# THE EFFECTS OF THE OVERSIGHT ROLE OF LEGISLATURES IN PROMOTING GOOD GOVERNANCE IN SOUTH AFRICA WITH SPECIFIC REFERENCE TO THE GAUTENG LEGISLATURE

**by**

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**DECLARATION**

I **Anthony Tshwarelo Malapane** hereby declare that research titled "the effects of the oversight role of legislatures in promoting good governance in South Africa with specific reference to the Gauteng Legislature" submitted to the University of Limpopo, for the degree Doctor of Administration in the subject field of Public Administration is my own original work and has not previously been submitted by me at this or any other institution of higher education. I further declare that all materials and sources utilised are specified and acknowledged by means of a comprehensive list of references.


Malapane A. T                                    Date

Signature……………………….                    ……………………….

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*"Be bold. Be brave. Be courageous" commands the Lord* – Joshua 1:9

**DEDICATION**

I dedicate this study to my mother Juliet Mosuma and my late father Leonard Malapane for their patience and love in shaping me into the kind of person I am today. To my wife Kgopotso Mary and son Tshenolo Malapane, thank you for giving me all the support, love and for your patience during my busiest days going through this journey, this study is also dedicated to you. Furthermore, may this study be an inspiration and motivation to all young South Africans who have passion and love for education, and the welfare of the country.

**ABSTRACT**

South Africa continues to experiment with democracy after 23 years since its rebirth in 1994. The country's democracy is still developing towards greater transparency, full participation and accountability. Development depends on the existence of strong and vibrant institutions of accountability in the face of the challenges that threaten to reverse the gains made since the advent of democracy. Among such institutions is the legislature, which is the focus of this study. The study probes the oversight role of legislatures in South Africa. Oversight has become a subject of interest in the field of Public Administration as it is viewed as the mandate of legislatures to hold the government to account for managing public resources in the course of conducting public affairs. This study broadens the understanding of oversight by examining crucial relations between the legislature and the executive, and by providing insight into the legislature's ability and capacity to carry out the oversight mandate. This is mainly because in most developing countries, the legislative sector, and particularly African legislatures have been categorised as weak. They are generally censured to have institutional weaknesses and limited decision-making role. There are, however, common challenges, including but not limited to lack of capacity, the dominance of the executive and its reluctance to cooperate, and lack of political will attributed to various factors. These challenges are intensified by the legislature's perceived inability to deal with emerging issues. Studies previously conducted in the Gauteng Legislature have affirmed some of these challenges, including among others, lack of independence and capacity issues when exercising its oversight role. However, the literature pointed to increased oversight activities in democratic legislatures over the years. Although increase in oversight activities is acknowledged in the study, literature on oversight effectiveness is scant.

From the foregoing, the aim of the study was to examine whether the oversight role of legislatures has effects in terms of the promotion of good governance, particularly executive transparency and accountability as well as public involvement.  In addition to focusing on the relationship between the executive and the legislature, ability and capacity of the legislature, the study also set out to determine the extent to which the public participates in oversight processes of legislatures. The study concentrated on the Gauteng Legislature, and focused on the work of Portfolio Committees as they are responsible for the day to day oversight work of legislatures. The literature reviewed

points out to the complex nature of the legislative oversight setting based on the systems of governance adopted in a country, which has an influence on the relationship between the executive and the legislature, and in turn, on oversight. The study has employed a qualitative approach, with the data collected utilising semi-structured in-depth personal interviews, participant observation and document analysis. Semi-structured personal interviews were the main data collection tool utilised to collect primary data from the participants. The participants were selected utilising non-probability (purposive) sampling to target participants with knowledge and experience on the subject matter to attain the objectives of the study. In addition, the participant observation and document analysis were used to collect both primary and secondary data to supplement the interviews with the respondents. This was mainly to respond to the contention of this study.

The study argues that the legislature through its oversight role has the ability and capacity to promote transparency and accountability as well as public involvement. The findings of this study suggest that to a certain extent, the oversight role might have positive effects on promoting executive transparency and accountability. However, the findings have pointed out some serious shortcomings regarding the extent to which the public participates in the oversight work of the legislature. This is regardless of the efforts made by the legislature to establish platforms to ensure that the public participates in the oversight role to hold the executive accountable. Furthermore, the study has found that Portfolio Committees are a suitable mechanism to hold the executive to account as among others, the Members of the Provincial Legislature (MPLs) work well together. There are improved relations between the Gauteng government departments and committees. The departments are responsive; yet there are still challenges leading to the elusion of accountability, with limited or no consequences. The study recommends *inter alia*, follow-up on oversight activities; committee action against the executive's reluctance; strengthening the role of research; and regular interactions between the executive and the legislature.

**Keywords**

Accountability, Committees, Democracy, Executive, Government, Governance, Good Governance, Legislature, Performance, Public Participation, Service Delivery, Transparency, Political Parties, and Oversight.

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# KEY ACRONYMS

| | |
|---|---|
| AG | Auditor-General |
| AGSA | Auditor-General South Africa |
| ANC | African National Congress |
| BCM | Budget Cycle Model |
| DA | Democratic Alliance |
| EFF | Economic Freedom Fighters |
| FIS | Focused Intervention Study |
| GPG | Gauteng Provincial Government |
| GPL | Gauteng Provincial Legislature |
| IMF | International Monetary Fund |
| MEC | Member of Executive Council |
| MPLs | Members of Provincial Legislatures |
| MPs | Members of Parliament |
| NGO | Non-Governmental Organization |
| PA | Principal-Agent |
| PEBA | Performance Evaluation and Budget Analysis |
| PR | Proportional Representation |
| PSOM | Public Sector Oversight Model |
| SADC | Southern African Development Community |
| SCOPA | Standing Committee on Public Accounts |
| SOM | Sector Oversight Model |
| WBI | World Bank Institute |

# CHAPTER 1

# GENERAL ORIENTATION OF THE STUDY

## 1.1 INTRODUCTION AND BACKGROUND TO THE STUDY

In general, democracy is about building structures and institutions, and more importantly, the participation of the people in governance. It has been over 23 years since the advent of a democratic South Africa. The milestone highlights, in part, that the country's democracy is maturing. However, it is argued that the true test of a mature democracy will be determined by the degree of the government's response to the needs of the people (Mbeki, 2006). Mattes and Bratton (2007:192) state, "democracy, above all, is a system of rules and procedures by which leaders, groups and parties compete for power, in which free and equal people elect representatives to make binding decisions". It is generally referred to as the government of the people by the people. Mpehle (2012) emphasises that democracy is not restricted to elections, but should aim to benefit the public. Nonetheless, the country is still facing numerous challenges in its effort to respond to the needs of the people, which include but not limited to maladministration and misuse of public funds (Plaatjies, 2013).

The challenges occur regardless of the existence of democratic institutions such as parliament and provincial legislatures. These institutions are entrusted with the obligation to ensure good governance and to promote the welfare of the local communities (Shija, 2012), as acknowledged through the principle of *trias politica,* which recognises the separation of powers of the state. Good governance is well defined in the literature as relating to effective problem solving, decision making or the efficient allocation and management of public resources (Coston, 1998). Moreover, other scholars discussed good governance in the context of its attributes, transparency and accountability as well as public involvement, which is preserved through the separation of powers (Graham, Amos & Plumptree, 2003; Mwanza, Mwitwa & Mukunto, 2014). The separation of powers is between the legislative, executive and judiciary branches of government to promote systematic checks and balances in

observing basic values and principles of good governance enshrined in Section 195(1) of the Constitution of the Republic of South Africa, 1996.

It emphasises that every arm of the state has been allocated its own constitutional powers to exercise. For instance, oversight is a central mandate of the legislative branch of government (Murray & Nijzink, 2004 in Madue, 2012), although it is not the sole mandate. Other mandates include law-making, facilitating public participation and promoting corporative governance. Oversight as a point of contention in this study is a constitutional obligation in terms of the doctrine of the separation of powers.  Section 114(2)(b) of the Constitution of the Republic of South Africa, 1996 stipulates that the legislature has the role of overseeing the actions of the executive, in particular government departments and other organs of the state such as government agencies and public entities. The role is to promote accountability, transparency and compliance in the executive's service delivery performance to satisfy the needs of the people.

Legislatures have an oversight role to ensure that the executive effectively conducts and manages public affairs and resources (Johnson & Nakamura, 1999). It entails that legislatures should monitor the executive's activities in the rendering of goods and services to the people. It is important to understand the significance of the oversight role of legislatures in the provisioning of public goods and services. Ngwakwe (2012) argues that the discussions of service delivery and financial accountability are inseparable. This assertion is based on the fact that there cannot be effective provision of services to communities without sound financial management. Financial accountability and transparency are important facets in conducting public affairs and managing public resources (Madue, 2012). This emphasises the significance of the oversight role of legislatures. Of course, questions are still raised about the capacity of legislatures to hold the executive accountable (Abellera, 2011; Pelizzo & Stapenhurst, 2014). According to Shija (2012:5), "effective oversight must be to the benefit of all the people and promote social equality". It means that the oversight role of the legislature should be mostly focused in promoting the effective provision of services to the local communities, and oversight should be the true test of South Africa's maturing democracy.

Thus, in considering the fifth legislature, the study is concerned with the effects that legislative oversight might have in promoting good governance, in particular

transparency and accountability as well as public involvement. Noting the foregoing, the literature revealed that a gap still exists regarding the link between legislative oversight and executive performance. In consideration of recent developments in the public discourse adversely affecting the South African legislatures, predominantly the National Parliament (Seedat & Naidoo, 2015:3), legislatures have been facing public scrutiny. It gives the impression that legislatures are unable to fulfil their oversight role to hold the executive to account for managing public resources and conducting public affairs. The literature reviewed points out that not much has been done with regard to the effects of the oversight role. As a result, it is difficult to draw a conclusion on the merits and demerits of the oversight role. The lacuna in the existing scholarship dictates a thorough systematic and scientific investigation on the subject to address the research problem of the study.

## 1.2 STATEMENT OF THE PROBLEM

There is a general view that legislatures of most developing countries, and in particular African legislatures have always been categorised as weak (Nijzink, Mozaffar & Azevedo, 2006; Pelizzo & Stapenhurst, 2014). The legislatures are characterised based on their institutional weaknesses and limited decision-making role. This is despite developments in most developing countries to ensure that legislatures are independent, capacitated and have the ability to execute their oversight role to promote good governance, in particular transparency and accountability as well as public involvement. The initiatives are advocated by the World Bank Institute (WBI), and Commonwealth Parliamentary Association (CPA), among others. This is also recognising that there are still common challenges facing legislatures, including but not limited to lack of capacity, the dominance of the executive and its reluctance to cooperate, and lack of political will attributed to party political dynamics (Pelizzo & Stapenhurst, 2006; Shenga, 2007; Zvoma, 2010). The challenges are exacerbated by legislatures' perceived inability to deal with emerging issues.

The foregoing is prevalent in South Africa. The South African government still faces challenges related to the provision of public goods and services, including but not limited to maladministration and misuse of taxpayers' money as well as poor service delivery. The challenges threaten to reverse some of the gains made since the advent

of democracy, and in turn there have been calls, among others, from the Auditor General of South Africa (AGSA)'s report to strengthen oversight. In stressing the pertinent matter of operation clean audits, the report asserts that the government slightly improves the reliability and usefulness of service delivery reporting, but this does not necessarily mean that there is enhanced service delivery performance (AGSA, 2012/13). The call was for other institutions of oversight and in particular the legislature as the elected representatives to strengthen its oversight role. It is because of weaknesses in the implementation of programmes in key national and provincial departments such as health, education and economic development.

The calls however come during an intricate period where the oversight role of legislatures in South Africa, in particular parliament is under scrutiny in the public discourse and domain. The challenges faced by the country's legislatures have placed doubt in their ability to oversee the executive. Such challenges questioned the separation of powers in some instances wherein the judiciary has to intervene to instil good governance in among others the Nkandla debacle (Malapane, 2015; Business Live, 2016). On the one hand, it remains clear in terms of the separation of powers that oversight is the mandate of legislatures. On the other hand, it is for this perception and reasoning that "the extent in which legislatures play their oversight role in promoting good governance is currently being debated" (Abellera, 2011:294). The debates continue because there is a dearth of literature in oversight and good governance, particularly in South Africa. This is regardless of what the scholarly work reviewed refer to as renewed interest in the study of the oversight role of legislatures.

According to the Gauteng Legislature's 20 years review report (2015:7), "*the Gauteng Legislature is considered a centre of excellence within the global legislative community, and since 1994, it has always promoted transparent and responsive government as well as being the first point of contact for the people of Gauteng*". This is interesting, yet it raises questions noting the current debates and limited literature as well as studies conducted in the Gauteng Legislature, confirming some of the challenges underscored, *inter alia,* lack of independence, capacity issues and ineffectiveness (Rapoo, 2004; 2005). The studies, however, have their own limitations as none focused on the effects of oversight. This study therefore seeks to make a contribution to the body of knowledge on how legislatures in South Africa have effects

in promoting good governance, focusing on the Gauteng legislature. Given the background provided above, the research problem to be investigated in this study is:

**What effects does the oversight role of the Gauteng Legislature have on promoting good governance, in particular executive transparency and accountability as well as public involvement?**

## 1.3 AIM AND OBJECTIVES

The aim of the study is to examine the effects of the oversight role of legislatures in promoting good governance in South Africa with specific reference to the Gauteng Legislature. The objectives that guide this study are to:

- examine the relationship between the legislature and the executive on oversight in the Gauteng Legislature, focusing on their power relations;
- assess the legislature's ability and capacity to promote transparency and hold the executive accountable;
- determine the extent to which the public participate in the activities of the legislature to monitor the performance of the executive and in turn promote transparency and accountability; and
- draw conclusions and make recommendations that could assist to improve executive transparency and accountability through the oversight role of the legislature, and in turn promote good governance.

## 1.4 RESEARCH QUESTIONS

This study is guided by the following research questions:

- what is the state of the relationship between the legislature and the executive in the Gauteng Legislature, and to what extent does it influence the oversight role of the legislature in promoting good governance?
- does the Gauteng Legislature have ability and capacity to oversee the activities of the executive to promote transparency and accountability?

- to what extent does the public participate in the oversight role of the legislature to monitor the performance of the executive and in turn promote accountability and transparency?
- what practical actions could be taken at institutional level to ensure executive accountability and transparency?

## 1.5 MOTIVATION

As an emerging scholar with a professional interest on legislative studies, the researcher felt motivated to study the oversight role of legislatures in South Africa. Globally, developments regarding the oversight role of legislatures with emphasis on supporting and capacitating democratic legislatures both national parliaments and provincial legislatures to be in a position to effectively fulfil their constitutional mandate have been noted (Stapenhurst & Pelizzo, 2006; Malapane, 2015; 2016). Legislatures, in particular through their oversight role, are viewed as an important pillar of democracy in developed and developing countries. In the wake of South Africa relishing the milestone of over 23 years since the advent of democracy in 1994, and the inception of the Constitution of the Republic of South Africa, 1996, such developments are crucial for the maturity of the country's democracy. As South Africa's democracy matures, the oversight role of democratic institutions such as parliament and provincial legislatures becomes more important (AGSA, 2012/13). For this reason, more attention has been directed on the role played by legislatures. The role of legislatures, in particular oversight has been under the spotlight in the public domain. This however has not meant that legislatures in the country are performing their oversight role effectively; instead they have been dominating the public discourse and domain for reasons that have placed doubt on their ability to effectively perform their oversight role. It is therefore important to acknowledge that oversight is a constitutional mandate, and it should be effectively carried out, hence the need to study its effects on promoting good governance, particularly executive transparency and accountability, among others. Therefore, the significance of this study is to examine the effects of the oversight role in the Gauteng Legislature.

## 1.6 SIGNIFICANCE OF THE STUDY

The importance of the oversight role of legislatures has been underscored in the discussions. Oversight has, however, been a disputed terrain where it was regarded as the role and responsibility of opposition parties (Oversight and Accountability Model, 2009:7). Notwithstanding, having ushered in the fifth legislature and over 23 years of democracy, it is important to examine the role of the legislature as a democratic institution. It is noted that oversight is not the sole responsibility of opposition parties, but the mandate of the legislative branch. It is a constitutional mandate that needs to be effectively carried out. The forgoing may point out to various scenarios in terms of oversight. On the one hand, this may entail that there has been asymmetric understanding or lack of oversight thereof. On the other hand, it underscores a significant gap on knowledge which could obstruct oversight.

It is argued that as the country's democracy matures, the oversight role of democratic institutions such as parliament and provincial legislatures becomes of critical importance (AGSA, 2012/13). Thus, in part, preliminary literature suggested that little has been done with regard to the oversight role of legislatures in developing countries, particularly in the South African context. While there is an acknowledgement by some studies on oversight and what is termed "a renewed interest in the subject", little focus has been put on the effects of oversight. The study was set out to explore the causal relation between legislative oversight and the executive's performance. The study of this nature is, therefore, essential to the study and practice of Public Administration, thereby contributing towards strengthening legislatures as democratic institutions.

The results of this study would therefore contribute new insights in enhancing the oversight role of legislatures, and in turn the executive's performance. They (the results) are meant to assist legislators to improve their understanding of the ability to conduct effective oversight. This study also makes a meaningful contribution to the knowledge field of legislative studies. This is attained through responses to the research questions, and through proposals to improve theories and approaches of conducting effective oversight. Furthermore, in the process of completing this study, the researcher has produced conference papers and published journal articles on the subject matter that might contribute towards bridging the literature gap. To attain the significance of the study, the scope of the research is outlined in the next session.

## 1.7 SCOPE OF THE RESEARCH

The research investigated the effects that legislative oversight might have on promoting executive transparency and accountability as well as public involvement, with specific reference to the Gauteng Legislature. The study has mostly paid attention to the fourth term of legislative business (2009-2014) building towards the 23 years of a democratic South Africa and beyond, which speaks to the current term (2014-2019). It focused on the legislature as it is responsible to oversee and monitor the activities of the executive, which is tasked with the mandate of managing public resources and conducting public affairs. Thus, the unit of analysis of the study is the Gauteng Legislature. The focus is on committees in the legislature, because according to the literature, most of the oversight work is carried out by committees, in particular Portfolio Committees. The study focused on Members of the Provincial Legislature (MPLs) and Key staff supporting Portfolio Committees overseeing provincial service delivery departments as prioritised, including among others, Economic Development, Health, Education, Social Development, and Cooperative Governance and Human Settlements. This was due to the time frames available, costs and manageability of the study as oversight in the legislature is conducted through the House and its Committees. There are 17 committees in the GPL (11 Portfolio Committees responsible for overseeing departments and 6 standing committees not attached to departments). This, however, did not negatively affect the study as its findings (in chapter 6) attained the aim and objectives as outlined in section 1.3. Thus, the next section outlines the research ethics taken into consideration when the study was conducted since it took place in a natural setting and involved the researcher working together with the respondents.

## 1.8 ETHICAL CONSIDERATION

Ethical issues are a prerequisite in scientific research. Ethics generally entails what is right or wrong when conducting research. It has to do with the standards and norms. The researcher in this study has complied with the accepted norms and values because this study involves individuals as respondents (Mouton, 2001). These set of principles are outlined by the scientific community to determine what is suitable in

doing research. Amongst others, Goddard and Melville (2001) stipulate that the researcher should, to a certain extent, select a topic of research which satisfies ethical requirements; and this has been complied with.

