, minority and gender-responsive. Democratic parliaments should reflect the social diversity of the population in terms of gender, geography, language, religion, ethnicity, and other politically significant characteristics. The paper suggested that a parliament that is not representative of the entire society will leave some social groups and communities feeling disadvantaged in the political process or even excluded altogether.

### **Mr Yunus Carrim, Deputy Minister for Co-operative Governance and Traditional Affairs**

The paper began by identifying the three inter-related spheres of government and their own specific powers, and the degree to which each sphere is the final decision-maker on a particular matter that falls within its area or sphere. The three spheres of government exercise their powers and functions in a spirit of co-operative governance, requiring the practical exercise of collaboration.

The paper acknowledged that democracy has laid the basis for greater accountability of the state to its citizens and a crucial role for parliament and the chapter 9 Institutions to exercise oversight, holding government to account and enabling public participation. It noted that South Africa was not yet fully transformed into a strong, cohesive, capable developmental



state, as envisaged in 1994. Faster transformation of the economy could be achieved if the state could improve the performance of its institutions, better implement its policy and strengthen the overall infrastructure that enables the economy and society to operate.

The weaknesses in the South African government's system reside in the primary under-

standing of “collaboration” or within the issue of willingness to collaborate, or the absence of a structure or framework that is able to co-ordinate and drive the various implementation processes. Collaboration should allow for faster progression of key policy areas to ensure the realization of a developmental state; build consensus on the role of the state agencies that could be positioned to be at the centre of technical capacity-building and training, planning and implementation initiatives.

The key drivers of inter-sphere and inter-agency collaboration should promote improved intergovernmental planning for integrated service delivery. There should be a mutually reinforcing relationship between effective co-operative governance and the goals of a developmental state.

To manage these requirements, the entire system of co-operative government must function more effectively and coherently to overcome its high levels of poverty, unemployment and inequality. National government must provide direction to monitor and guide the other two spheres. Instead of focusing on municipalities and local government, provinces should also play a much more supportive role in local government in service delivery, whilst raising the bar in better executing their service delivery responsibilities in the fields of education and health, for example. The state needs to strengthen relationships between these spheres in pursuit of a more people-centered government.

The National Parliament and Provincial Legislatures must also strengthen the role of and links between legislatures. This requires playing a leading role in the conceptual, theoretical and ideological analysis of national priority issues. The parliamentary constituency offices and public hearings in all legislatures should be positioned to ensure active participation by

people in the building of a developmental state. It is important to express democracy as both participatory and representative. Provincial Legislatures must provide mechanisms to ensure that all provincial executive organs of the state are accountable to it and maintain oversight over implementation of provincial executive authority in the province.

Legislatures must perform the above-mentioned mandate within the ambit of:

1. Government's commitment to building a developmental state
2. The requirement that legislation must ensure meaningful change in the lives of people
3. Legislatures must ensure through its oversight and legislative role that there is the speedy roll-out of basic services to the people
4. Effective management of the inter-relationship between a legislature, the relevant executive, the administration and its provincial counterparts as well as corresponding Provincial Executive Councils
5. Effective engagement with the people or communities that the legislatures serve

The state needs to examine the nature and character of the legislative system that is required to realize a developmental state. The National Parliament and the Provincial Legislatures must be repositioned to ensure active participation by people in building such a state. The role of Provincial Legislatures must be refocused and mechanisms be put in place to strengthen participatory democracy and representation. People's Parliaments and Parliamentary Constituency Offices should be created to act as springboards for community outreach work. Collaborative relations between the three spheres of government are considered important to ensure a more effective democratic and developmental state.

In conclusion, the work towards a developmental agenda across government spheres requires effective supportive structures and institutional arrangements. One excellent starting point could be the creation of a new analytical and information unit within the National Parliament that can feed the strategic and operational functionality of representative bodies. Parliaments can also create forums for knowledge exchange and collaborate with provincial legislatures to strengthen capabilities to manage the oversight role and work with local councils.

## 6. Inter-legislative Relations in Democratic Developmental States – Perspectives and Lessons



### Mr Xolile George of the South African Local Government Association (SALGA)

Mr George gave an account of Inter-legislative Relations in the developmental state from the perspective of Organised Local Government, setting out the significance of participation of the Organised Local Government (OLG) in parliamentary processes (including National, Provincial and NCOP) and further made recommendations as to how this can be strengthened for optimal benefits. He made reference to the constitutional provisions that create a platform for national and provincial organizations representing municipalities (i.e. SALGA) to participate in Plenary Sessions of the NCOP and activities of Select Committees and Joint Committees (consisting of Members of the National Assembly).



He described SALGA as a political body that derives its mandate from the Constitution, created to represent, protect, safeguard and promote the interests of Local Government. While legislation provides for participation of Local Government and SALGA in the NCOP and provincial IGR structures no similar provision is made for the OLG's participation in provincial legislatures, which is abnormal, given that the NCOP, in its make-up, derives its mandates from provinces.

Since Local Government (LG) has a broad and challenging set of responsibilities, whose performance requires coherent and co-ordinated support initiatives from the other two spheres of government, in this paper Mr George focused on strengthening the links between the NCOP, Provincial Legislatures and LG, through examining current practices and the legislative framework and making proposals and recommendations about how these could be strengthened to add value to the co-operative governance system.

Mr George perceives the role of the NCOP as a critical constitutional commitment to co-operative governance and therefore deems the NCOP to be a platform that is conducive to harmonising the interests of National, Provincial and Local Government as well as achieving

consensus on policy among these spheres of government. To give effect to section 163 of the Constitution, the OLG Act provides that each provincial association may nominate up to 6 councillors to participate in the proceedings of the NCOP, from which the National Association designates not more than 10 councillors (from provincial nominees) as representatives to participate in the NCOP. Likewise, SALGA has adopted substantially similar provisions in its Constitution, recently amended in September 2012, to emphasise the importance and substance of its participation in the NCOP.

Mr George made reference to the Chairperson of the NCOP's inaugural speech, made during the 2012 Local Government Week, when he committed to ensuring meaningful participation of Organised Local Government in the proceedings of the NCOP, thus giving greater meaning to the constitutional arrangement that organized local government must have space to participate in national deliberations through the NCOP.

While OLG has a recognized role in the NCOP, Mr George noted that it only participates in the National Assembly committee activities by invitation. Within the National Assembly, SALGA in the main engages in the deliberations of key portfolio committees where matters affecting Local Government are debated. He considered it important that SALGA participates actively in the committees of the National Assembly, even in the absence of obligatory prescripts, as these engagements will also provide important and useful information for oversight purposes.

Mr George revealed that, during 2012, SALGA engaged with no less than eight National Assembly Portfolio Committees (some more than once) which, in his opinion, was indicative of the recognition and acknowledgement of Organized Local Government as a key stakeholder in the policy and legislation-making process by the National Assembly committees.

Mr George made the following recommendations which he deemed would strengthen bottom-up participatory democracy and integrated co-operative governance:

- Amendment of NCOP Rules to include a provision where the NCOP is compelled to afford Organized Local Government the opportunity to address the Council before a matter affecting local government is voted on. This would apply, for example, when the NCOP considers the approval or discontinuation of provincial interventions in municipalities.
- An amendment to the OLG Act is necessary to meaningfully effect the participation of OLG in the NCOP, through designating full-time status to its representatives.
- In order to play its role in the NCOP and other legislative structures effectively, OLG





requires adequate human capital and resources so that the voice of LG can be heard timeously and consistently in parliamentary affairs.

Expressing the significance of the engagement of Organized Local Government at provincial level, Mr George cited the appeal made by the Joint NCOP and Provincial Legislatures Planning Forum in 2010 and 2011 for SALGA to strengthen its interaction with Provincial Legislatures. Despite the absence of legislation compelling SALGA participation in Provincial Legislatures, interaction at this level exists, which he felt must be improved and more structured. SALGA expressed strongly that the same nomination process included in its Constitution should also be used to enable Provincial Representatives of SALGA to participate in the provincial legislatures to ensure full participation of OLG in the overall legislative process.

Mr George reiterated that while no provision is made for Organized Local Government's participation in provincial legislatures, participation of the Local Government and SALGA in provincial IGR structures is entrenched in legislation. This he perceived as anomalous, given the make-up of the NCOP where mandates are derived from provinces (and the delegation most often headed by non-permanent executive members). He therefore suggested inference from the Constitution should be made to allow OLG to make representations to Provincial Legislatures and participate in its committees.

Mr George made reference to the constitution of the NCOP which is comprised of 6 permanent and 4 special delegates from the nine provinces which, by implication, represented the interests of provinces at the national level. Given this and the constitutional provision for OLG representation in the NCOP, he felt the NCOP was a unique institution where all the three spheres of government were able to connect and where SALGA, as a recognized body of OLG, should play a leading role in advocacy and lobbying for LG interests, by ensuring that the policy and legislative process takes LG interests and concerns into account.