As discussed in chapter 5, the researcher has further ensured that the research methods employed in conducting the research took into consideration ethical issues. In scientific research, ethical issues should prevail from the selection of the topic, research design and method as well as compiling the research report. Brynard and Hanekom (2006) are of the view that the main issues to consider in ethics are honesty and confidentiality. Birley and Moreland (1998) are of the opinion that there are varied issues in research ethics, and the study has to comply and consider these issues. The following are ethical issues considered in this study:

- The researcher has ensured that the study respects the confidentiality of the information provided, and the right of the respondents to remain anonymous or to withdraw from participation. Some of the respondents were also afforded an opportunity to validate the information provided, particularly through follow-up questions for clarity purposes.
- From the above point, the data collected was analysed immediately after the data collection to avoid a situation of misinterpreting the data collected and to regress from utilising biased information.
- The study has openly outlined the research methodology and tools to be utilised to collect data so that readers of the study are able to know how the results were realised (see chapter 5 of this study).
- Some of the data collected was recorded subject to the permission granted by the respondents and stored to enable validity and reliability checks to be done. This has enabled the researcher to undertake an accurate analysis of the study and to revisit the data for clarity (Birley & Moreland, 1998).

The study has observed the above ethical principles by, among others, being subjected to the Ethics Committee of the Faculty of Law and Management – School of Economics and Management. The integrity of the University of Limpopo, the Gauteng Legislature and the researcher have been protected throughout the proceedings of the study. Furthermore, permission to conduct the study as required by the university was requested and approved by the Office of the Secretary to the

Gauteng Legislature. The confidentially aspects and other rights were explained to the participants, with the emphasis that they are free to withdraw their participation should they have the need to do so. Having articulated the ethical considerations, the next section clarifies key concepts applicable to the study.

## 1.9 CLARIFICATION OF CONCEPTS

This section provides the clarification of the key concepts utilised in the study. Although the concepts are clarified in detail in the discussions of the theoretical chapters (chapter 2, 3 & 4), it is important to provide a synopsis of what the concepts mean in relation to the study.

**Accountability:** Mwanza, Mwitwa and Mukunto (2014) assert that accountability is the obligation of power holders to take responsibility for their actions. It serves as an instrument to monitor the use of power by those who have been delegated the responsibility, and in turn ensure that government effectively carries its day to day function.

**Democracy:** Choi and Raleigh (2015) assert that it is in the nature of democracy for people and groups previously marginalised to participate in decision-making and integrated into decision-making bodies and emphasises limits on the executive powers.

**Good Governance:** Mwanza *et al.* (2014:82) refer to good governance as the "…accountability and transparency of the government to its citizens and the general participation of the citizens in the government process". The foregoing definition of good governance is utilised in the study for reference.

**Performance:** Performance refers "…to the productive organisation, i.e. one that has capacity to perform and converts this capacity into results –outputs and outcomes" (Van Dooren, Bouckaert & Halligan, 2010:4).

**Public Participation:** The constitution highlights the role of committees in the legislature in involving the public in the oversight and law-making processes of

legislatures. The foregoing assertion is supported by Jacobs and Jones (2009:15) that "the elements of legislative representative bodies such as Parliamentary Committees play an important role in securing public legitimacy for the political systems". Committees of legislatures should provide the people with an opportunity to have a say in the spending of their resources (Le Roux, 2010).

**Transparency:** Callamard (2010:1220) states that "…the Non-Governmental Organisation (NGO) Transparency International has defined transparency as a principle that allows those affected by administrative decisions, business transactions or charitable work to know not only the basic facts and figures but also the mechanisms and processes".

**Oversight:** Sector Oversight Model (2012:4) defines the concept of oversight as "…the proactive interaction initiated by a legislature with the executive and administrative organs…that encourages compliance with the constitutional obligation on the executive and administration to ensure delivery on agreed-to objectives for achieved of government priorities". Oversight in this study can be defined as "the process carried-out by legislatures to scrutinise, monitor and review the actions planned and performed by the executive to promote transparency and accountability in managing resources and conducting affairs in the interests of the people".

## 1.10   STUDY CHAPTER LAYOUT

This section outlines the summary of the chapters constituting this study. This study is demarcated into 7 chapters, with each chapter dedicated to discussing a specific theme in responding to the objectives of the study. Therefore, the chapters of this study are outlined starting with the introductory chapter.

**Chapter 1**

Chapter one of the study, also known as the introductory chapter, is an important chapter aimed at introducing the study, in particular the rationale for conducting the study. The chapter provides the introduction and background to the study. It introduces the topic of the study, and the statement of the problem. It sets the tone with regard to

the main contention of the study. The study focuses on the effects of the oversight role of legislatures in promoting good governance in South Africa with reference to Gauteng Legislature. The contention of the study is centred on whether the oversight role of the Gauteng Legislature has effects on executive transparency and accountability as well as public involvement. The chapter has also outlined the research questions and objectives of the study. In addition, it has provided the scope and ethical considerations observed. More importantly, it has provided the significance of the study. This alludes to the importance of the study in terms of its contribution to knowledge, amongst others, as it is mostly emphasised in doctoral theses. Furthermore, the chapter discussed the ethical considerations and the clarification of key concepts.

**Chapter 2**

The chapter provides the overview of governance systems and theoretical foundations relevant to define the relationship between the legislature and the executive. It discusses the historical overview of the systems of governance, providing a global picture and South African experiences. The chapter is premised on the discussion about the political system espoused in the country after the 1994 multi-party democratic elections. This opened the way to the discussion on other various systems which are important to the discourse on the relationship between the legislature and the executive. This talks to systems such political party and electoral systems, with particular focus on various types, and the influence and choice of the kind of systems adopted in the South African context. The influence of the systems in the executive-legislative power relations is the main focus that dominates the discussion. The chapter also outlines the forms of government-presidential, semi-presidential and parliamentary which are crucial to define the relationship in terms of how the legislature and the executive are established in each form of government. In addition, the chapter provides the theoretical foundations dominant in the study of the relationship between the executive and the legislature. It further outlines the theoretical theory adopted in the study, which is the principal-agent theory.

**Chapter 3**

The chapter presents the literature review on the oversight role of legislatures, and the ability and capacity of the legislature to hold the executive accountable. The review of existing literature aims to, among others, establish a theoretical basis and to identify gaps in the literature to justify this study. The chapter starts by conceptualising and contextualising oversight to establish clarity on the meaning of oversight. There are asymmetries in the understanding of oversight by various scholars, and this assists in reaching a common ground on the understanding of the concept. The chapter also discusses the executive-legislative relations in the parliamentary form of government utilised in South Africa. In addition, the chapter outlines the influence of politics on oversight, and the dominant oversight tools utilised by legislatures globally, and in the South African context. This considers the challenges and constraints that legislatures face in executing their oversight role. The chapter further presents a broader discussion on public involvement in the oversight role of legislatures. Lastly, a synthesis and conclusion are drawn from the discussion.

**Chapter 4**

The chapter outlines the institutional framework, performance management and public participation in promoting transparency and accountability. It discusses the overview of government, government structures, powers and functions in particular, focusing on the provincial government. This relates to the contention of the study, which focuses mainly on the provincial government, with emphasis on the relationship between the legislature and the executive in the delivery of services to the people. The chapter discusses good governance in the context of this study, focusing on its key principles, transparency and accountability. In addition, performance management and public participation are discussed. The emphasis is on performance management, *inter alia,* performance management and performance measurement, and moreover the importance of performance information. The link between performance management and public participation is underlined. The chapter further outlines the reporting legislative and policy framework in South Africa.

**Chapter 5**

The chapter presents detailed discussions on the research methodology adopted and utilised in the study. According to Mouton (2001), the research methodology chapter discusses the how part of the study towards the attainment of its findings. The chapter provides both the theoretical and the empirical aspects of the research methodology. This is to assist in justifying the research methodology and designs adopted for the study. The chapter discusses issues such as the research design, sampling design, sampling methods and size. The data collection instruments are discussed, especially those utilised in the study, i.e. semi-structured interviews, document analysis and participant observation. Furthermore, the chapter outlines how the data collected was analysed, and how the study ensured validity and reliability. Lastly, the chapter discusses the study area and the population of the study. The chapter further paved a way for the discussion of the chapter on data analysis.

**Chapter 6**

The chapter provides analysis of the findings using the research methodology discussed in chapter 5. This is for the data collected in the GPL from the MPLs and Support Staff serving various committees. The findings are interpreted and presented through common themes. The findings are interpreted and presented in relation to addressing the objectives of the study. Furthermore, the research findings may be used to assist legislatures, in particular the GPL to improve their oversight role.

**Chapter 7**

The chapter presents a summary of the findings and the conclusions. It further provides recommendations for the implementation of the findings. Most importantly, the chapter identifies areas for further research. The conclusion on this study does not necessarily signal the end of research on this topic. It may be viewed as a contribution of new knowledge in Public Administration, and may thus be one of the important tools in the continuing research journey into the oversight role of legislature in promoting good governance in the South African context.

## 1.11 CONCLUSION

The chapter has outlined the rationale for conducting the study on the oversight role of legislatures in South Africa in promoting good governance, in particular transparency and accountability as well as public involvement. The aim of the study was to explore the effects of the oversight role of legislatures in South Africa in promoting good governance (transparency, accountability and public involvement) with specific reference to the Gauteng Legislature. The chapter has also presented an introductory overview which sets the tone for the overall study.

The chapter has explained the statement of the problem, aim and objectives, and the research questions of the study. The statement of the problem is concerned with the effects of the oversight role of legislatures in promoting good governance. A general view exists that legislatures of developing countries are weak, and unable to deal with emerging challenges and opportunities, among others.

Chapter 1 has paved the way for the next chapter, which deals with the theoretical framework of the study. Based on the power relations, Chapter 2 discusses the overview of systems of governance and theoretical foundations discourse for the executive-legislative relations on the oversight role. It focuses on, amongst others, the political system, party systems, forms of government and the theoretical framework relevant to the study.

# CHAPTER 2

# OVERVIEW OF SYSTEMS OF GOVERNANCE AND THEORETICAL FOUNDATIONS FOR THE LEGISLATIVE-EXECUTIVE RELATIONS ON OVERSIGHT

## 2.1 INTRODUCTION

South Africa's transition from the colonial past to the post-colonial administration has brought changes on how the government of the country functions. This is in terms of systems, structures and processes of governance. The transition has resulted in the development of new democratic systems and structures, *inter alia*, electoral and party systems, and new forms of political parties. These systems and structures as well as related processes are important in the study of the role of legislatures. Legislatures are an essential part of democratic governance, and thus, outlining systems and structures is set out to assist to establish a context on which to base the study. Chapter 2, therefore, provides an overview of systems of governance and relevant theoretical foundations in Public Administration. The first section of the chapter focuses on the discussion of the systems and structures that include, among others, democracy, party systems, electoral systems and political parties.

The second section reviews theoretical underpinnings in Public Administration on which the study is based. The relevant theoretical foundations covered in this chapter include the relevance of politics-administration dichotomy, the doctrine of the separation of powers, and the application of Principal-Agent theory. These theoretical frameworks will assist in analysing the relationship between the legislature and the executive within the espoused political system thus, as a point of departure, an overview of a political system is outlined.

## 2.2 CONTEXT OF POLITICAL SYSTEM

In studying the role of institutions like legislatures, it is important to understand the nature of the political system of their countries for the purpose of establishing a context

on which to base the study. It is recognised that different countries have adopted different political systems, and this results from various factors. Factors such as history, liberation and popular choice, population and size, geography, culture, foreign domination, and power, among others, influence the choice and development of a political system in various countries (Crumpacker, 2006:7). They highlight the complex nature of a political system of any type adopted in a certain country. Veenendaal (2015) puts emphasis on colonial history, international politics, and geography as having an impact on the development of a political system. The commonality in the factors discussed is history, which will be pivotal in further discussions. Hogstrom (2011:2) alludes to the fact that in the centre of a political system are institutions, which are crucial in ensuring that society realises its goals. These institutions include structures such as legislatures, political parties, bureaucracies and the judiciary responsible for specific activities. The nature of structures or institutions that exist within a nation is defined by the type of a political system.

From the foregoing, there is a general understanding that the development of a political system at most is influenced by the external environment. In emphasising factors which influence the development of a political system, Hogstrom (2011) presents a model of a political system cited from Easton (1965:32), as illustrated in Figure 2.1 below.

Figure 2.1: A Model of a Political system
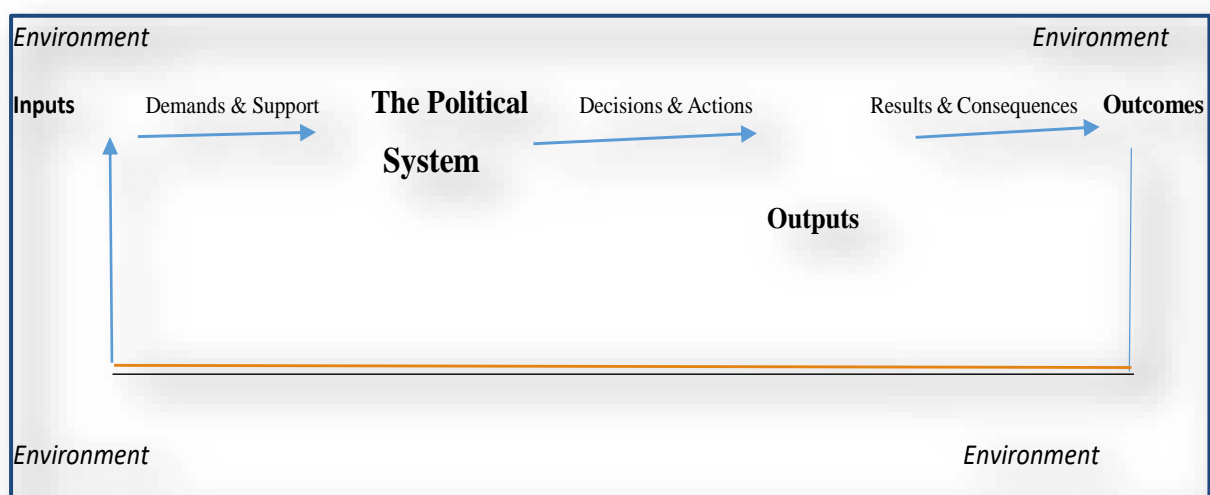


Source: Easton (1965:32) in Hogstrom (2011:2)

Figure 1 illustrates the influence of the external forces in the development of a political system. Doces and Nega (2013) underscored the influence that external factors have on the development of a political system. However, for the establishment of a political system to succeed, there should be demand and support internally in a country in pursuance of change. Chrumpacker (2006:4) asserts that "… a political system is interest-based politics, and its purpose is to permit an appropriate degree of social change within an appropriate degree of stability". Over the years, South Africa and most African countries have undergone historic political transitions from authoritarian governance or military rule towards multi-party political dispensations (Matlosa, 2004), and this is referred to as the advent of democracy. With this in mind, it is important to discuss democracy as a political system in general, and in particular in the context of the study – South Africa.

## 2.3 DEMOCRACY AS POLITICAL SYSTEM

Scholars of varied disciplines such as Public Administration, Political Science and Development Studies have studied, conceptualised and contextualised democracy as a political system. For example, Chipkin (2009) is of the opinion that democracy is about the people. This is in part related to the definition provided by Mattes and Bratton (2007:192) that democracy "… is a system of rules and procedures by which leaders, groups and parties compete for power, in which free and equal people elect representatives to make binding decisions". The definition provides a narrow denotation of democracy, which is confined only to voting, often referred to as electoral democracy. Electoral democracy is, however, to a certain degree, the only legitimate way to acquire political power (Dahlberg, Linde & Holmberg, 2015), because the political regime requires ratification from the majority of the people in a nation (see Mattes & Bratton, 2007:193). Kiwuwa (2013:269) states that "…a minimal conception of democracy is where the majority have a say in the political decision-making process signifying the role and centrality of the masses in the democratic process itself". The conception outlined is important as it broadens the definition of democracy, asserting the role of the majority as both an instrument of change and legitimating actors.

Although democracy as a political system is broadly defined around voting, it should not be confined to voting because people should have a say in the political decision-

making process. It is for this reason that Di Palma (1990) in Kiwuwa (2013:272) argues that the good of a democracy is echoed on its institutions because when a nation is building democracy, it builds institutions. Izah (2013) mentions that institutions of democracy include, among others, electoral institutions, political parties, civil governments, and legislatures in relation to the contention of this study on the oversight role. Democracy can help build institutions that promote the rule of law, and implement rules and procedures that constrain and make leaders accountable. Pelizzo and Stapenhurst (2006:2) emphasise that "… in a democracy, the government's action is subject to scrutiny and control, the probability that a country is democratic should be influenced by the legislature's potential to oversee the government". Mattes and Bratton (2007:192) hold a similar view that democracy is a system of rules and processes to promote accountability through, among others, the participation of people in the decision-making process. Choi and Raleigh (2015:160) assert that it is in the nature of democracy for people and groups previously marginalised to participate in decision-making, be integrated into decision-making bodies and to limit the executive powers. The authors elaborate that this is about promoting open and transparent transitions which is a system of good governance, and it is the goal of transitional states.

Matlosa (2004:19) conceptualises transition as "… simply a change from one type of political regime or order to another that is fairly or largely different from the old one in both form and content". This conceptualisation provides a premise to contextualise the transition of most states to democracy focusing on African states, and in particular South Africa, for the purpose of this study. Dahlberg *et al.* (2015) assert that there has been a considerable increase in the number of democracies worldwide in the last decades. Many of those new democracies have been peaceful transitions, and fortunately mostly happened in the African continent. Although some African states experienced democracy way before the 1990s, Emmanuel (2012:75) writes that democracy has been promoted in Africa since the early 1990s as an instrument for implementing positive change in Africa's political regimes. Izah (2013) asserts that most West African countries went through democratic transitions to civil governments in the past two decades. It is stated that "… most of the African states come from a long history of people's struggle for freedom from the days of resistance against colonial subjugation, post Second World War national struggles, and postcolonial

struggles against authoritarian single party/military rule" (Cheru, 2012:265). However, Cheru (2012) argues that democracy in Africa is unstable as it has not moved beyond the holding of multi-party elections. This is a broad view, which needs to be further substantiated in the discussion as the failure of one state to move beyond elections does not represent the failure of the other as political systems develop differently from country to country (see section 2.2).

Emmanuel (2012:78) argues that holding elections is one thing, while building institutions and political foundations for democracy is the other. He also argues that democracy is fairly stable in some states than others; Mauritius, Botswana, Nambia, South Africa and Ghana are stable as compared to Kenya, Zimbabwe and Cote d'voire. Schneider and Jere (2015:15) stress that democracy remains a developing process in Africa regardless of so many decades of independence. However, this is a global issue as no country in the globe has attained total democracy encompassing transparency, full participation and responsible politics alone. The independence from the apartheid system was not enough to bring freedom in the continent, yet democracy was ushered in the continent and particularly in South Africa. Matlosa (2004:18) argues that South Africa's independence from the colonial rule was an important facet for the Southern African Development Community (SADC) region's transition from colonialism to multi-party political pluralism.

South Africa's transition in the early years of 1990 led to the achievement of a peaceful and stable transition to democracy that is recognised globally. The transition was different from other Southern African countries, including Mozambique in 1975, Zimbabwe in 1980 and Namibia in 1990 regarded as the first, second and third waves of African decolonisation, respectively (Saunders, 2004). South Africa was regarded as the fourth and final wave, which brought political independence to Southern African countries such as Botswana, Swaziland and Lesotho. This change for the region came in the early 1990s when almost the entire Sub-Saharan Africa held one form of election, excluding Eritrea and Somalia (Emannuel, 2012:75). This highlights that democracy developed differently in each country as Emannuel (2012) suggests that there was no one-size-fits-all on the types of election held in each country, even though the emphasis is on multi-party elections.

Matlosa (2004:18) is of the opinion that "… what remains controversial is political liberation devoid of content (formal democracy) or profound political change marked by institutionalised culture and practice of democratic governance (substantive democracy)".  Lanegran (2001: 81) is of the view that the 1999 National elections which ended the government of national unity between the African National Congress (ANC) and the National Party (NP) completed South Africa's constitutional transformation to democracy. He however advises against declaring the country's democracy protected as it requires consolidation with respect to the importance of a competitive political party system. The contention is that the country's democracy is still developing as there is no competitive political party system. Thus, it is important that the study should discuss party systems in general, and particularly those applicable to South Africa.

## 2.3.1  The evolution of political party systems

There is a view that a political party system is an important connotation in defining what democracy is or is not. This is in relation to most African states or countries embracing multiparty party systems in the wake of their transition from post-independence military rule or one party political systems to democracy (see Cheru, 2012; Schneider & Jere, 2015). The assertion could insinuate that other party systems are not associated with democracy, which is not what the discussion attempts to establish, yet it should not be discarded. Hoffman (2005:232) explains that one of the standards used to evaluate the level of democracy in a country is the existence of multiple political parties that participate in elections. The author underscores the link between democracy and multi-party systems. However, there is a need to understand the importance of political party systems before one could discuss the nature of the multiparty pluralism vis-à-vis other party systems, and their development in detail.

Nwokora and Pelizzo (2015:455) assert that the purported influence of political party systems on the political system is the main reason for scholarly interest in the subject. The authors are of the view that inter-party competition is essential in shaping a party system. Party systems in the systems of government are important, although they do not have direct effects (Hiroi & Omori, 2009). This is because their effect is exercised through societies. Nwokora and Pelizzo (2015:469), however, state that "… empirical

scholarship has established that party system attributes affect government stability, the quality of legislative output, and the stability of the constitutional order amongst others". This study attempts to establish the effect of a party system espoused and utilised in a country, with specific reference to South Africa.

Party systems that "are relatively well developed, concentrated rather than fragmented, broadly based, and organised along pragmatic rather than personalised or narrowly sectional lines works best" (White,1998:46 in Ishiyama, 2014). This highlights that party political systems develop over time, and there are various phases that a party system undergoes. For example, Lees (2014:44), who studied party systems in the German Bunderstag, argues that patterns of competition and cooperation within the German party system have changed a great deal over time. He states that the Bundestag party system developed over a period of five decades between 1949 and 2013, which was in the initial years of the Federal Republic. The development has gone through a dual process of ideological moderation and of consolidation. On the one hand, this alludes to the nature of parties represented in terms of their ideological range, and on the other hand, the number of parties in the system and the relative volatility in the number of seats won by the parties represented.

The foregoing suggests that Bundestag party system represents a good example of party system development which developed from two catch-all parties (two-party system) to four parties (multi-party system) (Lees, 2014:46). The system is now characterised by the erosion of partisan identification, greater electoral instability, and a decline in the vote share of the catch-all parties. This is in relation to the fragmentation of party systems.

2.3.1.1 Types of party systems

Nwokora and Pelizzo (2015:460) argue that a system change occurs when the pattern of competition associated with a specific party system type changes into, or replaced by, the pattern that is associated with another type. This highlights that every single party system has its unique attributes that defines it. The authors outline seven distinct types of party competition or systems. For the purposes of this study, the various types are reiterated in Table 2.1 below.

Table 2.1: Various forms of Party systems.

| | |
|---|---|
| • One-party systems | Systems where only one party is legally allowed to participate in electoral contests and to govern. |
| • Hegemonic-party system | One party consistently wins access to government, but it tolerates small opposition parties (as long as they do not pose a serious threat to its ability to rule). |
| • Predominant-party systems | It arises when, in a democracy, a party is able to win three or more consecutive elections. |
| • Two-party systems | Systems where two parties regularly compete, both expecting to win, and these parties do in fact alternate in power. |
| • Systems of moderate pluralism | Display similar "mechanics" to two-partism, except that government tend to be formed by coalition of a large party and smaller parties. |
| • Polarised pluralist systems | There are only peripheral alternations in power as the centre (and usually largest) party is usually a member of all governing coalitions while the small coalition members are reshuffled. |
| • Atomised party systems | So highly fragmented that the emergence of additional parties has no effect on election contests or government formation |

Source: Sartori (1976) in Nwokora and Pelizzo (2015:460)

In table 2.1, the authors explained the systems and what constitutes a system change. The defining factors among the various systems discussed above is the number of political parties involved, the volatility or constancy in the number of seats won by parties represented, and how regular the parties win elections. Regardless of these distinguishing factors, it is still not clear what influences a party system change.

2.3.1.2 Party systems change

In an attempt to explain what influences a party system change, Tordoff (2002) argues that external factors and internal pressure have an effect. This suggests that party systems change, particularly in most African states was not a natural progression. There are various classifications propagated to justify the change in party systems, particularly the transition from one-party systems to multi-party systems mostly adopted by individual African countries in the 1980's and 1990's (Kaya & Van Wyk,

2004:139). The classifications are categorised into two main arguments; the external-centred and internal-centred explanations. This is attributed to the effect of liberal democratic changes in Eastern Europe and the imperialist pressure as a condition for development aid (as introduced by the International Monetary Fund (IMF) and WBI). On the one hand, the argument of external-centred influence stresses that multiparty system in most African states is imposed or was not by choice of individual countries. Doces and Nega (2013) add that although the development of systems to some states is by choice, the influence of external factors cannot be discarded. On the other hand, "the internal-centred explanations is divided into three parts:

- Western theory of political modernisation – one-party (African) is dictatorial, while multiparty (western) is democratic.
- Conspiracy viewpoint – democratisation process in Africa was arrested after political independence by the petty-bourgeoisie who consolidated political power through the one-party state.
- Multi-party movement in Africa is based on the crisis of African democracy, which includes the one-party system" (Kaya and Van Wyk, 2004:139).

The foregoing suggests that the failure of one-party systems in Africa is the reason for the transition to multiparty democracies. Nwokora and Pelizzo (2015:460) argue that a one-party system allows for only one party to exist or participate in the system, and this may either be entrenched in statutes or imposed by the party in power. The example provided in this case is that of Uganda under Yoweri Museveni wherein his party dominated to the extent that other parties do not stand a chance to win elections, and the environment is made difficult for other parties to compete fairly during elections (Kaya & Van Wyk, 2004:129). In other words, it is a case where one party's dominance does not give hope that other parties have a chance of winning power. It is however argued that a one-party system is not a design by African states. For example, Senegal and Sudan, among others, "inherited the centralising traditions of the French (their colonial master)" (Tordoff, 2002:109). A one-party system was justified by many African States as a way of unifying the society and fostering national unity.

Kiwuwa (2013) in studying how African leaders have negated power alternation using weak democratic institutional structures to hold on to power or in favour of open-ended tenures, found that lack of power alternation takes place in a one-party system.

However, he concludes that both power alternation and open tenures are democratic, yet there is a need to first accept power alternation for democratic consolidation, more importantly in weak democracies as associated with African States. Power alternation is linked to multi-party democracies.

## 2.3.1.3 Multi-party systems in Africa

The introduction of multi-party systems was mainly aimed at replacing one-party systems or post-independence military rule and to promote party competition (Schneider & Jere, 2015:11). One-party systems were considered to be in violation of human rights and perpetuating personal rule. The authors argue that since the 1990's, African countries have embraced multiparty elections, yet it has not been an easy ride. An example provided is the 1991 multi-party elections in Zambia that resulted in the ending of Kenneth Kaunda's 27 years in government. As discussed in sub-section 2.3.1.2, this justifies that open-tenures are associated with one-party systems. Kaya and Van Wyk (2004:129) assert that multi-party systems in Africa were introduced earlier. One-party systems became inevitable since one party was convincingly dominant during independence in most African states. As a result, multiparty systems in the continent have had mixed outcomes. Emmanuel (2012: 78) states that "… the majority of the African countries who adopted multiparty democracy have not embraced the systems of governance that are fair, inclusive and participatory rather their systems of governance are still geared simply towards benefiting the political elite". Van De Walle and Butler (1999:16) share similar sentiments when asserting that the progress which the countries who adopted multiparty systems made towards democratic consolidation is less clear.

Sadie (2001:293) asserts that to understand multi-party systems, popular support is crucial. The popular support in a multi-party system is divided among several parties. The party that wins most votes (largest party) enters into a coalition government with other parties (one or more parties) to form a government.  Firstly, in the multi-party loose systems, while three or more parties, no party is guaranteed 40% of the support (this entails that a multi-party loose system is defined by more than two parties who participate in an election but all fail to secure over 40% of the votes); secondly, in multi-party dominant systems among the participating parties, only one gets 40% of the vote

share; and thirdly, one party may dominate but its power is weakened by the opposition through a coalition. These represent ideal multi-party systems by description. Schneider and Jere (2015:15) argue that multi-party democracy is still developing 50 years after independence of most African States. This emphasises that although multi-party systems have been embraced in most African States, challenges exist.

Cheru (2012:266) writes that multi-party elections have ushered peaceful transitions of government in more than 42 African countries, including South Africa. It has been reported in several studies (see Matlosa, 2004; Saunders, 2004; Cheru, 2012; Emannuel, 2012) that South Africa played a pivotal role in the SADC region's transition from authoritarian rule towards multiparty political systems. Regardless of this argument, Lanegran (2001) argues that the country has not practised a multiparty democratic system in the past 50 years wherein at least two parties enjoy enough share of support to warrant competition to control government and the power to make policies. This is because both the National Party and the African National Congress (ANC) have dominated government in two different regimes. The apartheid regime was dominated by the National Party, while the ANC is currently dominating, with the latter having dominated the past two decades since the inception of democracy. This has resulted in the country incidentally experiencing a dominant or predominant party system. As outlined in sub-section 2.3.1.1, Nkwokora and Pelizzo (2015:460) write that predominant a party system takes place in a situation where one party wins three or more consecutive elections.

## 2.3.1.4    The dominant party system

As discussed in sub-section 2.3.1.2, Van Tonder (1996:29) puts it that the lack of alternation of power characterises the dominant party system where a party wins consecutive elections with an outright majority in the legislature similar to the one-party system. This is despite the fact that the country embraces multi-party elections, which most African states have done in the past 50 years. Matlosa (2004:32) asserts that South Africa and the entire SADC region have experienced the dominant party system which assumes the following forms: electoral dominance for an uninterrupted and prolonged period; dominance in the formation of governments; and dominance in determining the public agenda. Sadie (2011:207) adds that dominant party systems

are regarded as not conducive to democratic health in any system whether democratic or not. This is for the following reasons, among others:

- Without rotation in office, dominant parties find it increasingly difficult to distinguish between party interests and state interests;
- Democracy not only presupposes competition, but also that competing parties have a realistic chance of obtaining or sharing power;
- A dominant party system damages democracy because it may limit the accountability and responsiveness that are created through the key threat of re-election;
- Dominant parties may also be tempted to concentrate power increasingly in the executive as well as in the central party structures; and
- Finally, dominant party systems may lead to increased levels of political apathy, resulting in the deterioration of responsive and accountable government.

From the foregoing, Sadie (2011:208) argues that regardless of the dominance of the ANC and the reservations of dominant party systems that could be detrimental to democracy, in the past decade it has not been a serious threat to democracy in South Africa. He elaborates that "the ANC rule has been characterised by institutional strengthening of political contestation and constitutional government, including the emphasis and adherence to the rule of law". This however does not discard the current events, which motivated this study as discussed in chapter 1 of the thesis. Yet, Sadie's argument equally suggests that democracy in the country has not consolidated (Lanegran, 2001:99). For example, the merger between the Democratic Party (DP) and the New National Party (NNP) to form the Democratic Alliance (DA) on the 24th June 2000 was meant to consolidate democracy by challenging the ANC's dominance and halt its dominance. This is because the strength of the opposition parties is considered one of the ways of promoting democratic consolidation.

It is argued that because of the indispensable role of other parties in the system, a party system may not be considered a dominant party system despite a party winning elections consecutively with a near monopoly of votes (Sartori, 1994:109 in van Tonder, 1996). Sadie (2011:188) asserts that over the years, opposition parties in South Africa have been dynamic. There is also a belief that the emergence of new and

strong political parties could balance the system in the future towards democratic consolidation.

## 2.3.2 Contextualising political parties

The role of political parties in democratic politics has been underscored by various scholars (see Sadie, 2011; Southern, 2011; Aragon, 2014). For example, Sadie (2011:184) asserts that "… political parties are among the central actors in democratic politics, as well as in many authoritarian regimes". The existence of political parties is also pivotal to the principle of representation in a democracy. In other words, political parties are a bridge of ensuring that the people are represented in government. Hoffman (2005) writes that for a country to be democratic, there is a need for political parties. This emphasises the importance of parties in a democracy. It is, however, important to begin by providing a brief context of political parties before one discusses their role and significance in a democracy such as South Africa.

Political parties "are groups of people that are formally organised and are identified by an official label for the primary purpose of gaining control of the machinery of government by means of elections or other means" (Sadie, 2001:277; 2011:185). Ezrow and Frantz (2011:2) further define political parties as "… organised groups with roughly similar objectives and views that seek to influence policy through the process of getting candidates to public office". Crumpacker (2006) is of the view that political parties bring together people with the same values who together pursue the use of a political system to bring about social change in line with their values. He argues that earlier political parties were not electoral in their nature. The latter part of the view is in part contrary to the definitions provided, which allude to the key element of getting candidates into public office, meaning that political parties became electoral over the years. In the context of this study, political parties are regarded as bodies contesting for elections as representatives of the people or their constituency in line with the background and definitions provided above. This also puts emphasis on the role and significance of political parties in a democracy.

## 2.3.2.1    The role of political parties

A narrative outlined above suggests that political parties were not electoral by nature, and this questions the historical background of parties. It is generally accepted that the United States of America (USA) was among the first to introduce political parties in the 18th century; although such structures were not formalised until the 1790's (Gauja, 2010:29). Political parties in other countries such as Australia, Canada, New Zealand and the United Kingdom did not evolve until towards the end of the 19th century. In South Africa, political parties emerged in 1883, with the first being the Afrikaner bond in the Cape under J.H. Hofmeyer, and the first black movement was formed in 1912 known as the South African Native National Congress, which later became the ANC (Sadie, 2001:277). Sadie (2011:185) argues that the parties which evolved in the 18th and 19th century were intra-parliamentary parties. Gauja (2010:29) states that unlike in the current Westminster democracies, in colonial politics, Members of Parliament (MPs) had to have direct interaction with the voters in order to keep their seats in legislatures. This means that the parliamentarians had to be familiar with the issues affecting their constituencies, and in turn, they were expected to demonstrate how they are responding to such. This underscores that parliamentarians were owing their allegiance to their constituencies not necessarily to their political parties as it is the case in modern democracies.

Modern democracies brought with them the emergence of a new pattern of political parties, which in turn introduced competitive politics (McCaffrie, 2012). Political parties have become crucial features of a democracy. In modern democracies, they perform various functions such as to aggregate and articulate interests; act as a bridge between the people and government; political education and socialisation; integration into the political system; mobilisation of voters; selection and recruitment of leaders; and organisation of government (Sadie, 2001; 2011; Ezrow & Frantz, 2011). This indicates that the role played by political parties has become diverse, yet the emphasis even today remains on being a bridge between the people and government as part of representative democracy. Von Sydow (2014:72) stresses that even though modern political parties may be different by approach or other ways, responsiveness should be in the centre of their representative role.  Rye (2015:1052) agrees that parties are

crucial instruments that act as links between the public and institutions of government, and thus, they should be responsive to the needs of the public.

Dahlberg (2009:270) states that "… in the best world, elections constitute a linkage between citizens and their representatives (in this discussion political parties), where the latter are seen as delegates for the former in order to act on their behalf and according to their will". This means that the people elect political parties into power and not individual politicians. Political parties play a role in selecting candidates who represent them in institutions of government, in particular legislatures. Aragon (2014) believes that political parties have an important role to play in selecting who represents the electorate in legislatures. This is done in two ways which are either less prescriptive or more democratic, and this depends on who is responsible for selecting the people. On the one hand, party leaders can directly elect the candidates for office. On the other hand, which is more democratic, where primaries are utilised, party members or the electorate select the candidates for office. However, Aragon (2014: 206) argues that political parties prefer utilising primaries, and it is because of three reasons: to elude conflict in the party; increase competition and establish reasons among candidates to work harder when they campaign for election; and assist their party improve the quality of their candidates. This could assist political parties to be competitive as they contest elections to gain control of government machinery. Regardless, in the two approaches of selecting the candidates for office, candidates still owe their allegiance to their political parties, which stresses the gravity of the role of parties.

Van De Walle and Butler (1999:14) assert that political parties are long recognised structures to ensure that democracy prevails and is sustained. The authors however argue that it is not clear on average how many political parties should contest for elections in a democracy. Conversely, there is an agreement on the need for multiple parties as one of the criteria utilised to evaluate the degree of democracy in a country (Hoffman, 2005). The need for multiple parties in democracy entails that there should be more than one political party pursuing to gain power. This is where the issue of competitive politics comes into the picture. On the one hand, this is good for democracy since where there is party competition, voters have options to either continue voting for an underachieving party or replace it with the opposition. On the other hand, the absence of contestation may hinder the efficacy of government

(Sorensen, 2014:427). This is also true in a situation where a party in power is dominant, and where regardless of its failings, it always expects to be re-elected. Thus, it introduces the role of other parties that are not in power, which are referred to as opposing or opposition parties.

## 2.3.2.2    Opposition political parties

Party competition should encourage politicians to devise strategies to discern their political parties from the other parties. Such competition is not curbed to canvassing during the elections (Hinchliffe & Lee, 2015); it extents to internal legislative politics. The other parties that are not in government have an ambition to win office in the next election, and the legislature provides them with an opportunity to question the ruling parties. This however becomes a challenge as the ambition obstructs the political parties from trying to find legislative resolution as they are occupied with matters of electioneering (Gilmour, 1995 in Hinchliffe & Lee, 2015:174). Political party competition may however improve government performance in knowing that the policy failure of the party in government provides an opportunity for the opposition. McCaffrie (2012) argues that the governing parties cannot easily ignore the opposition parties, and in turn, to avoid political cost such as losing the next election, the government may (or are forced to) respond to suggestions and criticisms by the opposition. This is contrary to popular belief that the opposition is easily ignored.

Conversely, the opposition parties may present alternative policy options to position themselves to be voted in power in the future elections, and this is because opposition parties are hopeful that the parties in government will not rule forever (Sadie, 2011:188). Regardless of this, the discussion stresses that the opposition have an important role to play. Muriaas (2014) writes that the status of opposition parties in democracy have been recognised in most countries. It is argued that the recognition of the opposition status happens particularly in newly established multi-party systems (Wijesekera & Reynolds, 1999:8). A multi-party system requires that an enabling environment should be created for the opposition to be part of the legislature and to participate fairly. The aim is to recognise and protect the rights of minority parties equally to the majority, which is essential in democracy. Cooper (2014:111) is of the view that in a dominant-party system similar to a multi-party system, the opposition

have a much great influence in legitimising democratic institutions and representing the interests of the people.

Sadie (2011:188) asserts that the role of the opposition in democracy includes participating in law-making and presenting their plans; representing the interests of certain sections of the society or their supporters; and more importantly, serving as watchdogs over government performance. These aspects stress the extensive nature of the role of opposition parties, in particular on serving as watchdogs, which brings forth the oversight role. However, this notion has long been discarded as the study holds the view that oversight is not solely the responsibility of the opposition parties but also legislatures (as discussed in chapter 1 of this study). In addition to their role, Cooper (2014:113) states that the behaviour of the opposition is influenced by three facets, namely: policy making; vote seeking; and office seeking. These factors determine the effort that the opposition parties make when campaigning for elections as Sadie (2011) argues that some of the parties are too small to contest for the purpose of becoming government or winning the elections to become the majority party. This is crucial, and thus, there is a need to discuss the role of the electoral systems in fostering representative government, as it is crucial for political parties, in particular small parties to contest fairly in an election.