Mr George expressed the view that since the legislative process in the NCOP requires consultation and seeks mandates from Provincial Legislatures, participation of SALGA at a provincial level is therefore critical in order to influence processes at that level and ensure that SALGA's view also carries the provincial mandates and is uniform across the nine provinces. This will not only complement SALGA's engagement at national level, but is necessary to ensure that Local Government (through its organized voice) speaks as one collective voice, rather than nine different voices at provincial level and at national level.

Mr George considered it critical that SALGA be involved from the outset when dealing with legislation referred by the NCOP, so that the voice of the Local Government level can be

carried within provincial mandates, beginning at the stage of provincial briefings by NCOP permanent delegates. The participation of OLG in provincial legislatures is thus critical to ensure engagement with legislative processes from the ground level up so that sufficient dialogue takes place between members of Provincial Legislatures and mandated Councillors about the dynamics between the interests of Provincial and Local Government even before the matter comes before the NCOP.

Mr George proposed the following mechanisms as critical institutional arrangements required to ensure more structured engagements between provincial SALGA branches and Provincial Legislatures:

- Regulating the engagement through provisions in the Rules of the Provincial Legislatures.
- Rules of some Provincial Legislatures which already make provision for engagement with SALGA should be applied across the Provincial Legislatures.

Mr George believed that provincial engagement requires an enabling institutional arrangement and therefore should be determined by the Rules of the Provincial Legislatures. It is therefore important to adopt a fairly uniform or consistent approach across the 9 provinces, while making provisions for changes in circumstances which may be prevalent in a particular province. Mr George stated that such Rules should be crafted to include the following:

- SALGA should receive a standing invitation from committees for input when dealing with issues concerning LG.
- SALGA should be involved from the onset when Provincial Legislatures deal with legislation referred by NCOP, beginning at the stage of provincial briefings by NCOP permanent delegates.
- SALGA should be provided access to a detailed programme of the Provincial Legislature in order to identify issues of interest.
- Relevant Committees should give SALGA a platform to implement its Provincial Legislature Advocacy and Lobbying Programme.
- SALGA should be able to make a request to engage relevant committees on specific issues of concern to member municipalities.

Mr George considered SALGA a strategic role-player within Provincial Legislatures whose engagement will add great value in the achievement of integrated governance at provincial



level. He appealed for the support of the legislative sector to build and strengthen relations between SALGA and Provincial Legislatures. He added that the amendment of the OLG Act was also necessary to entrench the participation of OLG in Provincial Legislatures. He firmly believed it highly desirable for a developmental state to have its government's programme of action and policies largely driven through the developmental Local Government sphere, and that the voice of LG must be heard at all stages in the law-making and oversight process so as to ensure that policy and law is practical and implementable.

## 7. Fiscal Management and Challenges for Democratic Developmental Legislatures



**Mr Thabo Leornard Mofokeng - Deputy Secretary of the Free State Provincial Legislature and member of SALSA.**

The paper viewed the democratic state and dispensations as characterized by a “of the people by the people” philosophy which is embedded in constitutional provisions that place obligations on legislative institutions. Developmental challenges are perceived as being global in nature and impacting on legislative decision-making, policy implementation and monitoring processes. Financial crises are attributed to poor corporate and co-operative governance decision-making mechanisms.

The global financial crisis of 2007 – 2012 that led to a decline in global economic activity, it is argued, was triggered by a complex interplay of national government policies and regulations – the involvement of government in the macro-economic decision-making processes, endorsement of economic policies, and the technocratic machinery of government institutions that provide leverage in the implementation of economic decisions.

Attention should be given to the framing of government financial legislation and policy implementation. Legislation should bring about change in the lives of the people, provide essential basic services, address poverty, inequality, unemployment, and address women's and children's issues. It requires political, legislative and administrative will to fulfill developmental objectives for the realisation of a sound financial framework within a developmental state. It also becomes fundamentally imperative for legislatures to rigorously analyze and monitor financial policy formulation and implementation. A global political space should be created for legislatures to play a significant role in developing the lives of the people through financial management and monitoring.

The papers stated that, in many countries, legislatures are perceived as “rubber stamping” policies crafted by the executive and, with that view, they are relegated to obsolete ciphers









hat are incapable of innovating legislative influence on the executive through effective praxis of oversight and accountability. Legislators need to be pragmatists of “a better life for all” concept as they are in the vanguard of human liberties, and should be given adequate powers to influence the fiscal policies within their environments. Governments need to develop a propensity for finding an informed, co-operative legislative-executive equilibrium in the global political economy, and obliterate the notion that some arms of government are increasingly becoming more equal than others.

The paper emphasized that the role of legislatures in a developmental state should not be misconstrued as “obstructionist” to executive policy, and conversely, the attitude of the executive should not be perceived as usurping the responsibilities and functions of legislatures. Legislative institutions and legislators should embrace the developmental state philosophy and commit to developing the lives of the people through the crafting of financial legislation that is aimed at addressing societal inequalities. This is an essential paradigm shift for sustenance of a developmental state.

Rethinking and reconceptualising the traditional characteristics of legislatures is fundamental for positioning legislatures within the governance development framework and empowering the institutions to meet the ever-changing political, social and economic environments. According to Saiegh (2005), to be able to conceptualize the role of legislatures in a developmental state, we need to respond to the key normative question: How good is our existing knowledge on how legislative institutions operate? Do we understand the roles of legislative institutions to be confined to the following core responsibilities – scrutinizing policies framed by the executive, exercising oversight and accountability over the executive, and conducting public participation as a means to involve the electorate in policy-making processes?

In reframing financial policy paradigms on the authority and supremacy of legislatures with the intention of empowerment, legislatures need to be guided by the following questions:

1. Do current governance frameworks grant adequate governing powers to legislatures to influence executive budgetary processes?
2. Do political systems afford enough scope of authority to legislators and legislatures to hold different views on fiscal policy matters?
3. How effectively do legislatures perform law-making / oversight responsibilities in measuring whether “value-for-money” was achieved?
4. Do legislative systems of management, infrastructure and resources support the legislatures in their functions?

The questions assist in the quest to probe the nature of reality on financial governance within legislatures and establish whether legislative-executive relations are progressive and transformative in a manner that will satisfy the realization of growth in a developmental state.

The paper cited the absence of the position of the legislatures in the process of mobilization of financial resources for development as a challenge. A shift in the centre of gravity of financial power should be contemplated to grant legislatures a bigger role and space in fiscal management processes. An ideal democratic developmental state should be characterized by freedom in the mobilization of ideas. Committees should be given power to amend money Bills relating to increase and decrease in government expenditure.

Legislative-executive relations, as a conduit for policy-making, should be characterized by growth, and political and fiscal stability. The implementation of policy and legislation should yield positive results. To strengthen and capacitate legislatures in fiscal policy-making processes:

- Current political and governance frameworks should grant enough power to legislatures.
- Legislatures must be adequately capacitated to probe and make input on executive policy.
- Legislators in legislatures should be able, adequately and effectively, to address the needs of the electorate.

Creating a discourse around these concepts would need an epistemological migration on how legislatures function. It would compel an innovative legislative framework geared towards creating a bigger role for legislatures in fiscal management. A review of existing administrative legislative systems and policies in legislatures is necessary to leverage policy implementation and monitoring, and to sustain continuity. A long-term strategic focus should be devised to enable the state machinery to address developmental challenges, and the legislative arm of government must be in the forefront in championing the mobilization of ideas aimed at providing a better life for all. Creating a bigger role for legislatures in fiscal policy-making processes will ensure cohesive social constructivism.



## Ms Tsakani Maluleke – National Leader: Audit Services.

### An audit perspective on the challenges facing democratic developmental legislatures

The paper provided an in-depth overview of Parliament and provincial legislatures' oversight in terms of planning, budgeting and reporting. It looked at the budget cycle from policy development and strategic planning to monitoring and review of reports and budgets. It further reported on the findings arising from the audit of predetermined objectives. The findings focused on non-compliance, unexplained variances, and unuseful and non-reliable performance information obtained from the Education, Health, Human Settlements, Public Works and Social Development departments.



The findings revealed that, on the matter of combined assurance providers in the South African Public Sector, the Management Assurance - which is the first level of assurance - the sector performed significantly lower than the required level of assurance. In the Oversight Assurance – which is the second level of assurance - and the Independent Assurance or third level of assurance, the sector met the required levels of assurance.

In conclusion, the presenter indicated that the Auditor-General has a constitutional mandate and, as the Supreme Audit Institution (SAI) of South Africa, it exists to strengthen democracy by enabling oversight, accountability and governance in the public sector through auditing, thereby building public confidence.

## **Ms Hlanganani Nyathela & Rudzani Makhado**

### **The role of the Limpopo Legislature Oversight Committee in deepening democracy and accountability for the use of public resources**

The paper gave a broad outline of the role of oversight committee in deepening democracy. It highlighted the processes followed by the oversight committees of the Limpopo Legislature when holding the executive to account for its decisions. It moved from a premise of defining oversight and accountability, explaining the purpose of oversight, the purpose and functions of accountability, explaining tools for oversight and accountability, and the role of the portfolio committee in the oversight process.