### 2.3.3  Electoral systems in democracy

In the nature of modern democratic rule, elections are a central component in the establishment of governments as they create a link between the citizens and their representatives (Dahlberg, 2009:270). Elections represent an opportunity for citizens/electorate to give a mandate to their representatives to perform on their behalf in government. The citizens are provided with a chance to select their representatives, and the choice may be either between competing political parties or candidates to elect those who closely share their views. Bormann and Golder (2013:360) assert that elections introduce a basic system to encourage responsiveness and accountability by the government of the day to its citizens. This is important and ideal in a democracy where the government is about the people. However, it requires to be further contextualised in relation to the discussion on electoral systems. The electoral system is necessary for a country to be considered democratic (Hoffman, 2005).  Popescu

(2013:214) states that electoral systems represent various facets: on the one hand, they are an instrument of ensuring that the popular choice of the electorate is converted into mandate, and on the other hand, electoral systems have an indirect influence on the conduct of the MPs or electorate. Electoral systems are important in determining which political representatives represent the interests of the citizens and influence the behaviour of those involved.

Electoral systems are extensively studied by various scholars who focused on their influence on the representatives (see Hug & Martin, 2012; Popescu, 2013; Andre, Depauw & Martin, 2014). For example, Hug and Martin (2012:92) argue that the main influence of electoral systems is on the way in which interests are represented in legislatures. The authors argue that most scholars of electoral systems paid attention on the electoral rules under which MPs are elected and how they receive a mandate. Electoral rules are primary facets in influencing the interests represented in legislatures, and more importantly the giving out of political authority (Wills-Otero, 2009). In addition, the conduct of representatives in legislatures is influenced by electoral rules employed in a particular democratic system (Stratmann & Baur, 2002). In other words, the way MPs are elected determines what they stand for. There are various types of electoral systems utilised to elect MPs.

Most electoral systems studies have either focused on Majoritarian or Proportional Representation (PR) systems, while others focused on both Majoritarian and PR systems as well as Mixed-based systems (see Hug & Martin, 2012; Freier & Odendahl, 2015; Galasso & Nannicini, 2015). The next sections discuss the nature of the systems, their influence in the behaviour of MPs, with emphasis on PR systems utilised in most democracies, including South Africa.

### 2.3.3.1    The nature of electoral systems

The electoral body in a democracy is given the responsibility to choose a particular electoral system that will be objective, and in turn, provides equal opportunities for citizens to influence government conduct (Popescu, 2013:214). This is important and in part, highlights that there are reasons behind the choice of an electoral system in a democracy. It alludes to what this discussion, focusing on the nature of the electoral systems, attempts to establish. Bormann and Golder (2013:361) write that electoral

formulas of legislative elections are either categorised as majoritarian, proportional and mixed-based, of which the latter represents a combination of both worlds - majoritarian and PR systems.

The premise of the differentiation of these electoral systems is the number of political parties or actors taking part in elections that establish government (Freier & Odendahl, 2015:311). The authors argue that a majoritarian system is popularly utilised in two-party systems where only two parties are dominant, while the PR system is used in multi-party systems where more than two parties with an equal chance of winning elections participate. This highlights that the former restricts political parties from competing fairly in elections, and the latter encourages multiple party competition. It may be argued that electoral changes in a country are swayed by party systems, and in turn changes in party systems influence the rules of party contestation (Bielasiak & Hulsey, 2013:4). This puts emphasis on the nature of electoral systems in most democracies; thus, it is important to further understand how systems either restrict or encourage multiple party competition.

A majoritarian system restrains party competition because in the system, parties or candidates that obtain most of the votes cast in elections take the majority of legislative seats (Bormann & Golder, 2013:316). Wills-Otero (2009:35) argues that with a party system consisting of few large political parties (mostly two-party), the majoritarian tends to produce one winner in a district. In contrast, the author writes that PR systems consist of many small parties who all have an opportunity to gain seats in the legislature because percentage vote is used to allocate seats. PR systems encourage multiple parties to participate since they have an advantage through the vote percentage to gain seats in a district. These are utilised in most democracies and espoused in South Africa. In the South African context, Faure (1996:90) argues that the period between 1990-1994 working towards democracy was instrumental in reaching a consensus on the popularity of a PR system as a preferred choice for an electoral system. This consensus was reached among the major political parties through extensive negotiations. Therefore, there is a need to discuss what makes PR systems a popular choice in most modern democracies.

## 2.3.3.2   Proportional representation systems

Political party competition is mostly defined by the nature of the electoral formulas (Bielasiak & Hulsey, 2013; Freier & Odendahl, 2015). This puts emphasis on the importance of choosing the right electoral systems in a democracy. It is basically the reason that makes the PR systems the right choice for most democracies. Wills-Otero (2009) explains the change of electoral systems in Latin America which led to the adoption of PR systems as emphasis to promote a competitive environment. Latin America changed from Majoritarian to PR systems at the time when the dominance of ruling parties was under threat. PR enables the governing political parties to maintain partial power even when they are utterly defeated during elections. As discussed in sub-section 2.3.3.1, each party participating in elections under PR has a fair chance of gaining seats. PR systems aim to encourage party competition, which may improve government performance and ensure proper representation in government (Sorensen, 2014:427). Yet this is not as simple as they may seem as there are complexities surrounding every electoral system.

Various electoral systems give gate-keeping powers to political parties in democracies (Miettinen & Poutvaara, 2015:88), and the same might be said with regard to PR systems. The political parties involved in elections under PR have the powers to make a determination on the kind of representation to be considered in the legislature. Galasso and Nannicini (2015:260) argue that the PR system offers two options which assign different gate-keeping powers to the leaders of political parties. The two options are 'closed-lists' and 'open-lists' PR systems. The gate-keeping powers offered by the options may influence how candidates are selected to represent the voters in the legislature. For example, in open-list system voters could make a choice on the candidate to represent them, while in the closed system the electorate vote for the party where the party decides on the representatives to be assigned seats in the legislature as positioned in the party lists. Andre *et al.* (2006:43) allude to the two systems as one (closed-list PR systems) most party-centred, and the other (open-list PR systems) as candidate-centred. According to Proksch and Slapin (2015:25), this is a variation between a ballot where voters casting their votes during elections simply mark party lists and where voters have a chance to vote for a candidate. The foregoing underscores the premise of how electoral systems, and particularly PR systems,

influence the behaviour of legislators or MPs in the legislature when executing the oversight role. The section below discusses the influence of electoral systems on the behaviour of legislators.

### 2.3.3.3    The influence of electoral systems

Popescu (2013:214) states that "… the electoral system in its various forms can cause a mismatch between the expressed will of the electorate to the polls and the distribution of mandates to the representatives". This underlines that the electoral systems have an influence on the behaviour of MPs. It is understood that each electoral system provides incentives to MPs to behave in a certain manner in the legislature. Andre *et al.* (2006:51) argue that MPs are well aware of incentives offered by electoral systems as alluded to by the locus of scholarly review. MPs' behaviour is a result of the electoral system adopted in a democracy. The wish of MPs to be re-elected or to sustain their career in the legislature provides a leeway for electoral systems to shape their strategic behaviour (Andre *et al.*, 2014:485). The authors suggest that both majoritarian and PR systems have different incentives for MPs in the legislature. MPs respond positively to incentives of electoral systems whether majoritarian or PR systems, motivated by the desire to remain representatives in the legislature at the mercy of their political parties.

Stoffel (2014:79) writes that in majoritarian single member districts, MPs pay attention more to their district's electorate; whereas in the closed-list PR systems, they rely on their political parties that have the prerogative to decide on odds for re-election according to rankings on the party lists. The closed-list PR systems incentivise legislators to be attached to partisan electoral tides as opposed to gaining personal support. Hug and Martin (2012:198) attest to the scholarly position that electoral systems affect MPs, and commonly, MPs in PR systems do not respond to their voters as compared to majoritarian systems. Moreover, Johnson (2005:8) is of the view that in PR systems, MPs tend to respond more to their party leaders who decide whether and where a candidate will be ranked on the party list in the next election. It is because candidates are placed on a party list, and citizens vote for parties than for candidates directly. This also makes it simple to recall MPs in the legislature who do not show loyalty. Galasso and Nannicini (2015:261) assert that those who are loyal to the party

are positioned higher in the party lists, and loyalists are determined by how they tow the party line. This refers to those who show loyalty to their parties when it comes to voting on matters of public interest in the legislature whether they are or not.

Loyalists go to the extent of investing more resources and time on the party in order to increase their career opportunities in the legislature (Stoffel, 2014:86). This in turn may mean that loyalists devote little time and resources in the work of the legislature as performance alone is not a guarantee for re-election. In his findings, Stoffel (2014) elaborates that even in mixed member systems (in the case of the German Budenstag) where the electoral system adopted was assumed to represent the best of both worlds 'majoritarian and PR systems'; where MPs may devote their time to both party and the electorate, it is not the case. The system does serve the local constituencies; however, not to a large extent. This is important to underline, yet based on the discussion, MPs serve their parties as compared to their constituencies.

In concluding this section, findings by Andre *et al.* (2014:485) confirm the long-held view that electoral institutions shape the behaviour of MPs in the legislature and the attention they pay to constituencies. It represents a trade-off between collective accountability and individual accountability on which either is more beneficial to the MPs within the legislature based on the electoral systems espoused in a democracy. The chances for re-election is one of the main incentives for MPs' actions in the legislature. This determines the kind of representatives in the legislature; those who focus most of their efforts on political parties, and those who pay more attention to their constituencies or electorates in general through performing their oversight role (Hug & Martin, 2012). Based on the above discussion, it can be argued that PR systems espoused in most democracies, including South Africa, are likely to produce MPs who may devote most of their efforts on political parties.

Regardless of some complexities, Baron and Diermeier (2001:934) argue that PR is the popular choice in a parliamentary system or form of government. Therefore, there is a need to discuss forms of government in order to comprehend the implications of the systems of governance adopted in various democracies.

### 2.3.4 Forms of government

Cheibub *et al.* (2015:969) argue that a form of government in the form of either parliamentary or presidential does not happen out of nowhere; it is the result of conscious constitutional design in a democracy. This means that the foundation of a form of government is underscored in the constitution, although it may not be as explicit. There are defining factors of a form of government. Primarily, it is the relationship between the legislative and executive branches, which is explicitly stipulated in the constitution of most democratic countries (Kim & Lee, 2009; Venugopal, 2015). Boban (2007:156) argues that constitutional and political characteristics, and existing political practices shape the nature of a form of government, which interchangeably is referred to as a system of government. In addition, the nature of the electoral system which legitimises the legislative and executive branches is another factor that shapes a form of government. The factors discussed, which include legislative-executive relations, will be elaborated when the forms of government, which include Parliamentary, Presidential and the less studied Semi-presidential systems, are discussed individually (see Sub-section, 2.3.4.1; 2.3.4.2 & 2.3.4.3). Kim and Lee (2009) highlight that literature has been preoccupied with a comparison between parliamentary and presidential forms of government.

Literature has mostly focused on the effect that systems of government, both parliamentary and presidential, have on democratisation (Siaroff, 2003). It is premised on the belief that the systems of government have an effect on democracy, however, in varied ways. Roper (2008:113) argues that literature proclaims a dichotomy between parliamentary and presidential forms of government. The contention is about which form of government is more conducive to democratisation than the other. On the one hand, Eaton (2002) in Roper (2008:113) states that a parliamentary system is favourable to democratisation in comparison to a presidential system. This entails that a parliamentary form of government is good for the survival of democracy and good governance. On the other hand, Cheibub (2009) is of the view that a presidential regime is not conducive to democratisation. This suggests that democracy under the presidential system may find it difficult to survive, in particular relating to new democracies. Bagashka (2012:92) argues that the greater part of literature in the discourse on the parliamentary-presidential dichotomy favours a parliamentary form

of government for democratic consolidation. Lijphart (1999:17) in Siaroff (2003:288) emphasises three distinguishing features between a presidential and a parliamentary regime:

- In a presidential system, the president is elected for a fixed term and will serve this unless there is the unusual and exceptional process of impeachment; whereas in a parliamentary, the head of state is dependent on the confidence of the legislature, and thus can be removed through a motion of no confidence;
- The president is popularly elected in a presidential system, if not directly by the voters then by an electoral college popularly elected expressively for this purpose; whereas in a parliamentary system, the head of state is selected by the legislature; and
- In a presidential system, there is effectively a one person non-collegial executive; whereas in a parliamentary system, the executive (i.e. cabinet) is collective.

From the foregoing, Siaroff (2003:289) elaborates that ".... presidentialism is the concentration of all total executive power in one person of the state President who is not politically responsible to parliament". Conversely, a parliamentary regime shifts the concentration of executive power away from one person to cabinet, which is responsible to parliament. This is an interesting variation between the parliamentary and presidential forms of government. This variation is outlined below together with the less studied semi-presidential system, which is said to combine the characteristics of both parliamentary and presidential forms of government (Cheibub & Elkins, 2011:1707).

### 2.3.4.1    Parliamentary system

In the parliamentary system, legislatures are central to the process of forming government (Cheibub *et al.*, 2015:969). It is, however, cautioned that the levels of influence by legislatures vary from country to another as some vote for a candidate and others for a party, whereas others endorse an already selected candidate. According to Chang (2015:4), the parliamentary system has the Prime Minister and a cabinet both accountable to the legislature, and they emanate from the majority, which

also has the power to remove them. This, however, may differ from country to country as some have opted for a president instead of a prime minister under the parliamentary system. Venugopal (2015:671) asserts that the Prime Minister and a cabinet are sitting Members of the Legislature (MPLs), and both are categorised as the executive branch of the state, which owes its existence on the confidence of the legislature. Ganghof (2015) writes that this is because a parliamentary system focuses powers to make democratic decisions on a majority in the legislature. In other words, the legislature has the power to make and break government. For example, it can, among others, break government through a vote for a motion of no confidence. Siaroff (2003:290) holds that the no confidence vote is the main distinguishing factor for the parliamentary system from other forms of government. Moreover, Cheibub and Elkins (2011:1707) write that the majority in the legislature decide on the leader and term of governing for the leader.

Concentrating powers to the majority and executive powers to the cabinet are some of the advantages of the parliamentary system, with the aim of promoting accountability and improving policy making (Roper, 2008:114). These however are not the only advantages of the parliamentary system. Kim and Lee (2009:153) outline some of the advantages and disadvantages of the parliamentary system. On the one hand, the advantages include that there is unified power between the cabinet and parliament, which enables parliament to work effectively and to provide direct policy response to the changing state of affairs. In addition, the majority carries the responsibility for policy failure as it has the policy making mandate, and in turn, there is high accountability of government. On the other hand, the disadvantages include, among others, instability resulting from frequent changes of the cabinet and the legislature; and a weak political party system. While Shugart and Carey (1992:44) in Siaroff (2003) agree with the disadvantages of the parliamentary system such as frequent changes, the authors argue that accountability and transparency are absent in the parliamentary system due to protective relationships as the majority in the legislature are responsible to form government. Siaroff (2003) asserts that transparency and accountability are more prevalent in a presidential system.

## 2.3.4.2    Presidential system

Kim and Lee (2009:154) state that "… in a pure presidential system, both the legislative power and the chief executive power have fixed electoral mandate that is their source of legitimacy". This suggests that the legislature and the executive receive different electoral mandates from voters. For example, the President is elected directly by the voters or people (Cheibub & Elkins, 2011; Chang, 2015).  Chang (2015:4) argues that the President is not only directly elected, but also voted individually through a separate election, and in turn, does not owe his existence to the legislature. Boban (2007:157) asserts that the popularly elected President is the central distinctive feature of the presidential system. The chosen President performs duties of both head of government and head of state for a fixed term of governance (Cheibub & Elkins, 2011:1707). The fixed term of the President is not dependent on the majority in the legislature as compared with the parliamentary system. It has been argued that in a parliamentary regime, the executive comprises sitting MPLs, and this is not taking place in the presidential system. The President as the head of the executive is voted directly to ensure enhanced separation of powers, and this separation is between the executive and the legislature (Venugopal, 2015:671).  It is, however, noted that the executive powers are concentrated on one person who is the President, which might be detrimental for developing democracies.

Bagashka (2012:94) argues that most literature associates the presidential system with the failure of democracy. The presidential system utilises the majoritarian electoral system, and as a result, the winner takes all leads to political instability in new democracies. This is made complex by the fixed term of office for the President, which means that the option to either keep a well performing President in office or remove a poorly performing one is non-existent. This is the main reason why there has been unsteady constitutional continuity in most developing democracies. On the one hand, Kim and Lee (2009:155) write that the election of the legislature and President separately has potential to cause an impasse between the President and the legislature. On the other hand, this is viewed as a positive facet as the voters are offered two electoral choices (Boban, 2007), and for the legislature and President to have their separate source of legitimacy means that legislators can perform their duties independently from the President's influence. Furthermore, a country such as

the United States (US) is utilised as a famous example of a stable Presidential system (Kim & Lee, 2009). This is not surprising since the US is regarded as one of the developed democracies. While the discussion does not favour presidentialism for developing countries, a semi-presidential system became an option for some of the third wave countries, whose transition to democracy took place between 1974 and 1988, with the period categorised as the third major surge of democracy globally.

### 2.3.4.3    Semi-presidential system

There is consensus that the semi-presidential system combines the basic characteristics of both parliamentary and presidential systems (see Roper, 2008; Kim & Lee, 2009; Chang, 2015). This is regarded as a hybrid system or form of government, which further attempts to address the weakness of both the presidential and parliamentary systems. The system encompasses a directly elected President as in presidentialism, and a Prime Minister who is the head of state as in parliamentarism (Kim & Lee, 2009:155). A semi-presidential system also has a cabinet appointed by the prime minister, which collectively with the popular elected fixed-term President, are accountable to the legislature (Elgie & McMenamin, 2011:616). The accountable to the legislature is a facet that is common in the parliamentary form of government, while the directly voted fixed term President is a common feature of the presidential system. Chang (2015:4) adds that in the semi-presidential system, a Prime Minister owes his/her existence to the confidence of the legislature's majority, while the president has substantial constitutional powers. The author, however, argues that this differs from country to country, depending on the allocation of powers within the constitution.

The United Kingdom (UK) and France are mentioned as some of the popular semi-presidential systems (Cheibub & Elkins, 2011:1707). Chang (2015:1) writes that semi-presidentialism is espoused mostly by third wave democracies, and is becoming a prevalent form of government. On the one hand, Elgie and McMenamin (2011:616) argue that semi-presidentialism is preferred because there is a room for power-sharing between parties that are on the opposite sides, and allows institutional flexibility. On the other hand, it is cautioned that cohabitation or power sharing might only work well in consolidated democracies, similar to the above examples (UK & France) and not in

developing democracies. Elgie and McMenamin (2011:617) emphasise that "… cohabitation is where there is a President from one party and Prime Minister from an opposing party, and where the President's party is not represented in the cabinet".

Surprisingly, countries categorised as developed such as Croacia and Maldova have changed from semi-presidential to parliamentary systems (Roper, 2008). This emphasises that although the semi-presidential form of government mixes both features of parliamentary and presidential regimes, and attempts to address the weakness of both, the system has its own weaknesses such as cohabitation resulting in tensions within the executive, and in turn the Parliament or legislature. It is a situation where the President and cabinet are from different political parties, and this may lead to governance-related problems in the context of this study. The foregoing emphasises that in an attempt to define the relationship between the legislature and the executive, all three forms of government have their own weaknesses. The next section discusses the theoretical framework to further unpack complexities surrounding the executive-legislative relations based on power relations for the purposes of this study on the oversight mandate.

## 2.4    THEORETICAL FOUNDATIONS DISCOURSE

The theoretical discourse is significant to establish the basis for the study (Thornhill, 2007). In this case, selected theoretical foundations relevant to the study on the *oversight role of legislatures* are discussed. The theoretical foundations discussed assist to explore, *inter alia,* the main contention of the study, which centres on the relationship between the legislative and the executive branches of government. This also introduces a Public Administration perspective to the study. The theoretical discourse focuses on three important theories, which include the politics-administration dichotomy, the doctrine of the separation of powers and the principal-agent theory, which is a dominant theory utilised in the study. As a starting point, the politics-administration dichotomy is discussed as one of the conservative and most utilised theories.

### 2.4.1 Politics-Administration dichotomy discourse

The politics-administration dichotomy is one of the conservative theories in the study of public administration, mostly credited to Woodrow Wilson in 1887 and revived by Dwight Waldo in the 1950's (see Yang & Holzer, 2005; Svara, 2006; 2008; Overeem, 2008). The aim of the politics-administration dichotomy is to study the relations between politics and administration. This relationship, however, has been and remains one of the most debated subjects in Public Administration (Demir, 2009). Scholars of this theory are caught between arguments either in support or against what the dichotomy seems to represent in the study of Public Administration and in practice – public administration (Maynard-Moody, 1998; Overeem, 2008). For example, Svara (2008:46) argues that on the one hand, the dichotomy represents a complete separation of politics from administration while, on the other hand, there is an acceptance of partial versions of the dichotomy which are coined differently by different scholars. Koven (1992) is of the view that in theory, the dichotomy entails that the administration can separate itself from the perpetual influences of politics in the conduct of government. In other words, this asserts the long-held view that while the existence of politics is acknowledged, it should not be allowed to encroach in the day-to-day running of public administration.

Overeem (2005) in Svara (2006:121) states that "… dichotomy simple means the principle that administrators should not be involved in partisan politics in general and elections in particular; and politicians should not be involved in administrative matters". This is ideal, however, its practicality may be questioned, since politics have a role to play in public administration. Rosenbloom (2008:57) argues that politics have different meanings. This is about what is currently thought as partisan or electoral politics. This is not talking about politics in relation to public policy and decision-making, among others. In other words, politics in terms of, *inter alia,* public policy and decision making is part of administration. This in turn alludes to what is referred to as a contested subject. Nicholson-Crotty (2009) writes that despite being a contested subject which has attracted interest in the field of Public Administration over the years, scholars have not focused much attention on the influence of administrators to political decision-making. It is always about the intrusion of politics in administration, yet the contrary is not underscored. The above discussion attempts to move away from the obsession

with the dichotomy between politics and administration to partial versions, which concede that there is an interface between politics and administration.

Yang and Holzer (2005:112) argue that "… the traditional analysis of Public Administration tends to focus on the dichotomy's ontological validity from a realist perspective, inquiring whether political and administrative worlds are really separated". In the process of analysing the theory, the authors assert that its practical relevance, and epistemological and methodological importance have been disregarded. These are some of the important aspects that should be discussed, in particular the practical relevance of the politics-administration dichotomy in Public Administration today. Svara (2001:176) states that the practice places emphasis on the relationship between administrators, on the one hand, and political leaders and the public, on the other hand. Although the dichotomy envisages a separation of authority and labour between the administrators and elected representatives, the two actors (politics and administration) play separate roles in government (Demir & Nyhan, 2008:82). This is by placing more emphasis on the role each actor plays in public policy. Administrators have a policy role equally to the elected representatives. Maynard-Moody (1998:1033) argues that the two actors have influence over the policies of each other's control, with administrators influencing policies of the legislature, while policy making in administration is influenced by elected representatives. This suggests that policies do come from the administrative agencies, while the main grounds of policy ideas and decisions are elected representatives. This is the root of the politics-administration interface.

Nicholson-Crotty (2009:610) identifies three dimensions about the electoral-bureaucratic interface: bureaucratic behaviour influenced by political actors; and policy making influence by bureaucratic actors; and the use of political judgement in the implementation of policy. Based on these dimensions, the notion of dichotomy as a complete separation is diluted. However, Svara (2006) argues that dichotomy is just one of the components of political-administrative relations, which include sharing and division of functions, neutrality, professionalism and distinctive means. This outlines that while the dichotomy model is important in understanding the relations between politics and administration, it however has limits as it is not the only defining element of relation. Svara (2006) states that:

"… *In contrast, a relationship without limits is one in which one sphere dominates the other, or in which politicians and administrators are direct competitors in the political process. Similar, a relationship with limits but without interaction is less common approximated in a pure outsourcing situation, in which political principals assign specified activities to a contracted agent and cannot interact with the contractor in shaping how the contract is carried out"* (Svara, 2008:50).

This directly speaks to the contention of the study on the oversight role of legislatures as, among others, it attempts to study the executive-legislative relations. In terms of the dichotomy, elected representatives should oversee administrators/executive to ensure that policies are implemented in accordance with legislative purposes and directives. According to Demir and Nyhan (2008), oversight should not only be viewed as a mechanism to hold public administrators to account. It should also be a chance for administrations to deliver timely feedback to the legislature on policy implementation, and for the legislature to appraise the implementation of policy by administrators. The authors further identify four variables that assist in tapping the legislative oversight construct, which are: "*resource allocation, guidance to administration, administrative reporting and monitoring implementation"* (Demir & Nyhan, 2008:85). These are mainly distinct purposes of elected representatives in the politics-administration dichotomy. In the process, the administrators assist in shaping and giving meaning to public policy during implementation. This introduces the concept of *complementarity,* which pertains to *constant interaction, sharing of responsibilities and reciprocal influence*s between elected representatives and administrators (Svara, 2001:180; Demir, 2009:876). In relation to the study, this refers to the interaction between the legislature and the executive. This stresses the relations between these branches of government. Therefore, the separation of powers doctrine is important to define such relationship in relation to the contention of the study.

### 2.4.2  Separation of powers doctrine

The notion of the separation of powers is an old one (Ngcobo, 2011:37). It was given rise by the historical and political development centuries ago. Sargentich (1987) argues that the separation of powers was sometimes dismissed by modern observers

as outdated (eighteenth-century notion). Various studies regard Montesquieu and Locke as some of the founding fathers of the doctrine of the separation of powers who recognised its significance to the effective functioning of a democracy (see Friedelbaum, 1998; Wells, 2006; Ngcobo. 2011). These authors accord respect, particularly to the Enlightenment philosopher Montesquieu in his book '*The Spirit of the Laws'* in 1748 and seminal work on '*trias politica'* the separation of powers. The separation of powers, however, as highlighted, depends on historical and political development, and differs from one country to the other. O'Regan (2005:2) states that historical factors such as the history of government institutions and political developments such as the onset of democracy, economic, social and political forces have an effect on the development of the separation of powers in each country. Kuwali (2011:140) is of the view that in most African states, the transition from one-party to multiparty in the 1990's brought about the adoption of democratic constitutions which entrenched the doctrine, amongst others.

Against this background, although contested, the separation of powers doctrine is still a relevant notion in modern constitutional democracies. In most constitutional democracies, problems related to the separation of powers still emerge. These include political disputes and contestations, which threaten the separation of powers doctrine (Mhango, 2014:2704). The contestations and disputes take place between the executive and legislative branches of government, and they are likely to be decided by the judiciary. This is crucial as it leads the discussion to the need to further conceptualise and contextualise the separation of powers. In deliberating on the separation of powers, Wells (2006) writes that Montesquieu outlined three functions or powers of government, which are legislative, executive and judiciary as parliament, cabinet supported by the public service, and the courts. The example provided is that "… parliament passes the laws, the cabinet and the public service administer them and make decisions the law have given them the power to make, and the courts decide whether the laws have been correctly followed in cases brought to them" (Wells, 2006:105). A similar example has been provided by Benedict (2007:1266). Bagaric (2011:26) argues that the three organs of government powers should be separated and made independent. Although this is important, it does not guarantee that there will be separation of powers.

Jonker (2001:70) in Mubangizi and Tshishonga (2013:306) summarises the powers allocated to the various governmental entities in South Africa. This is outlined by the Constitution of the Republic of South Africa, 1996. As discussed above, the summary assists in further outlining the doctrine of the separation of powers.

Table 2.2: Matrix of separation of powers and spheres of government

| SEPARATION OF POWERS | Spheres of Government/Government hierarchy | | |
| --- | --- | --- | --- |
| | National Government | Provincial Government | Local Government |
| **Legislative authority** | PARLIAMENT<br>• National assembly<br>• National Council of Provinces<br>(CABINET MINISTERS) | PROVINCIAL LEGISLATURE<br><br><br>(EXECUTIVE COUNCIL) | COUNCIL |
| **Executive authority** | CABINET MINISTERS & BUREAUCRACY<br>• Departments (Administrations)<br>• Director General<br>• Public Officials | EXECUTIVE COUNCIL & BUREACRACY (MECs)<br>• Departments (Administrations)<br>• Director General<br>• Public Officials | CHIEF EXECUTIVE OFFICER (CEO)<br>• Departments (Administrations)<br>• Strategic Executives (Heads of Department)<br>• Public Officials |
| **Judicial authority** | CONSTITUTIONAL OTHER COURT | SUPREME COURT OF APPEAL HIGH COURT | MAGISTRATES & COURTS |

Source: Jonker (2001:70)

The separation of powers doctrine is entrenched in the constitutions of most constitutional democracies (Kuwali, 2011; O'Regan, 2005). Kuwali (2011:140) writes that during the period of transition of most African states in the 1990s, the prominent feature in most constitutions was an idea of the separations of powers doctrine. Although, the doctrine is outlined explicitly in the constitutions of many countries, its theoretical posture differs on several important aspects (Friedelbaum, 1998). Joseph (2007:382) spells out that the constitution of Malaysia, which is founded on the Westminster model, assumes the separation of powers. Malaysia, similar to most African states and South Africa in particular, espouses the Westminster system. Wells

(2006:107) argues that in the Westminster constitutions, there is no complete separation of powers between the executive and the legislature. In other words, there is no real separation, contrary to what Bagaric (2011) referred to as "… to keep the branches separate and autonomous". The example provided is that "… *the architect and the builder is no threat to construction standards; but would be serious threat to have a builder altering the architect's designs, or for either the builder or the architect to be in a cosy relationship with the building tribunal*" (Wells, 2006:107). This is argued by the author to be referring to two conventions central to relationships in the separation of powers, which are the sovereignty of the legislative branch and the independence of the judiciary.

To further argue the incompleteness of the separation, O'Regan (2005:2) writes that the application of the separation of powers in the USA, the Netherlands and France, where Members of the Executive (MECs) cease to be MPLs once appointed, the same is not a condition in the German System, which is more of a Westminster system. This is important in order to define the extent of the separation of powers in each country. The author further argues that the Westminster system that South Africa adopted in its constitutional choice is based on the relationship between the three branches of government, in particular the executive and the legislature. It is, however, important to note that although constitutional principle VI of the interim Constitution of the Republic of South Africa, 1993, categorically alluded to the separation of powers, the existing constitution does not explicitly allude to the separation of powers (Ngcobo, 2011:38). The implicitness may be misconstrued by many that the current constitution does not recognise the importance of the separation of powers. However, this does not reduce its effect or dynamism. The separation of powers in its implicit form remains a central part of the constitution. The important aspect of the separation of powers is allocation of powers to each branch of government such as the legislature's role to hold the executive to account. This in part speaks to the importance of the separation of powers doctrine. Madison (2003:319) in Galabresi, Berghausen and Albertson (2012:548) states that:

> "… *ambition must be made to counteract ambition. The interest of the men must be connected with the constitutional rights of the place. It may be a reflection on human nature that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all*

*reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is no doubt, the primary control of government; but experience has thought mankind the necessity of axillary precautions".*

The doctrine of separation of powers is mainly introduced to ensure checks and balances between the branches of government, in particular the executive and the legislature in order to avoid the concentration of power on one body, which might randomly use it to its own benefit (Marquet, 1990; Friedelbaum, 1998; Benedict, 2007). The cross delegation of powers and functions premised in the doctrine is a legal responsibility entrenched in the constitution for public interests. Michaels (2015:525) emphasises that concentrating sovereign power on one body usually, the executive, is the definition of 'tyranny'. This was the case in the past where there was one centre of power, with all powers concentrated on the king, and where judicial and legislative powers were non-existent (Wells, 2006:106). This has since changed in modern democracies as the executive executes tasks apportioned by the legislature as defined through the doctrine of the separation of powers. Sargentich (1987:435) states that the doctrine of the separation of powers has two central principles: firstly, the understanding is that the powers of branches should be certainly separated, and secondly, "…this separateness should allow a working interdependence where each branch in securing its own prerogatives effectively checks and balances self-interested behaviour by the other branches". These are important tenets which somehow contradict each other (while they may also be viewed as complementing each other), hence the need to further unpack them.

On the one hand, Galabresi *et al.* (2012) emphasise the importance of separation of powers. This is because in the case of the USA, branches have taken up functions that are not constitutionally allocated to them. The example provided is regarding law making where the judiciary and the executive have encroached when performing their own functions (Galabresi *et al.*, 2012:536). This may result in conflict between three branches of government; yet the separation of powers obligates each branch of

government to function within its jurisdiction or delegated powers as dictated by the system of checks and balances (Benedict, 2007). The author also alludes to the fact that there are two main categories of the doctrine of separation of powers, as follows:

- First, by dividing government operations into separate functional departments, proponents argue that the consolidation of power would be institutionally deterred; and
- Second, enhanced efficiencies and more varied constituency representation would be achieved through functional specialisation and compartmentalised institutional roles (Benedict, 2007:1262).

On the other hand, there is emphasis on the interdependence of the three branches of government - the executive, legislative and judiciary. Bagaric (2011:26) writes that in Australia, the government system adopted necessitates assimilation between the legislature and the executive branch of government, which is referred to as the system of responsible government. This underscores a relationship of some kind between these branches of government. Brown and Wise (2004:146), in encouraging an interplay between the executive and the legislature, argues that it gives birth to a stable regime. The interaction is encouraged in particular apportionment of powers between the executive and the legislature. While the interplay is encouraged, Joseph (2007:545) argues that a colossal drawback exists where the legislature delegates excessive legislative power to the executive branch.

The encroachment or too much delegation of powers, as asserted, could lead to a shift in the balance of power and functions between the branches (Benedict, 2007:1262). He elaborates that the separation of powers doctrine does not only allocate powers to the three branches, it also introduces approaches that define how and to what amount the branches of government should interrelate daily. While the executive and judiciary may have a role in law-making, it should be cautioned that legislative powers are in the jurisdiction of the legislative branch of government. This is directly putting emphasis on the interplay between the three branches of government yet acknowledging the limits.

Ngcobo (2011) suggests that there is a South African perspective in the interplay or interaction between the branches of government, the legislative, executive and judiciary. "The Constitution of the Republic of South Africa, 1996 contemplates that

there will be some encroachment upon one branch by another branch or branches, resulting in lines between the branches being blurred at times" (Ngcobo, 2011:38). This is the reason for the checks and balances to ensure that the government as a whole effectively and efficiently performs its constitutional duties. It is expected of the branches of government to perform their functions within the constitutional bound, with a shared obligation to uphold the constitution. O'Regan (2005:6) argues that the constitution encourages the relationship between the executive and the legislature. The examples provided relate to parliament's powers to elect and remove the president, and the responsibility of the president to dissolve parliament based on a resolution of the majority of MPLs, as well as the role of parliament as opposed to the executive in the law-making process. This nature of interaction demarcates the constitutional powers and boundaries that each branch of government is expected to perform its delegated powers.

The purpose of the separation of powers doctrine is to avoid conflicts between the branches of government, in particular the legislature and the executive (Brown & Wise, 2004:150). In instances where conflicts arise, the courts have to provide a resolution. The courts are then entrusted with the responsibility of ensuring that problems related to the doctrine are resolved. For example, in relation to South Africa, section 167(4)(e) of the Constitution of the Republic of South Africa, 1996 provides jurisdiction to courts, in particular the constitutional court to decide on matters (disputes specifically) related to the doctrine of the separation of powers. Mhango (2014:2712) asserts that the courts as the embodiment of the judiciary have constitutional powers to interpret and enforce the constitution; however, the judiciary should not intrude into the space earmarked for other branches. In other words, the courts should not trample into the authority of other branches, and equally the incursion should not be done by the other branches, the legislature and the executive on one another or the judiciary.

Mubangizi and Tshishonga (2013:307) argue that while the doctrine appeared feasible and attainable in theory, it is one of the complex and challenging principles to implement in practice. This complexity is acknowledged in the South African context. For example, the landmark judgement by the Constitutional Court (*Cases CCT 143/15 and CCT 171/15 brought by the Economic Freedom Fighters (EFF) and Democratic Alliance (DA))* on how Parliament poorly dealt with the Nkandla issue in response to the *Public Protector's findings* clearly outlined the separation of powers doctrine.

Among others, Mogoeng (2016:45) stresses that the connotation of the separation of powers dictates the branches of government to perform their constitutional obligations, and in the process, they should do so without usurping power from one another. One of the findings is that Parliament was duty-bound to hold the President accountable in line with the Public Protector's findings; however, it failed to discharge its constitutional obligation by second guessing the report, and instead executed the functions apportioned to the judiciary to set aside the report. According to Michaels (2015), this can be regarded as an act or definition of tyranny. Concentrating powers to one branch is the very same enemy that the separation of powers endeavours to defeat.

The foregoing highlights that problems related to the separation of powers continue to exist, and this is a symbol of the evolving model of the separation of powers. Ngcobo (2011) asserts that as the model of the separation of powers develops, it should be guided by the principles pronounced by the Constitutional Court on the first encounter when it had to deal with the doctrine. The following were announced during the first judgement, among others:

- There is no universal model of separation of powers.
- In democratic systems of government where checks and balances impose restraints by one branch of government on another, there is no separation of powers that is absolute.
- No constitutional scheme can reflect a complete separation of powers; it is always a partial separation.
- The constitution allows for checks and balances that impose restraints by one branch over another to ensure accountability, responsiveness and openness.
- The separation of powers doctrine is therefore not a fixed or rigid constitutional doctrine; it is given expression in many different forms, and subject to checks and balances of many kinds.
- The South African model of separation of powers should reflect the history of the country's constitutional development.
- Although not stated by name in the constitutional text, separation of powers exists in the constitution. It is evidenced in the provisions that outline the structure and functions of the organs of the state.

- An essential part of the separation of powers doctrine is an independent judiciary that functions independently of the legislature and the executive, and enforces the constitution and the law impartially (Ngcobo, 2011:48).

The South African Constitutional Court pronouncements stress the complexity of the doctrine of the separation of powers. It emphasises some of the issues discussed, such as the absence of a universal model of the separation of powers, the available checks and balances, and an independent judiciary. Wells (2006:106) argues that on the other side of an independent judiciary, there is a sovereign legislative branch, which together are regarded as the conventions of the doctrine of the separation of powers. They are among the fundamental defining factors of the relationship between three branches of government. This is the reason why much attention in the discussion is devoted to the relationship between the branches, in particular the legislature and the executive. Therefore, having discussed the relationship as defined through the doctrine of separation of powers leads a discussion on the main theory selected and employed in the study to analyse and understand, among others, the relationships between the variables of the study. The primary theory selected and utilised in the study is the Principal-Agent theory.

## 2.4.3 Principal-Agent theory

The utilisation of the Principal-Agency (PA) theory is premised on studies that analyse relationships, in particular between the executive and the legislature. The theory is one of the dominant and extensively used paradigm of analysing public accountability (Gailmard, 2010; Gailmard, 2012; Schillemans & Busuioc, 2014). Poth and Selck (2009:139) highlight that the PA theory is not only the dominant and commonly used theory, but it is also one of the old theories, which are popularly utilised in various disciplines, including social sciences, and particularly Public Administration. It is argued that the Principal-Agent theory derives from economics (Miller, 2005). The theory was utilised in the insurance sector, and later became useful in other backgrounds. It is purported to have been introduced in the 1970s by Stephen Ross and Barry Mitnick, who incepted the economic theory and institutional theory. The purpose of the PA theory is to understand information asymmetries. Levacic (2009:34) states that "… the PA theory was initially developed for analysing difference in

behaviour between owner-managed firms and public companies as in the latter ownership by shareholders is separated from control of the company by managers". Despite the differences between what the above authors suggest having been the initial purpose of the PA theory, there is a common dominator in their assertions. The PA theory embodies issues of accountability between the principal and the agent (Gailmard, 2010).