The paper argued that portfolio committees are ideally placed to exercise oversight of the service delivery performance of departments and public entities that fall within the same portfolio. It stated that the portfolio committees' role in overseeing annual reports is crucial to closing the accountability loop of planning, budgeting, implementation, reporting, auditing and oversight. In essence the portfolio committees should exercise oversight to ascertain whether departments, public entities and constitutional institutions have delivered on the service delivery promises they made.

## **Mr R.A. Makhado, K.L. Masehela & R.W. Mokhari**

### **Effectiveness and efficiency of Public Accounts Committee (PACs) in enhancing oversight and accountability in the public sector**

The paper brought together views and opinions with regard to the effectiveness and efficiency of the Public Accounts Committee (PACs) in enhancing oversight and accountability functions over the executive. It discussed the role of PACs in the promotion of effective and efficient usage of public resources for the benefit of the public, and provided information on the theoretical background, practical experiences and





challenges faced by PACs in executing their mandate.

It became very clear that the effectiveness and efficiency of the PACs is primarily based on how best the committee conducts its oversight functions and holds the executive accountable for utilization of public resources. The current state of oversight and accountability showed that significant strides have been made by the PACs. The capacity development programmes initiated by APACs yield positive results. Currently, the executive is taking the PACs seriously, when compared to the situation over the past ten years. Many departments including public entities and municipalities used to get disclaimers and adverse audit opinions, but the situation has changed for better. Very few departments obtain disclaimers. This is due to requisite skills and knowledge acquired by members of the PACs when performing oversight responsibilities.

The PACs is not without challenges. The most common challenges faced by the committee include: capacity constraints, loss of institutional memory as a result of the movement of PACs members and support staff, budgetary constraints as most committees operate within a limited budget, work backlogs caused by congested legislature programmes, lack of power to impose fines for regulation transgression, political influence over the work of the committee, and lack of public confidence as a result of an ineffective management of financial matters by the PACs.

The Public Accounts Committees have an essential role to play in ensuring that quality service delivered to the public is improved by ensuring that effective oversight over executives is conducted.

The following are proposed interventions that the paper suggested should be considered to ensure that the work of the PACs consistently improves:

- APACs and SADCOPAC should continuously capacitate PACs members and support staff.
- Members and support staff of PACs must remain in the same committee in order to build institutional memory.
- Clearing work blockages by holding more than one public hearing per annum.
- PACs must co-operate and work with other oversight institutions.
- Need for APACs and PAC to drive public awareness programmes in order to sensitize the public about the PACs role, mandate and activities.

## 8. Monitoring and Evaluation – Oversight to Deepen Democracy and Accountability for Legislatures in a Democratic Developmental State

### Minister Chabane

#### Monitoring and Evaluation

Minister Chabane gave the background to the three constitutional branches of the South African state (viz the executive, the legislature and the judiciary), which must work together and complement one another for the betterment and proper functioning of the state. In terms of Section 83 of the Constitution, the President of the Republic is the Head of State and the head of the national executive and therefore has the responsibility to ensure that the state is functioning properly under his custodianship.

To give effect to the provision of the Constitution that entrusts to the President the responsibility to co-ordinate the functions of state departments and administrations, in 2009 President Jacob Zuma established the monitoring and evaluation function in his office to assist him in monitoring and evaluating the performance of the work of the executive. This function has, however, to be complemented by other branches of state to be successful. By improving planning and performance monitoring and evaluation, the President endeavoured to build a performance-oriented developmental state that performed better and faster and responded to the needs and aspirations of the people.

Minister Chabane then unpacked the constitutional provision for separation of powers between the legislative and executive authorities, stating that both of these branches of state need to conduct monitoring and evaluation in order to perform their functions. The legislative branch conducts monitoring and evaluation for oversight and accountability purposes, and in this regard Parliament is assisted by the independent Chapter 9 institutions -- particularly the Office of the Auditor General (OAG), the Public Protector (PP) and the South African Human Rights Commission (SAHRC). Mr Chabane then drew





distinctions between the OAG and the Public Service Commission with regard to their monitoring and evaluation responsibilities.

With respect to the executive, Minister Chabane stated that this branch utilises the monitoring and evaluation data produced by the legislative branch, even though additional monitoring and evaluation has to be carried out to justify its own purposes. Departments and municipalities must also conduct this function on their projects and programmes, and within the departments, for purposes of sound operational and strategic management, service delivery improvement, and internal performance assessment.

Minister Chabane cited various levels within which the executive branch executes the monitoring function as indicated below:

- All managers should carry out monitoring of their own programmes to ensure better management.
- Departments managing concurrent functions need to carry out monitoring and evaluation of their sectors.
- Departments responsible for cross-cutting issues need to collect and analyse information from other departments and, in some cases, from society in general.
- Some departments need to monitor their public entities.
- Key departments at the centre of government need to monitor aspects of the rest of government.
- The President and Premiers need to carry out monitoring to be able to carry out their Constitutional responsibilities to co-ordinate their administrations.