Miller (2005:203) argues that the PA theory can be traced back from Max Weber, who is among the first scholars to clearly define the theory in relation and applicable to the social, political, and related fields of study. However, in his definition of the theory, he emphasised the issue of the information asymmetry between the principal and the agent. The information asymmetry is an important aspect in the relationship between two parties. The author alludes to the PA relationship as an asymmetric relation where authority and information are placed in the opposite sides. This is a situation where the party with authority does not have information to exercise such authority. According to Waterman and Meier (1998:176), the assumption has been that the bureaucrats, and in relation to the study, the executive, have the advantage regarding information and expertise over elected representatives. Based on this information asymmetry, the authority may be in the hands of the expert, where it is not supposed to be at the first place. The information advantage is also emphasised by Leruth and Paul (2006:8) who state that "…the agency problem may arise from the diverging interests of the principal and the agent, and the latter's information advantage". The information advantage may lead to the executive being reluctant to respond to the preferences of the principal, and highlights that despite being an old, prevalent and universally used theory, the PA theory has its own complexities.

In an attempt to further understand the PA theory, Levacic (2009:34) states that "… a PA relationship arises whenever a person or organisation contracts, either explicitly or implicitly, another - the agent to perform services or to supply goods". The author argues that the contract between the two parties requires the agent to perform duties and to produce outputs preferred by the principal, and in turn, maximise returns for the principal. The contract, however, should be determined by numerous important conditions, which include: "*the motivation of the agent in executing its duties; the nature of the relation based on the effort devoted by the agent and their outputs; the extent and dissemination of information between the two parties about the relations*

*between the agent's effort and output and the costs to obtain such information by the principal; and whether the agent has several principals or executes multiple tasks"* (Levacic, 2009:34). Although the foregoing explanation of the PA theory is broad, the conditions outlined are important and applicable to the public administration perspective. The author argues that the above conditions are more associated with the public sector than the private sector, and this assists in the understanding of the PA theory better.

From the foregoing, it is important at this stage to understand the PA theory further in a public administration perspective. Basheka and Sebola (2015:58) argue that the theory entails a relationship between state institutions, specifically those responsible for public policy making. The foundation of the agency theory is on the relationship between strategic partners, especially strategic principals and strategic agents. This pertains to the principals and agents who have contractual relation to perform duties delegated by the principals. Gailmard (2012:4) is of the view that the contractual relations between the principal and the agent who are considered strategic means that the agent should be aware of its dependence on the principal. This is the only way that the principal could be able to influence the behaviour of the agent to deliver according to its preferences. Taking into account the information asymmetry alluded to earlier on by Miller (2005:204), it is the wish of the principal for the agent to perform as the principal would have done if it was in the similar position to do so. The principal as the authority should be able to persuade the agent, who is an expert, to share such information about its performance based on the contractual relations between the two parties.

Madue (2014:861) writes that in the public administration perspective, the contractual relations might be between the government and the public. In relation to the study, the PA theory is utilised to analyse the relationship between the legislature and the executive. In terms of the contractual relations, the legislature has a constitutional obligation to hold the executive accountable. For example, in relation to South Africa, section 114(2) of the Constitution of the Republic of South Africa, 1996 outlines the relations. Waterman and Meier (1998:176) add that the contractual relations between the principal and the agent progress over time as it involves active interaction between the parties. This is about the principal who delegates responsibility to the agents who exercise authority on their behalf. In other words, this refers to the principle of public

accountability, which specifies who is supposed to account to whom. Gailmard (2012:3) asserts that "… *specifying a member of the principal-agent family of models requires specifying (1) what the agent(s) can do and how this affects the principal(s), (2) what the principal(s) can do and how this affects the agent(s), and (3) who the principal(s) and agent(s) are*". These elements are important in assisting the study to move forward.

Accordingly, applying the theory in the context of this study, the legislature is regarded as the principal while the executive is the agent (Kofmand & Lawarree, 1996). In this regard, the legislature is required to oversee the executive, and in turn the executive must be accountable and transparent to the legislature in the implementation of government policies and programmes. In relation to the information asymmetry, the executive should be in a position to provide the required performance information to the legislature. Thus, the oversight role of the legislature is expected to have an effect in promoting good governance, particularly transparency and accountability. Conversely, Leruth and Paul (2006:192) argue that "…a principal-agent perspective would conceive the accountability problem of unelected governance as one of the potentially drifting agents, where the executive agents are prone to withhold information, serve their own interests and generally eschew accountability". Yet, the focus has been on drifting principals at the neglect of agents; it has always been about principals who neglect their oversight responsibility intentionally or unintentionally.

Developing legislatures in general, and in particular African legislatures, they have always been accused of abandoning their oversight role, and have been categorised as weak due to their institutional capacity and limited decision-making role (Abellera, 2011). In relation to the study, this means that there are serious doubts on whether legislatures have the ability and capacity to carry out their oversight role to promote good governance in the context of this study.

## 2.5  CONCLUSION

In this chapter, an overview of systems of governance and theoretical foundations discourse relevant to the study was provided. The chapter outlined, among others, governance systems, structures and processes, which include conceptualising and contextualising democracy as a political system. This encompasses structures and

systems such as political party systems, electoral systems, forms of government and the role of political parties and opposition parties in legislatures. In addition, the chapter provided the Public Administration perspective and theoretical foundations of the study. In summary, this chapter provided both the conceptual and theoretical frameworks of the study.

The theory adopted for this study is the PA theory, which assisted the researcher to understand the reason why the problem investigated in the study exists, and to further study relationships between variables; more importantly, the relationship between the executive and the legislature. The relationship between the executive and the legislature are at the centre of the study on the oversight role of legislatures. The chapter has paved the way for the next chapter, which deals with the review of the existing literature on the oversight role of legislatures, and the ability and capacity of legislatures to hold the executive to account for its activities.

# CHAPTER 3

# THE OVERSIGHT ROLE OF LEGISLATURES, AND THE LEGISLATURE'S ABILITY AND CAPACITY TO HOLD THE EXECUTIVE ACCOUNTABLE

## 3.1 INTRODUCTION

The previous chapter has discussed the overview of the systems of governance and theoretical foundations for the relations between the executive and the legislature on oversight. The chapter formed the basis for this literature review chapter. This chapter reviews the existing literature on the oversight role of legislatures, and the legislature's ability and capacity to hold the executive accountable. Lees (1977) states that oversight has been a neglected area of study for years. Despite the fact that it lately attracts interest, some scholars (Stapenhurst & Pelizzo, 2006, 2012) are of the view that oversight remains an abandoned area of study. The literature review focuses on the effect of oversight in the performance of the executive. Aberbach (2002) argues that oversight activity in legislatures has increased over the years. However, it does not have effect. This is significant to note, yet the same scholar argues that sufficient oversight is not taking place because of the conditions in which it occurs, among others, the political context (Aberbach, 2002). Lyons and Thomas (1981) stress that oversight is rooted in the politics-administration dichotomy where politics remains the order of the day. This emphasises that there are challenges facing the oversight role of legislatures. It is from this perspective that Rapoo (2004) argues that where oversight occurs, much of the activities are at Committee level as they are not exposed to politicking, political grandstanding and competition.

The literature review attempts to cover important areas that will assist in responding to some of the research questions of the study as discussed in chapter 1. The review of the existing literature will cover only studies relevant to this study. This is in recognition of the fact that not every available and accessible study on the subject matter is relevant. It is noted that most of the work on oversight focuses on the United States and Presidential oversight; while there is also literature on parliamentary

oversight focusing mainly on British parliaments, and little exists on developing legislatures in Africa and in particular Sub-Saharan Africa. With this in mind, the specific focus areas include, *inter alia,* conceptualisation of oversight, role and importance of oversight, conditions of oversight, challenges and constraints as well as tools of oversight. The chapter mostly reviews recent literature in the form of publications such as journal articles, conference proceedings, books, commissioned work, including studies, policy briefs and reports. Yet, this was not with the total exclusion of old relevant literature sources that might add value to the study. This assisted in locating the contention of the study on the effects of the oversight role of legislatures in promoting transparency and accountability on the discourse of the scholarship.

Effective oversight is beneficial to a political system. This is for at least two basic reasons provided by West and Cooper (1989). "First, the oversight activity can actually contribute to improving the quality of the policies and programmes initiated by the government; and Second, as the government policies are approved by the legislative branch such policies acquire greater legitimacy" (Pelizzo & Stapenhurst, 2006:8). It is for these reasons that international organisations like the IMF and WBI work towards strengthening the ability of legislatures to oversee the executive in their endeavour to foster democracy in developing countries. Simmons (2002) stresses that as discussed in chapter 2, in a democracy, oversight maintains the checks and balances of representative government. This is done by ensuring that the legislative branch is in a position to conduct oversight over the executive, and in turn the executive accounts to the legislative branch. For instance, Madue (2013:44) writes that through oversight, the executive is held to account in accordance with democratic principles by ensuring that the approved budgets are spent, and laws passed are implemented. In essence, this centres around the principal-agent theory as espoused in the study where the legislative branch is the principal, and the executive is the agent (see Chapter 2, sub-section 2.4.3). As a starting point for the literature review of this study, conceptualisation and contextualisation of oversight is provided.

## 3.2 CONCEPTUALISATION AND CONTEXTUALISATION OF OVERSIGHT

Studies of legislative oversight have been mired by challenges related to definitions and terminology. Over the years, there has been no consensus on the clarification of the concept "oversight" (Lyons & Thomas, 1981:162). This highlights the complexity of the field one is threading in and reviewing. Perhaps this is the underlying reasoning behind Rockman's (1984) assertion in referring to oversight as a neglected *step-child* by scholars of legislative studies in varied fields such as Political Science, Public Administration and related fields. It is however noted that Rockman's statement may not be true today as it was made over three decades ago. There has been a growing interest in the study of legislative oversight. While this renewed interest in the study is emphasised, it is still acknowledged by Pelizzo and Stapenhurst (2014) that there is no consensus about its definition. Evolving literature has shaped various definitions of legislative oversight. Although research suggests that scholars are caught between defining oversight as an *ex-ante or ex-post* process or activity, this has resulted in the lack of consent. Following the above argument, this section outlines the views of various scholars on what the concept of oversight is in an endeavour to develop a working definition that will be utilised in this study for reference purposes.

Amongst the definitions provided, Lees (1977) agrees with Ogul (1976:11) that oversight is "…the behaviour by legislators and their staffs, individually or collectively, which results in an impact, intended or not, on bureaucratic behaviour". This definition laid the foundation in the clarification of oversight. However, one could argue that the foregoing lacked specifications and distinctiveness on what should be referred to as oversight. Ogul has provided a broader and vague description of oversight in referring to it as any behaviour of legislators towards the executive. Hence, in the same year, Schick (1976) in Pelizzo, Stapenhurst and Olson (2006:8) asserts that oversight comprises the supervision of policies and programmes ratified by the executive. The definition provided by Schick is specific and prescriptive, yet it purports that oversight is a reactive phenomenon. A similar affirmation is expressed by Johnson and Nakamura (1999:4) when stating that oversight happens subsequent to the enacting of legislation. "… It consists of scrutinising the correctness and efficiency of policies and programmes implemented". This suggests that legislatures are reactive

institutions because their function is activated after an event has taken place. The authors are from the school of thought that defines oversight as an *ex-post* event.

On the contrary, Pelizzo *et al.* (2006:8) agree with the definition provided by Maffio (2002) that oversight also comprises the supervision of government's plans before they are implemented by the government and any organ of state. This is not departure from the discussions provided above; it is rather a differing view which emphasises oversight to be a proactive phenomenon. In terms of this definition, oversight takes place before the implementation of policies and programmes of government. It is however noted that this does not mean that oversight is effective under this definition when compared to the one provided earlier. As much as it is important to supervise the plans of the executive, it is also important to supervise the outputs and outcomes of such plans. From the perspective of Johnson and Nakumura (1999), before one could supervise the correctness and efficiency of policies and programmes implemented, it should be thought that one has played a major role in the formulation of such policies and programmes. Smith (2010:47) regards this *ex-ante* control as authorisation, entailing the utilisation of legislation or statutes to control the actions of the executive. Thus, the precise definition of the concept 'oversight' should encompass both *ex-ante and ex-post* events. This is to bridge the lacuna between the two schools of thought conferred, and to further establish a new or workable definition of the concept.

In consideration of the above discussion, oversight can be conducted *ex-ante*- (before and during the implementation of a programme) – as well as *ex-post* (after its implementation) (Pelizzo & Stapenhurst, 2004:3; Pelizzo *et al.,* 2006; Stapenhurst & Pelizzo, 2002 in Madue, 2012: 434). This is contradictory to the orthodox view that legislatures respond to the activities of government to determine value for money, which for this reason, they are commonly criticised for being reactive rather than proactive institutions. Smith (2010:60) argues that the two categories of defining oversight as contextualised are not substitutes, but work hand in hand. Since the forgoing discussions have succeeded in suggesting that the two connotations of oversight (*ex-ante and ex-post)* can be merged, a shift towards paying attention to the key words utilised to define oversight is essential.

Zvoma (2010:3) is of the opinion that oversight is not the same with supervision as generally presented by various scholars and proponents of legislative oversight. This is not a contrary view to earlier accounts, but Zvoma argues that the concept 'supervision' should not be utilised in order to respect the separation of powers, but no succinct justification is provided of why supervision cannot be used to define oversight. Nevertheless, the separation of powers as discussed in chapter 2 of this study is about the relationship between three branches of the state, which is defined in terms of each branch being allocated its own powers to exercise. Constitutionally, the basis for the relationship between the three branches of the state is defined to be interrelated, distinctive and interdependent. However, the principal-agent theory adopted in this study to define the relations between the executive and legislative branch entails that the executive as the agent should implement programmes as preferred by the legislature as the principal. As discussed in chapter 2 (section 2.4, sub-section 2.4.3), the PA theory insinuates that the legislature should supervise the executive. The study thus far considers supervision as part of the concepts to be utilised and adopted in the working explanation of legislative oversight.

Mubangizi and Tshishonga (2013:205) explain that the term oversight was invented from the verb to "oversee", which denotes the process of monitoring and safeguarding a political process, and is synonymous to "supervise". Oversight entails more than an event which takes place either before or after the implementation of policies and programmes. It involves a series of steps taken to achieve accountability and transparency on the part of the executive. This supports the notion that oversight should happen before, during and after the implementation of programmes. This refers to the role of legislatures in monitoring, reviewing and supervision of the executive's activities (Kaiser, 2006; Yamamoto, 2007). The commonly utilised concepts are monitoring, reviewing, safeguarding and supervision in explaining oversight. Therefore, a precise and acceptable definition of oversight would be complete if either one or two of the words and synonyms are utilised.

From the foregoing, it is stated that "…oversight should be discussed in the context of democracy" (Shija, 2012:1). Mubangizi and Tshishonga (2013) support this statement, stating that oversight should monitor and safeguard a political process. This is the case because in the centre of democracy and its making is the people. Legislatures are elected representatives with the main mandate of representing the

interests of the electorate, and this speaks to a political process. Explained differently, democracy allows the people to participate in a political process. In conserving the process, Madue (2013:39) observes that oversight is a vehicle of holding the executive accountable in attaining the programmes enacted and the spending of the executive. Yamamoto (2007:9) argues that oversight should ensure that the policies of the government represent the needs of the people. The oversight role of legislatures should be to the benefit of citizens of the country.

The meaning of oversight in the context of this study is founded on Section 114(2)(b) of the Constitution of the Republic of South Africa, 1996. The Constitution stipulates that the role of the legislature is to oversee the activities of government and any organ of state. The Constitution officially confers the authority of overseeing the activities of the executive to the legislature, and consequently makes oversight its central mandate. It should be noted that the South African legislative sector has been guided by the Constitution in its definition of oversight. For example, the Oversight and Accountability Model of the South African Parliament (2009:1) acknowledges that "… legislative organs of state are mandated by the Constitution of the Republic of South Africa to scrutinise and oversee executive action and any organ of state". This is in relation to the earlier definition of oversight by Johnson and Nakamura (1999:4), that is, "to scrutinise and oversee the executive actions". In addition, the sector has attempted to redefine what oversight is in relation to developments within the sector (in practice) and in theory.

The Sector Oversight Model (SOM) (2012:4) defines oversight as "…the proactive interaction initiated by a legislature with the executive and administrative organs…that encourages compliance with the constitutional obligation on the executive and administration to ensure delivery on agreed-to objectives for achieved government priorities". The Model has recently been adopted to be utilised within the South African legislative sector to "introduce unified oversight framework for the sector, and also encourage the development of common standards, vision and principles, and implementation of best oversight practices in South Africa" (SOM, 2012:1). In understanding how the concept is defined in the foregoing, a shift may be observed moving away from reactive to proactive conceptualisation of the concept. Put differently, instead of the legislative sector scrutinising and overseeing the executive after the implementation of programmes, it encourages the sector to review the

executive's plans before the implementation programmes which, as discussed above, is not new in theory. It attempts to take into account the two connotations of oversight presented by the literature where oversight is either defined as *ex-ante* or *ex-post*, yet it still much skewed towards *ex-post.*

Table 3.1: Summary of the definitions of oversight discussed

| Ex-ante | Ex-post |
|---|---|
| <ul><li>Supervise the plans of the executive, and the outputs and outcomes of such plans</li><li>Comprises the supervision of government's plans before they are implemented by the government and any organ of state</li><li>Encourages compliance with the constitutional obligation on the executive and administration to ensure delivery on agreed-to objectives for achieved government priorities</li></ul> | <ul><li>Supervision of policies and programmes ratified by the executive</li><li>Happens subsequent to the enacting of legislation</li><li>Respond to the activities of government to determine value for money</li><li>Oversight hold the executive accountable in attaining the programmes enacted and the spending of the executive</li><li>Scrutinise and oversee the executive actions</li><li>Scrutinise and oversee executive action and any organ of state</li></ul> |

Source: author's adaptation of the information discussed (own source).

The above table provides a summary of some of the definitions discussed earlier on from various scholars. As argued above, these definitions either define oversight as an ex-ante or ex-post event. However, there is acknowledgement that a comprehensive definition of oversight should encompass both ex-ante and ex post events. Therefore, for the purpose of this study, there is a need to adopt a working definition. It is however not that simple as most, if not all, the definitions summarised are skewed towards ex-post events.

Thus, oversight in this study is defined as "…the process carried-out by legislatures to scrutinise, monitor and review the actions planned and performed by the executive to promote transparency and accountability in managing resources and conducting affairs in the interests of the people". This definition acknowledges oversight as a "process" and takes into account the notion that oversight should take place before and during the implementation of laws, or in the preparation of policies, and after laws or policies have been implemented to monitor whether they are effectively implemented. This suggested definition of oversight is a point of reference in this study. It also encapsulates the role and importance of oversight, which is an area of discussion below.

## 3.3 THE ROLE AND IMPORTANCE OF OVERSIGHT

In general, scholars in varied disciplines such as Political Sciences and Public Administration agree that oversight is good for the effective running of a democratic system of government (West & Copper, 1989; Pelizzo & Stapenhurst, 2006; Shenga, 2007; Madue, 2012). The scholars elaborate that for a democratic government to operate effectively, legislators who are elected representatives need to closely monitor the activities of the executive. This underlines a relationship between oversight and democracy. This is further substantiated by international organisations and agencies, IMF and WBI which regard oversight as a fundamental facet in promoting democracy (Pelizzo & Stapenhurst, 2006:5). These institutions have been in the forefront to ensure that legislatures are empowered to oversee government programmes as a way of improving democracy. The study is conducted after over 21 years (referred to as a milestone) since the advent of democracy in South Africa.