The Minister made note of an increased emphasis in the monitoring of the rest of government by the Presidency since 2009 due to the recognition of shortcomings such as poor education and health results relative to expenditure per capita, frequent quality problems with services, and service delivery protests. Additionally, the findings of the 10 and 15-year reviews compelled an amplification of emphasis on improving implementation of policies and performance of government.

Whilst recognising the need for all levels of government to carry out monitoring and evaluation, Minister Chabane cautioned that this need not necessarily lead to duplication of the collection of information and reporting. The challenge, he said, was to ensure that monitoring and evaluation are complementary across all levels, with sharing of data and analysis and co-operation by all parties as far as possible. He warned against overloading departments and municipalities with parallel reporting requirements, and that conflicting

initiatives should be avoided. For example, Chabane's department does not use the Auditor General's information to carry out audits.

The Minister admitted that apart from the existing ones, the Department has not yet set up new systems to assess the performance of individual departments against their plans, hold public servants accountable, and take disciplinary action for poor performance. The Department has, however, introduced a number of initiatives, including a focus on 12 government priority outcomes; the assessment of the quality of management performance of national and provincial departments; a new system of monitoring front-line services; a national evaluation system; and a municipal performance assessment tool, which is still in preparation.

Other milestones include the development of the 12 outcomes; improving education; health; creating jobs; rural development; and reducing crime. The first quarterly monitoring reports have been produced, which are considered at Quarterly Implementation Forums and thereafter taken to Cabinet Subcommittees and the Cabinet. The Department is also conducting monitoring of national and provincial departments as well as municipalities on generic management practices, such as financial management, human resource management and supply chain management. Minister Chabane also mentioned the roll-out of the Management Performance Assessment Tool (MPAT) in October 2011, which builds on existing data generated by other government departments and organisations.

In order to collect evidence on the quality of services and to work with the relevant departments, the Department has also started a programme of unannounced visits to service sites such as schools, health facilities, social grant facilities, police stations, and municipal customer care centres. Policy and systems weaknesses have been identified by the monitoring results. The Presidential Hotline, established in 2009, also falls under the Department. The Minister disclosed that currently, 86% of the service delivery complaints logged have been resolved. The National Evaluation Policy Framework was adopted by Cabinet in November 2011, focusing on important policies, programmes and plans. Through all these initiatives the Department is able to brief different committees of Parliament on the performance of different departments to ensure that monitoring complements Parliament's oversight role.

Mr Chabane concurred that the executive will not realise its objectives without working together with other branches of state. He said that the legislative branch has a responsibility to ensure that the executive is held to account and to assist in achieving the country's developmental goals. He deemed further collaboration with the legislative branch as essential, with a view to using the performance monitoring and evaluation information produced to improve the performance of government.

## 9. Parliamentary Institutes as Centres of Excellence for Capacity Development, Research, Training, Knowledge and Information Management – Prospects and Challenges



Dr R Pelizzo of the World Bank, Dr R Draman of the Parliamentary Centre for Canada and Ghana, Mr M Werunga of the Centre for International Development Studies and Training in Kenya, Prof M Baskin of the Centre for International Development, Mr B Weberg of the National Conference of State Legislatures, Messrs M Nyikana and T Layman of Legislative Sector Support, and Mr W N Mpondi of the KZN Provincial Legislature.

The seven papers focused on the need for the establishment of parliamentary institutes as centres of excellence for capacity building, research, knowledge and information management for Members and staff. They highlighted the prospects and challenges for the establishment of such institutions. The case of Parliamentary Institutes is viewed as important for the performance of legislatures across the world. The approach is viewed as needed for the development of institutional memory. Such effort allows Parliaments to predetermine their capacity requirement and to set resources aside for their own development.

Dr Pelizzo provided an overview of the World Bank's perspective on parliamentary libraries. The presentation was divided into four parts. The first part dealt with the importance of parliamentary capacity and libraries. The second part paid attention to the importance of the sources of parliamentary information. The third part discussed in great detail the correlation between parliamentary capacity and institutional performance and an effective oversight function. The final part dealt with informational pluralism. The paper views a legislature's ability to perform as depending on the political will, mandate and capacity development of Members and staff.



Prof Baskin, on the other hand, focused on the operational principles connecting people and ideas for integrated development. According to Baskin, integrated development rests on five pillars: attention to local context and institutional incentives, empowerment of local networks, cross-disciplinary collaboration, capacity building, and sustainability through learning. The paper looked at the current parliamentary technical assistance and institutes, and lessons that could be learnt. It became very clear that “good practice leads to good theory” and the most effective formula is to experiment, test and make adjustments.



Dr Weberg's paper explained the governance structure of the National Conference of State Legislatures (NCSL) and the purpose and activities that guide the organization's operations and services.

The bylaws of the NCSL set out its mission as follows:

1. To advance the effectiveness, independence and integrity of legislatures in the states, territories and commonwealths of the United States.
2. To foster interstate cooperation and facilitate information exchange among state legislatures.
3. To represent the states and their legislatures in the American federal system of government consistent with support of state sovereignty and state flexibility and protection from unfunded mandates and unwarranted federal preemption.
4. To improve the operations and management of state legislatures . . . and to encourage the practice of high standards of conduct by legislatures and legislative staff.
5. To promote cooperation between state legislatures in the United States and legislatures in other countries.







The NCSL is a bipartisan organization, formed and financially supported by the 50 state legislatures. The NCSL bylaws establish a system of governance for the organization that institutionalizes its bipartisan credentials. The NCSL is also unique in its inclusion of legislative staff in its governing structure. The NCSL Executive Committee is the board of directors for the organization. The Executive Committee oversees the organization's budget and ongoing activities. The principal guidance for the NCSL is provided by the NCSL President and the NCSL Staff Chair.

The NCSL employs a system of national standing committees to formulate and recommend policies that become the organization's position on important state-federal issues. The NCSL staff are organized into seven major divisions each headed by a division director. The divisions are: State Service Division, State Policy Research Division, Trust for Representative Democracy, Communication Division, Operational and Administration Division and Outreach and External Relations Division.

In conclusion, the presenter stated that it is prudent to examine the NCSL's experience to cull out those practices and policies adopted by the NCSL that have universal application and appeal. The history and story of the NCSL are unique to the American experience and its federal system of government.

Mr Werunga's paper focused on the parliamentary evolution, formation, characteristics, and mandate, and the establishment of the Centres for Parliamentary Studies and Training (CPSTs).

Each Centre provides studies, training and capacity development for both Members and staff. It is a one-stop resource and repository centre that enhances capacity development for Members and staff in a manner that meets the expectations of a highly enlightened electorate. The roles and functions of the CPSTs are fully attuned to those of a democratic state. There are currently five CPSTs in Africa. The move now is to speed up and increase membership, and to develop or consolidate the steps taken so far in building the centres.



Dr Rasheed Draman viewed the emergence and growth of parliamentary institutes as a building block for developmental states and as key to the realization of capacity building for members and staff of the legislative sector. In arguing the case for a parliamentary institute, Dr Draman associated the poor performance of legislatures across the world with the high level of electoral dissatisfaction. He argued that a concerted effort is needed to set up assertive parliamentary institutes across parliaments, mobilize the political will at the top of the parliamentary hierarchy to drive the process, and enlist resources to meet the need.



The Parliamentary Centre, which is an NGO responsible for strengthening the capacity of the Canadian Parliament, was cited as a case for consideration. The Centre's largest programme is in Africa, where more than 45 projects have been implemented in the last 20 years. The Parliamentary Centre in Africa is based in Accra, Ghana. It is involved in capacity building and training; coordination of workshops, seminars and conferencing; field visits; knowledge exchange or study tours; parliamentary networking; performance assessment; and research and publications. Interaction is promoted and knowledge is translated in an attempt to capacitate MPs and staff.

Zibonele Nxele, Zipho Phakathi, Sihle Duma & Nhlanhla Mpondi (2012), viewed the philosophy of knowledge production and capacity building as critical to the effective development of African democracies. The rationale behind the establishment of Parliamentary Institutes, according to these authors, is to provide quality research and capacity building services to parliamentarians with the aim of creating well-functioning parliaments. They argued that Centres of Excellence are critical in developing skilled parliamentarians who are able to make informed decisions and develop effective, responsive policies.





Transformation into a developmental state requires intense capacity, informed by critical thinking and analysis skills. As countries become developmental states, there is a need to define the role of the legislative sector within a state.

The paper reviewed the existing literature and presented lessons that can be learned from Kenya and Uganda's Parliamentary Institutes. Kenya and Uganda have adopted these, in establishing the Centre for Parliamentary Studies and Training (CPST) and Institute of Parliamentary Studies (IPS), respectively. The two countries conceptualized a parliamentary institute as a discussion forum and a platform for the development of a curriculum which can be used as a framework for the training of members and officials.