West and Cooper (1989) in Pelizzo *et al.* (2006:8) emphasise that amongst the benefits of effective oversight in a political system is to ensure that government improves its programmes, and legislatures enact policies. Nijzink and Piombo (2004: 3) elaborate that the effectiveness of oversight is a crucial feature in a political system. It is important to safeguard the constitutional obligation of the separation of powers doctrine, which is discussed in chapter 2. The separation of powers is between the legislature, executive and judiciary to maintain transparency and accountability, amongst others. In relation to this study, the separation of powers upholds systematic

checks and balances between the legislature and the executive (Johnson, 2005:3), and has several interconnected purposes and objectives. Simmons (2002:3) and Zvoma (2010:3) list the purposes and objectives of oversight as to:

- "Improve the efficiency, economy and effectiveness of government operations;
- Evaluate programmes and performance;
- Investigate and prevent poor administration, waste, abuse, arbitrary and illegal and unconstitutional conduct;
- Protect civil liberties and constitutional rights;
- Inform the general public and ensure that executive policies reflect public interests;
- Gather Information to develop new legislative proposals or amend existing statutes; and
- Ensure administrative compliance on legislative authority and prerogatives".

The above objectives are important to this study, and clearly outline the roles and importance of the oversight role of legislatures. These aspects of oversight may be implemented through the utilisation of oversight tools. Scholars have identified and studied several tools utilised to oversee the activities of government (Simmons, 2002; Pelizzo & Stapenhurst, 2004, 2006; Rapoo, 2004; Yamamoto, 2007). The oversight tools identified as utilised in various countries include but are not limited to Committee Hearings; Hearings in plenary sitting, Questions and the Ombudsman. The tools have been broadly studied to investigate the potential of oversight depending on the number of tools employed. Pelizzo *et al*. (2006:8) stress that effective oversight should not be determined by only the number of tools in effect, because it also depends on other conditions such as the information to conduct oversight and powers allocated to the legislative branch of government, amongst others.

## 3.4 CONDITIONS OF EFFECTIVE OVERSIGHT IN MODERN LEGISLATURES

Rockman (1984) in Pelizzo and Stapenhurst (2006:1) argues that our understanding of oversight is asymmetric. This is on the basis that over the years, legislative oversight literature has evolved, covering aspects such as definitions, role and importance, and tools of oversight, yet less has been done with regard to the impact of oversight. This

highlights in part an impending lacuna in the legislative oversight scholarship, which needs to be addressed. It is the contention of this study that since it has been acknowledged by scholars (Aberbach, 2002; Pelizzo & Stapenhurst, 2014) that oversight activity has increased in most democratic legislatures, there is a need to determine the effectiveness of such oversight or rather what is referred to by Madue (2013) in this context as "…the effect of oversight in good governance". For example, it is asserted that "…without a doubt the quantity of oversight activity has increased over the years, however, the complaint is about the quality of oversight. It is not objective and systematic enough and in turn it lacks continuity" (Aberbach, 2002:61). It is acknowledged by Friedberg (2011) that measuring the effectiveness of oversight remains a challenge requiring attention from scholars of legislative studies. From the foregoing, since it can be noted that increase in oversight activity does not necessarily translate into effective oversight or rather its impact thereof; there is a need to recognise perspectives of other scholarly contributions.

Increased oversight activity is important in ensuring that the executive is accountable for its actions or inactions; yet it depends on various conditions. Wohlstetter (1989:51) argues that in certain instances, factors generally regarded as constraints may encourage oversight, while factors associated with increased oversight may dampen it.  For example, a form of government in a country may impede oversight rather than increase it. This follows the detailed discussion of forms of government in chapter 2 of this study. Sartori (1987) is of the view that oversight depends on the presence of oversight potential. So, the conditions of oversight are important in increasing oversight potential, which in turn upsurge oversight activity, and summarily promote effective oversight. This discussion will encompass the two aspects while conceding that as much as the conditions of oversight are important, scholars (Pelizzo & Stapenhurst, 2006; Friedberg, 2011; Stapenhurst & Pelizzo, 2012) have studied oversight potential to determine the possible effect of oversight.

On the one hand, through the survey conducted for the WBI by Pelizzo and Stapenhurst in 2006, it has been established that oversight potential is based on the number of tools utilised by a legislature and the form of government. This study thus agrees with the above contention, yet as emphasised by Friedberg (2011), how the tools are utilised should supersede their quantity. On the other hand, it is stressed that

oversight does not take place because of the political context at which it is supposed to be conducted (Wohlstetter 1989; Aberbach, 2002). These authors put emphasis on the nature of the legislative branch of the state, which is regarded as a political body where an elected group of people occupy seats to represent the interests of their people. How these people are elected to occupy the seats may influence activities that they are tasked to perform. This is an instance where political-administrative dichotomy should also come into play wherein a divide should exist. This is because of the kind of relationship between the executive and the legislative branch in the parliamentary form of government (compared to the other forms) as discussed in chapter of this study. Ethridge (1984:341) argues that to increase oversight and subsequently its effectiveness, it should be conducted as an institutional activity by legislators than as an individual activity in order to ensure collective responsibility. Conversely, depending on the kind of electoral system espoused and the form of government as discussed in chapter 2, the fear of losing one's seat may result in the reluctance to conduct oversight on the individual level. Therefore, if oversight is seen as an institutional activity, it may incentivise oversight. Aberbach (2002:62) adds that:

> *"… Oversight should be bipartisan, constructive in the sense that it puts aside 'petty political motives' regular and systematic, comprehensive, coordinated, reflect the expertise of a professional body, and be careful not to intervene excessively or micro-management".*

The above contribution stresses that oversight as an institutional activity is a mandate of legislatures rather than a tool to advance political causes. When legislators conduct oversight, they should ensure that their party affiliations and politics do not cloud their judgement in the process of executing the assigned functions. In other words, legislators should effectively fulfil their oversight mandate and in the process, ensure that it is effected in a beneficial manner without obstructing executive functions (the politics and administrative divide). Moreover, Rockman (1984:2) argues that there are specific contextual factors that determine successful operations of legislatures. Some of the factors are similar to the aforementioned, which include *low level of partisanship at Committee level, the utilisation of alternative sources of information, and the demand for good governance*. Among others, Rockman (1984) asserts the need for low partisanship. This is an acknowledgement that partisanship should take place

since the elected members represent the interests of their people, or to a certain extent, the views of their political parties, yet it should be abated. In terms of alternative sources of information, one would note that the over-dependence of legislatures on the executive weakens the legislative sector (Rapoo, 2004), yet the utilisation of external sources of information should be encouraged.  Furthermore, as one of the factors categorised by Rockman (1984), there is a need to work towards a common course which is the demand for good governance which, in the context of this study, refers to the quest for transparency and accountability in the handling of public resources and conducting public affairs.

From the foregoing, Khmelko and Beers (2011) add that there are distributional and institutional factors of effective oversight that go beyond partisan political affiliations. These factors include constituency representation, *the size of the Committee and regularity of communication between the Committee and Executive*, among others. Non-partisan or rather low partisanship appears to be a common factor of improving oversight or of ensuring effective oversight, yet on the contrary, partisanship impedes oversight (Khmelko & Beers, 2011:502). Rokvic and Ivanis (2013:55) state that the success of parliamentary oversight is dependent on the triple-A criterion, which is "*ability, authority and attitude".* The first aspect speaks to the legal authority of the legislative branch to conduct oversight. Most democratic legislatures are empowered through the constitutions of respective countries to oversee the executive. The other two highlight the ability to exercise control and the presence of a critical attitude to hold the executive accountable. This is important as it responds to one of the research questions of this study on ability and capacity of the legislature to promote executive transparency and accountability, as outlined in chapter 1. The above assertions are supported by Izah and Bello (2013:5) when stating that *constitutional provisions, competence and personal integrity of the individual legislators or MPLs* play a role in promoting effective oversight in legislatures.

Furthermore, in singling out capacity, Shenga (2007) and Musavengana (2012) assert that to a certain extent, capacity determines the ability of legislatures to hold the executive accountable. Capacity may be viewed from the point of various aspects such as a legislature's independence, expertise and resources. Madue (2012:432) supports the notion that capacity is a necessary condition for effective oversight. However,

without the capacity of its own, it is perceived that the executive is powerful than legislatures. For example, Shija (2012:7) acknowledges that the executive is generally dominant over legislatures. However, he maintains that legislatures have been fighting for independence and divergence from the influence of the executive. As discussed in this section, Rockman (1984) has mentioned alternative information sources as some of the necessary conditions of improving capacity. Improved capacity has been a quest of many international organisations as an approach of improving oversight. This highlights the need for legislatures to have the required expertise, knowledge and resources as prerequisites to perform their oversight function. In summary, the assumption of this study is that the conditions of promoting effective oversight are necessary for oversight potential. As the potential of oversight increases, it becomes easier to hold the executive accountable for its actions or inactions, and in turn this will bridge the perceived gap of oversight activity without effect.

## 3.5 INEFFECTIVE OVERSIGHT BY LEGISLATURES

It cannot be disputed that studies have been conducted regarding the oversight role of legislatures. Although as discussed in the introduction of this chapter, oversight has been an abandoned area of study for many years, there is an acknowledgement from various scholars that there has been an increase in oversight activities in most legislatures (see Aberbach, 2002; Rapoo, 2004; Pelizzo & Stapenhurst, 2004, 2006, Friedberg, 2011). The study also acknowledges that oversight is not absent in the legislatures. However, its effectiveness could still be questioned. Taking this assertion into account, the oversight role of legislatures as a field of study is attracting a lot of interest. It has developed to be an important area; although, it is stressed that little attention has been focused on effective oversight and its impact (Pelizzo & Stapenhurst, 2006, 2014; Abellera, 2011). This study acknowledges that irrespective of growing interest, still little has been done about the effectiveness of legislative oversight.

Effective oversight has been a missing link between the functioning of government (including managing public resources and conducting public affairs) and good governance (including transparency and accountability). Plaatjies (2013:466) is of the opinion that due to lack of effective oversight, among others, maladministration

emerges as a risk in strides made by the democratic government of South Africa since the advent of democracy. Maladministration is equivalent to poor governance, which is contrary to the contention of the study on good governance. In South Africa, the lack of effective oversight is supported by the AG's findings of 2013 which, amongst others, elaborate on the following:

- "Oversight and monitoring of compliance were insufficient, with internal audit and external audit committees failing to undertake their audit tasks;
- Basic systems, processes and controls are not in place or not functioning effectively;
- Vacancies, lack of skills and inadequate performance monitoring;
- Leadership, that is, accounting officers and executive authorities failing to provide necessary leadership on compliance and to enforce rules in case of contraventions of laws by officials; and
- Prevention of and addressing unauthorised, irregular and fruitless and wasteful expenditure".

Regardless of the absence of enough evidence on effective oversight, one of the material findings of the AG is insufficient oversight and monitoring of compliance. There are complexities related to the oversight function of legislatures (Madue, 2012). These complexities include the role of party politics, executive-legislature relations, and lack of capacity (Pelizzo *et al*, 2006:55). Rapoo (2004:4) singles out the dominance of the executive over legislatures as the main problem impeding oversight. The finding by Zvoma (2010:5) on the Zimbabwean Parliament notes that the reluctance by the executive to cooperate hinders the oversight role of legislatures. In other words, this assertion spells out the complex nature of the relationship between the legislature and the executive, which is an area of discussion below.

## 3.6 EXECUTIVE-LEGISLATIVE RELATIONS ON OVERSIGHT IN PARLIAMENTARY SYSTEM

Studies of legislative oversight, to a certain extent, censure the executive for legislatures' inability to conduct effective oversight, although they recognise the weaknesses of legislatures (Shenga, 2007; Zvoma, 2010; Musavengana, 2012). For

example, Rapoo (2004:5) mentions that inadequate resources and weak institutional capacity create overdependence of legislatures on the executive to do oversight and, as a result, creates hegemony of the executive over legislatures. This is despite the prevalent consensus that oversight is the terrain of legislatures. Legislatures are empowered to hold the executive accountable. It will be erroneous to point out that the executive is to be blamed for the plights of legislatures, but it should be recognised as an important actor. From the forgoing discussion, one would have thought that legislatures are way passed this stage of development, and the focus would be on fostering more and effective oversight. Research acknowledges that the intricate nature of the legislative-executive relations has an influence on effective oversight, taking cognisance of the evolution of literature on executive-legislative relations over the years (Salih, 2005; Hudson & Wren, 2007; Fashagba, 2009).

As discussed in chapter 2, a parliamentary system of government has been adopted to approach the study of the executive-legislative relations in this thesis. It should be noted that over the years, scholars of the executive-legislative relations have been studying this phenomenon, focusing on either parliamentarism or presidentialism, which are also discussed in detail in chapter 2. Cheibub and Limongi (2011) argue that there has been a preoccupation on the formation of a government, which has a great influence on the executive-legislative relations. However, the authors postulate that there has been a shift in perspectives away from emphasis on one form of government or the other. It is asserted that "…politicians across systems have similar motivations and that legislative institutions are not dependent on the form of government" (Cheibub & Limongi, 2011:21). Regardless of this development, it should be stressed that different countries are categorised and associated with different forms of government. One cannot discuss the executive-legislative relations without considering the form of government in which it exists. The form of government and other macro-level institutions play a role in oversight (Stapenhurst & Pelizzo, 2012:344). Considering the focus of this study, the discussion puts emphasis on the parliamentary form of government. Salih (2005:17) asserts that the system has a vital role in preserving the separation of powers between the legislature and the executive. He elaborates that it further extends to governing the kind of relationship between the two actors in the fulfilment of their mandate. Although consensus can be drawn about

the importance of macro-level institutions, one should be cautious not to conclude that they are the only factors of promoting effective oversight.

While promoting effective oversight as the mandate of legislatures is emphasised and endeavoured to be attained, the executive relentlessly fights to dominate legislatures (Salih, 2005:253). This is not the kind of relations one would wish for between the executive and the legislature. The mandate referred to in the above context is a constitutionally prescribed function of legislatures. This means that legislatures have the responsibility to fully deliver on the mandate of oversight. In part, this should form the basis of the executive-legislative relations. However, it is not simple as stated since the two actors are in contest to influence policy outcomes, and have influence over each other. So, how should the executive-legislative relations be, and legislatures go about to fulfil their constitutionally mandated functions?

Stapenhurst and Pelizzo (2002) stress that legislatures need to understand the significance of their role. This is acknowledged in this thesis as an important aspect in the contextualisation of the study. It is believed that understanding the significance of their role will enable them to carry the mandate to hold the executive accountable in an effective manner. *Firstly*, the legislature should understand its role as an overseer. This places a particular emphasis on holding the executive accountable for its behaviour which is a bone of contention in this study. *Secondly*, in capturing their role of representation, legislatures are elected representatives of the electorate. *Lastly,* though it is not the focus of this study, their role as law-makers cannot be discarded, especially because law-making is central to legislatures since they are "universally known as law-makers". It is emphasised in the study that oversight is conducted either *ex-ante or ex-post,* with the study supporting the combination of both. This makes its role of policy making (*ex-ante)* important as its role in supervision and monitoring (*ex-post).* The lack of understanding its role is a major shortcoming. Pelizzo and Stapenhurst (2006) stress that in practice, legislatures are not active stakeholders in policy development processes contrary to the norm as legislatures are known as law makers, and in turn provides an impetus to the executive to gain an upper hand over legislatures. This is regardless of executive-legislative relations being entrenched in the separation of powers, which aims at maintaining checks and balances between the judiciary, legislative and executive branch of the state (Mojapelo, 2013:37). This is

to ensure that there is a clear separation of powers between the branches of the state, a foundation for the executive-legislative relations (see chapter 2, section 2.4 sub-section 2.4.2). While this is a necessity, it is always not clear.

King (1976) in Rockman (1984:406) states that the executive-legislative relations is joined by three important factors, including (i) *the form of government, (ii) the constitutional arrangement defining the roles of the two actors involved, and (iii) the relative power and operating forms of the legislative branch*. These factors highlight, in part, the complexity of the relationship between the executive and legislative branch. For instance, it may vary from one form of government to the other, and the constitutional powers vested in each branch of government. What is known as the dominance and marginalisation of legislatures by the executive may be attributed to the aforementioned factors, in particular the nature of a government and political system (Hudson & Wren, 2007:4). This indicates that different countries adopt different systems, and as discussed in chapter 2 of this study, such systems may greatly influence the executive-legislative relations. With particular focus on the parliamentary system, Musavengana (2012) writes that:

> *"…the Westminster-inspired systems of government that are prevalent in most countries of Southern Africa tend to compromise the principle of separation of powers. Under these systems, ministers are most often drawn from members of the legislature, which, ironically, should oversee their performance".*

Drawing a positive connotation from Musavengana's assertion, Ahmed (2011:15) argues that when the executive is drawn from members of legislature in the above-mentioned system, this will establish a good relationship between the executive and the legislative branch, as it will further promote shared decision-making between the two branches. Johnson (2005:1) stresses that shared decision-making characterises modern democracies, but there is a need to understand what exactly is meant by shared decision-making in the milieu of the executive-legislative relations. Johnson (2005) is of the opinion that in shared decision-making, the two branches should be able to compromise to afford one another an opportunity to fulfil their functions efficiently. The example provided is that the legislative branch should have capacity to conduct oversight, and the executive should be eager to comply with its plea. The

underlying contention in this study is that shared decision-making does not mean one branch of government abandoning its functions for the other to perform such functions, even though the word "share" may be misapprehended. It means that due to the complex nature of the relationship, the executive and legislative branch should be able to interact. It is, however, important to note that from Musavengana's argument, there is also a negative connotation of creating a powerful executive with regard to the executive-legislative relations.

The Westminster system of government has an unintended consequence of creating a powerful executive that is dominant over legislatures. As discussed in chapter 2, this is a case where one party governs by a majority as in the case of most parliamentary systems, associated with the PR electoral system. The government is either formed through a party winning 50 per cent plus or a coalition of different parties. The executive is drawn from members of the legislature, which reduces the number of members of legislatures, expertise and capacity in the legislature. This leads to the erosion of legislative oversight capacity where the executive takes control to an extent that it creates most of the bills to make legislation. Nijzink and Piombo (2004:3) stress that the executive has somehow occupied the responsibility to play a major role in the law-making process. This leaves legislatures with limited duties to perform with regard to law-making. It has reduced legislatures in its main mandate to merely rubber stamping as most bills are prepared and drafted by the executive and presented to legislatures for approval. Pelizzo and Stapenhurst (2014) add that this may be viewed as a positive development as it affords legislatures time to focus on oversight. This, however, does not necessary mean that oversight is superior to law-making; they both remain the constitutional mandate. It is therefore the contention of this study that if legislatures may simply abandon one of its mandate – law-making, it may be difficult to fulfil its other responsibilities in the territory where the executive is dominant.

Beyond understanding the mandate, amongst others, within a system of government, there should be willingness on the part of the legislative branch to conduct effective oversight. As stated by Ethridge (1984:342), "… the systemic impediment to oversight is the absence of positive incentives for legislators as they often sacrifice self-interest for ideology or even party". What the author refers to is accentuated by Pelizzo and Stapenhurst (2014:259) as political will. This is reasoned to be an important element

in promoting effective oversight, which is lacking in an environment wherein the costs related to oversight, to a certain extent, overshadow the benefits (Ethridge, 1984; Aberbach, 2002). It is believed that there is a positive relationship between effective oversight and political will; nevertheless, this is attainable only if there is demand for accountability and oversight. Pelizzo and Stapenhurst (2014) suggest that a possible shift is required from placing more emphasis on macro-level and meso-level institutions to focus on political will in strengthening oversight. It is yet not clear how the demand for oversight may be advocated in the parliamentary system, which is the relationship that this study needs to explore between political will and demand for oversight in the context of the executive-legislative relations scholarship. Furthermore, the foregoing argument is not sufficient to shift the focus away from the view that macro/meso-level institutions such as the form of government play a major role in oversight. This means that as much as political will is emphasised as an important element for effective oversight, systems of governance such as forms of government remain important in influencing oversight. Perhaps this study needs to further explore the extent of these influences in the relations between the executive and legislative branch. Against this discussion, it is important to understand political will vis-à-vis incentives of oversight.