Kenya approaches the development of training tools for capacity building and training as outward-looking in terms of sourcing external expertise to strengthen its curriculum, whereas Uganda focuses on utilizing internal expertise such as former Members of Parliament and staff to develop training manuals.

Based on the experiences of Kenya and Uganda, the following set of principles was identified as being key principles guiding parliamentary institutes:

- They are non-partisan organizations that are established to provide exclusive, independent and quality research support to Members and staff of Parliament.
- They have legal regulation or a framework that becomes a critical component for the proper functioning of a parliamentary institute.
- They build the capacity of parliamentary members and support staff to ensure that parliaments deliver accordingly and satisfactorily in terms of their duties and service delivery in general.
- They draw on other international experiences in developing a trend of establishing parliamentary services.
- They strengthen parliaments in fostering the credibility and accountability of developing countries.
- They function within a dynamic, non-static and politically charged environment.

Of significant importance to these principles are the structures of the institutes and the conceptualization of capacity development programmes. According to the presenters, there are no best practices regarding the establishment and management of parliamentary institutes, especially when it comes to the development of training and capacity building tools. Evidence shows that in terms of the broad processes, there are commonalities across the world. The concept of a parliamentary institute is informed by specific tools that

respond to the specific training and capacity building needs that are unique to individual parliaments.

The Legislative Sector Support paper focused on the scenario of the Parliamentary Institute as a feasible structure for research, development and capacity building of Members and staff of parliament. The presentation highlighted the importance of establishing legislative institutes as centres of excellence for capacity development, information and as knowledge banks.

The perception is that legislatures are consumers of information with little output in terms of production of knowledge. There is a lack of capacity among members of legislatures and staff, and ineffective organization due to poor resources and facilities. Research findings reveal that there is a prerequisite for the setting up of legislative institutes, the initiation of relevant capacity building programmes, the consolidation of a pool of experts in various fields, and the institution of a partnership between research and academic institutions.

## 10. Declaration and Resolutions



Delegates and participants at the seminar took a keen interest in the subjects that were discussed and deliberated on each topic, and the following resolutions were adopted. SALS resolved as follows:

- To reaffirm the commitments towards the resolutions taken during the 4th SALSA Development Seminar;
- To stress the importance of increased and formalised collaboration, especially within the SALS community, between SALS and national and international parliamentary bodies, research institutions and civil society;
- To further stress that collaborative relationships between the three spheres of government and Chapter 9 Institutions should be strengthened to emphasise accountability for executive obligations;
- To call on Legislatures to respond quickly and generously to appeals to speed up the development and implementation of frameworks and guidelines;
- To further call for the development of a system to streamline Forum logistics;
- To request the expansion and restructuring of SALSA sub-structures through collaborative efforts;
- To note the need for the development and implementation of a SALS internal and external communication strategy and plan for improved sector communication;
- To stress the importance of the finalisation of the legislatures' fiscal review and implementation;
- To urge the development of a separate reporting template to that of Treasury that will be more relevant to the nature of legislative oversight;
- To emphasise that it is critical to develop legislation that will enhance the engagement of organised local government at the provincial level;
- To further note that Public Participation programmes should reflect the social diversity of the population in terms of gender, geography, language, religion, ethnicity and other politically significant characteristics;
- To affirm that in their oversight endeavours legislatures should ensure that national priorities and outcomes, as well as the attainment of MDGs, form an integral part of government planning;
- To support capacity building activities for Members and staff;
- To ensure the preservation of institutional memory through actively promoting the establishment of Knowledge Management Units at all Legislatures;

- That the provincial electoral system should not only be based on proportional representation but include local communities and constituents;
- That accountability by provincial government to citizens and local authorities must be strengthened by extending the monitoring and oversight role of the NCOP and the provincial legislatures;
- That the Sector should expedite the establishment of a Parliamentary Institute that will offer capacity development programmes and training and conduct intensive research for assessment and evaluation of the work of the government;
- That the current low-level trust in parliaments be addressed through engagement with citizens and by staying closely attuned to the needs of citizens and making every effort to meet them.

## 11. Way Forward and Closing Remarks

The SALSA Chairperson closed the 2012 Development Seminar and thanked the SALSA Executive, the SALSA Forums, and LSS for contributing in making the workshop a success. According to him, the process created a platform for exploring issues that the sector grapples with, and providing an opportunity for revising plans and sharing important information that the sector can use going forward. Among the issues to be taken note of, the chairperson cited the need to improve co-ordination and integration of sector programmes, structures, and activities in the strengthening of the SA Legislative Sector. He further mentioned that officials should work to improve organizational efficiency.