## 3.7 POLITICAL WILL VIS-À-VIS INCENTIVES FOR OVERSIGHT

It is acknowledged by scholars of legislative oversight that much oversight is not taking place because of the political context in which it takes place (Wohlstetter, 1989; Aberbach, 2002). This means that as discussed in chapter 2, the legislature is an elected representative that represents the interests of the electorate and, to a certain extent, the interests of their political parties. The foregoing highlights the complex environment in which the legislative branch operates; yet this should not be the reason for the legislature to neglect its constitutionally mandated function. As underlined in this study, the executive is elected or selected from the legislature, which is also expected to play a principal role over the agent, which is the executive in terms of the PA theory (see chapter 2) (Basheka & Mubangizi, 2012:6; Madue, 2014:862). This is basically the reason why Salih (2005:3) reminds us that these are competing roles, as the legislative branch is part of the machinery that confers legitimacy on the executive, yet as constitutionally mandated, it is expected to hold the executive to account on its

activities in order to safeguard the public interests and further promote accountability. While acknowledging the influence of the environment in which the legislature operates, this study argues that, to a certain degree, it takes the willingness of the legislative branch to attain effective oversight, and in part the possible influence of the available incentives or lack thereof.

The foregoing is important as it continues to underscore the nature of the environment in which the legislative branch navigates, whereas oversight should be an institutional activity. One should note that oversight is used to be associated with opposition parties in most democratic legislatures (Malapane, 2015). As inferred from the reviewed scholarship, this study concurs that this should not be the case. Aberbach (2002:62) stresses that oversight should be bi-partisan. Put differently, oversight should be an institutional activity, putting aside petty political motives. This would make it constructive, systematic and objective enough. Nevertheless, there are other aspects worth discussing as parts of the focal point of the study, which may contribute to the presence or rather absence of oversight; such include parliamentary party discipline and party unity. The study underscores the influence of parliamentary party discipline and party unity on oversight.

## 3.8 THE INFLUENCE OF PARLIAMENTARY PARTY DISCIPLINE AND PARTY UNITY ON OVERSIGHT

Politics is central to the origins of oversight, and in general, legislatures (Lyons & Thomas, 1981; Ethridge, 1984; Aberbach, 2002). These authors have emphasised that politics form part of legislative oversight; however, the question of how and to what extent remains unanswered. In the same manner, Ayyangar and Jacob (2015:232) question the importance of political parties on oversight as discussed extensively in chapter 2 of this study. This is the same as questioning the importance of politics in legislatures while its existence has been acknowledged. For example, Lyons and Thomas (1981:162) postulate the politics-administration dichotomy to delineate this contention (see chapter 2 in section 2.4, sub-section 2.4.1). This accepts politics as a reality in legislatures, while it is not allowed to encroach on the oversight process.

However, this does not mean that politics or rather political parties have no role in oversight (see chapter 2). It is stated that "…*the legislature is a political body, its*

*members are the quiet non-objective types…they are not there to prove scientifically what's right or wrong, to approach problems in a neutral manner, but represent interests and to broker deals and increasingly to express values*" (Aberbach, 2002:61). The author alludes to the fact that since oversight is part of the political process, it is not performed for its intended purpose and objectives, but rather, to rally in support of the executive. This emphasises part of the challenges discussed in this literature review as the bone of contention underpinning the dominance of the executive in the over-elaborated executive-legislative relations. To stress the importance of politics or political parties in oversight, focusing on 'discipline and unity', Dandoy (2011) expresses that MPLs represent the interests of the public, and more importantly, of their political party. In other words, borrowing from the author's expression, "they are not individual political entrepreneurs, and it will be difficult for one to separate MPs from their parties" (Dandoy, 2011:316).

Mickler (2013:423) argues that the partisan theory supports the role of political parties in legislatures. In terms of this theory, political parties are key actors. This is acknowledged in this study as in most instances, depending on the kind of systems espoused, MPs in parliament are deployed by their political parties, and in turn incidentally becomes accountable to them. This introduces the bone of contention in this discussion, that is, parliamentary party discipline and unity. On the one hand, Fredriksson and Wollscheid (2014:54) define party discipline as "…the degree to which elected legislators keep their party's campaign promises after being elected". This definition points out that legislators are required to safeguard the interests of their political parties in the process of delivering to its electoral mandate. On the other hand, party unity "…means that individual legislators of the same party votes as a bloc" (Field, 2013:362). In order words, MPs of one political party maintain a united front when it comes to matters before parliament or voting whether there are agreements or disagreements. In a nutshell, both definitions of parliamentary party discipline and party unity have related attributes, meaning that legislators should rally behind their political party. Discipline and unity have a special connection in the discourse of legislative studies.

Heller and Mershon (2008:911) argue that discipline is one of the approaches used by political parties to maintain party unity. Moreover, other approaches include negative agenda control, and cohesion. The authors emphasise that the link between party

discipline and party unity is open, and imply that legislators should uphold the party line. Put differently, party discipline manifests from party unity. Fredriksson and Wollscheid (2014:54) elaborate that the higher party discipline is maintained by individual legislators, the greater the party unity is upheld. Party discipline is a determinant of party unity which makes both essential. But how essential are they in legislative oversight? Davidson-Schmich (2006:24) states that "…party discipline is essential to ensure democratic accountability and political stability, and a lack thereof threatens to cause political instability if shifting parliamentary majorities lead to cycling executive". This highlights some of the reasons why there is a need for party discipline, whose lack thereof may lead to party disunity – a threat to political stability and democratic accountability. As discussed in chapter 2 of this study, in a parliamentary system, the electorate gives an electoral mandate to a political party, not individual legislators, hence party unity is essential for the effectiveness of parliamentary government.

From the foregoing, one will note that as much as parliamentary party unity is important for parliamentary government effectiveness, there is a need to underline some of the causes of party disunity. These causes of party disunity are not placed in any particular order. They include leadership challenges, party switching, party splits and branches clashing with the central party line as well as speaking against party line in the press (Field, 2013:361). Understanding one of these signs or a combination of any will assist this study to thoroughly pay attention to what leads to party discipline, or in general, party unity in the first place, since it has been underscored that party unity is necessary to realise democratic accountability and political instability, amongst others.

Before one could attempt to study what leads to party unity, it is important to note that Brierley (2012:420) in studying party unity in the African perspective with specific attention to the Ghana Parliament in comparison to Kenya National Assembly (KNA), in part holds a contrary view about the significance of party unity in parliament. The author notes that strong party unity, among others, is held responsible for the restricted development in Ghanaian parliament. On the contrary, he claims that weak party unity turned the KNA to be among the sturdiest African legislatures. This is in line with the definition provided in the discussion pertaining to party unity, wherein by all means the MPs of the governing party are expected to support the executive. This provides the executive with the upper hand or hegemony over the legislators to have dominance

over the legislature. Heller and Mershon (2008:910) argue that this perhaps may be the result of the existing relationship between parliamentary systems and strong party unity. It has been discussed in chapter 2 of this thesis that in a parliamentary system, the executive is a result of a majority in legislatures, and this suggests that mostly the executive will receive protection from the majority.

The above is in the list of what Davidson-Schmich (2006:25) categorises as the three main institutional mechanisms assumed to foster party voting agreement or party unity in the context of this discussion. In addition to the fact that MPs need to rally behind the executive, the author mentions the need for efficiency in parliamentary decision-making and MPs' future careers, including the hope for re-election. The latter part indicates that legislators are most influenced by the career options available if they are not to be deployed in legislatures in future (Obiyo, 2013:106). So, other than attributes such as party solidarity and sharing similar ideological convictions as alluded in the contention, self-interest becomes what pushes legislators to follow the party line. Dandoy (2011:341) states that "…*parliamentarians may be seen as agents of the electorates in their information seeking and control activities, but MPs must also be considered as agents of the political parties*". This assertion points out that MPs are caught between serving their party or electorates. However, based on the parliamentary system, this line becomes clear as parties are elected to legislatures, and not as individual legislators. The foregoing stresses that electoral systems have a direct role in either improving or hampering both oversight and accountability (Obiyo, 2013:106).

In the African perspective and South Africa in particular, steady and sturdy party identities is the motive for MPs of the governing party to vote in line or adopt a similar position (Brierley, 2012; Obiyo, 2013). It is argued that the ruling party employs strong discipline utilising the whip system to foster unity in their legislators who are in the majority in parliament. This particularly relates to South Africa wherein the African National Congress (ANC) has been in the majority (a dominant party as discussed in chapter 2 on party systems) since the advent of democracy. Based on this argument, MPs of the ruling party in parliament have to support the executive whether there is an agreement or not in matters before legislatures.

Lastly, one will note that the structure utilised to promote strong parliamentary party discipline and party unity in legislatures has been introduced in reference to the whip system, which in the South African context is the party caucus[1] (Taljaard, Venter & Jolobe, 2011:28) comprising party whips, which is not discussed in detail in this discussion. The purpose of this discussion is to address the influence of parliamentary party discipline and party unity on oversight; of course, it is the responsibility of caucus leaders and/ or party whips to ensure discipline and unity. Thus, it is important to acknowledge their significance in the milieu of this discussion. This study will discuss tools of oversight as part of the conditions that influence or represent potential to promote effective oversight, and further determine the legislature's ability and capacity to hold the executive to account.

## 3.9 LEGISLATIVE OVERSIGHT TOOLS AND EFFECTIVE OVERSIGHT

Meso-level institutions such as oversight tools and mechanisms are widely studied by scholars of legislative studies to determine their presence in most democratic legislatures in the global community (Maffio, 2002; Rapoo, 2004; Yamamoto, 2007). These authors underscore the significance of legislative oversight tools. Globally, oversight tools were studied using data collected by the IPU and WBI to determine the number of tools available in legislatures of various democratic countries (Pelizzo, Stapenhurst & Olson, 2006; Yamamoto, 2007). This study, however, acknowledges that studies conducted have considerable limitations. For example, Pelizzo *et al.* (2006:9) assert that the number of oversight tools determines a legislature's oversight potential; but a conclusion cannot be safely drawn on the effectiveness of oversight tools. These studies only managed to discover that all surveyed democratic legislatures utilise oversight tools or mechanisms; the variation as highlighted above is the number of tools available to a legislature. An inference may be drawn that most democratic legislatures adopt some parliamentary oversight tools, and most of them use more than one tool of oversight despite the forms of government. Yet in relation to this study, more emphasis will be focused on parliamentary forms of government.

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[1] A party caucus is not a formal policy-making body, but one that coordinates and discusses how best to implement the policies and ideologies of a party in parliament. a caucus comprises of party whips who maintain discipline over their members in parliament (Taljaard, Venter & Jolobe, 2011:28-29).

Parliamentary forms of government have more oversight tools (Pelizzo & Stapenhurst, 2004:11). It is for this reason that Committee hearings, hearings in plenary sittings, question time, interpellations and ombudsman are commonly available in parliamentary forms of government. The word 'available' is cautiously utilised because the reviewed scholarship was limited to assessing the presence of oversight tools in legislatures, not their utilisation and/or effectiveness in promoting oversight. Regardless of this limitation, Friedberg (2011) agrees with Pelizzo *et al.* (2006:8) that oversight tools are necessary; however, a shift is required as it is how the tools are utilised that matters. While most democratic legislatures utilise more than one oversight tool, it cannot be concluded that there are universal standards and best practices for parliamentary oversight (Rokvic & Ivanis, 2013:55). Based on the above arguments, oversight tools developed and utilised in one country may be difficult to utilise in a legislature of another country, and other tools may just make the list long without adding any value.

Oversight tools are utilised differently for different purposes. For example, MPs are allowed to initiate the utilisation of various oversight tools such as questions and short debates because the oversight role of legislatures was instigated before modern political parties (Yamamoto, 2007:11). In the discussion of political parties in chapter 2, it was argued that MPs before modern political parties used to directly represent their constituencies where they were free from party influence regardless of the form of government. Although it is accentuated that these tools (questions and short debates) are censured to be ineffective, this was done by observing only the way they are utilised. Yamamoto (2007:12) argues that "…*the absence of one tool in a particular parliament does not necessarily mean that its oversight role is weaker than of a parliament which has that particular tool; nor does the presence of a wide range of oversight tools within a certain parliament guarantee their effective use*". Therefore, while the number of tools may signify oversight potential as accentuated, it cannot be concluded that they are effectively used to promote oversight.

Despite the fact that oversight tools are broadly studied, the existing gap in the scholarship indicates that more needs to be done to assess their effectiveness. Friedberg (2011) is of the opinion that it is difficult to measure the effectiveness of oversight tools, but cites 13 parameters utilised in examining the oversight potential of

committees and questions. For the purpose of this study, the 13 parameters are outlined below, of which 7 are for committees and 6 are for questions.

Table 3.2: 13 Parameters of examining oversight potential

| Committees | Questions |
|---|---|
| • Members in several committees simultaneously | • Sources of information that the ordinary questions were based on |
| • Attendance of committee members in discussions | • Credibility of information that the ordinary questions relied on |
| • Sources of information that the committee relied on in the discussions | • Period of time that passed until ordinary questions were answered |
| • Professional adversary staff that served the committee | • How answers were given (read in the plenum or not) |
| • Seniority of committee members in the committee | • Use of the right to ask additional questions |
| • Professional background of committee members | • Follow-up questions |
| • Inclusion of senior opposition members | |

Source: Friedberg (2013:530)

The above-mentioned parameters utilised for both committees and questions point out information and expertise as important factors in the effectiveness of oversight tools. The parameters are important because, among others, the research questions of the study attempt to investigate the legislature's ability and capacity to oversee the activities of the executive in promoting transparency and accountability (see chapter 1, section 1.4). Simmons (2002:6) stresses that expertise and information is vital to effective oversight. This entails that legislatures should possess knowledgeable staff and members. In addition, internal research offices are important assets for

legislatures to enable them to carry out their oversight mandate. The time available is also important. This entails that the time members of committees have to attend to their assignments as well as the time to do such assignments. These parameters are fundamental in promoting the effectiveness of oversight tools.

In conceding that legislative oversight tools are widely studied, tools have been stressed in this chapter, and categorised as internal and external tools (see section 3.3 of this chapter). Pelizzo and Stapenhurst (2004:4) argue that the effectiveness of oversight tools may also be dependent on where and how they are utilised. The example provided by these authors is that hearings in committees and plenary sessions of parliament and requests for documentations are tools that can be utilised before and during (*ex-ante)* the implementation of policies and programmes, whereas questions, interpellations, and committee inquiries are tools that can be employed after (*ex-post)* the implementation of these policies and programmes. This study argues that all these oversight tools are crucial. Accordingly, in the conceptualisation of oversight, this study concluded that oversight takes place before, during and after the implementation of policies and programmes.

In the South African context, there is no enough literature on the effectiveness of legislative oversight tools. Scholars (Nijzink & Piombo, 2004; Rapoo, 2004; Murray & Nijzink, 2012; Madue, 2013; 2014) studied the oversight tools in one way or the other and recognise their significance, yet there is still a gap in the existing scholarship. For example, Rapoo (2004:2) explains that there is a certain degree of work done in the chamber of the house through oversight tools such as question time, general debate and motions, yet agrees with the reviewed literature that the substantive and copious part of the work is performed at committee level. This in part places committees at the centre as a significant tool of oversight. It is further asserted that the existence of much of the work in committees is not insinuation that committees are working effectively. Rapoo's (2004) study has in part touched on the effectiveness of legislative oversight tools in South African provincial legislatures; its limitation is that it has used a survey questionnaire that was only distributed to Heads of Departments to examine the effectiveness of oversight tools and mechanisms. In addition, Madue in 2012 studied the "*complexities of the oversight role of legislatures"* discussing, among others, the effectiveness of oversight tools such as committees, questions and performance reports*.* However, the theoretical article was mainly concerned with the balancing of

powers between the executive and the legislature (Madue, 2012:441). While acknowledging studies conducted on the effectiveness of the tools, more empirical enquiry is required to determine their effectiveness in the country's legislatures. Accordingly, one of the objectives of this study is to determine the ability and capacity of the oversight role in holding the executive to account. Taking into account that most of the legislative oversight work happens in parliamentary committees, this study pays specific attention to the committee system.

### 3.9.1  Committee system

Legislatures need to be thoughtful of the central role and powers of parliamentary committees, that is, if they are to effectively carry out their oversight mandate (Nijzink & Piombo, 2004:6). Committees exist in various types of parliaments (Ahmed, 2011:11), and in the parliamentary system, they become representative in partisan composition worldwide. This enables them to perform their oversight function better. As discussed in sub-section 2.3.4 of chapter 2 of this study, in the parliamentary system the executive emerges from the majority in the legislature, which in terms of the executive-legislative relations as discussed in section 3.6 of this chapter, it may somehow lead to protective relations. Hence, the composition of committees should take into account the total number of all MPLs, with the rights of minorities in mind when establishing committees. Ziobiene and Kalinauskas (2010:29) argue that much of the work of legislatures takes place in committees, and for this reason, committee composition is according to legislative work and specialisation. The example provided is that committees deal with details of legislation and public policies, and this lays the groundwork for potential decisions of legislatures. The important role played by parliamentary committees cannot be discarded; instead it needs to be elevated.

Ahmed (2011:12) argues that for parliament to be strengthened without compromising the executive, committees need to be fully utilised. Conversely, Madue (2013:42) stresses that the work of legislatures is extensive and requires more time, yet committees perform most of this work. For example, with the limited time that legislatures have, committees reduce the workload of legislatures by providing an important platform to deal with details of reports, thereby make direct contribution to policies. This suggests that committees are fully utilised, perhaps the issue may be on

whether they are used effectively. Fashagba (2009:454) states that "…committees, it should be noted, are the centres of action and engine rooms of modern legislatures; in fact, oversight appears largely better handled and performed by committees". Committees provide for avenues to enable legislatures to interact directly with the public and external tools of oversight, and to engage the executive directly with regard to the details of draft legislation. However, Yamamoto (2007:15) argues that not all committees perform oversight. This allows to further state that various parliaments establish a committee system, and for this cause, each parliament has its individual system. Thus, the example of different types of committee systems is outlined in Table 3.3 below:

Table 3.3: Different Types of Committee Systems

| Parliaments in Continental Europe | Parliaments in Westminster tradition |
|---|---|
| • Permanent legislative committees | • Legislative committees |
| • Permanent non-legislative committees | • Special committees |
| • Non-permanent committees | • Joint committees |
| • Joint committees | • Sub-committees |
| • Committees of inquiry | • Committee of the whole |
| | • Domestic or internal committees |

Source: Yamamoto (2007:15), example of different committee systems

Since the Westminster tradition is emphasised as a bone of contention in this study, Madue (2013:42) argues that it may be categorised into two kinds of committees, which are standing committees and *ad hoc* committees. The functioning of these committees is dependent on various factors. The size of a committee is one of the distributional and institutional factors for effective oversight, and is noted as a root of committee power together with tenure, jurisdiction, assignment process and level of staff (Khmelko & Beers, 2011:503). In addition to these factors, Obiyo (2013) cites the

2005 Griffith report that effective parliamentary oversight committee requires the basic elements, including the following:

- "Independent /bipartisan, to be able to function independently of both the government and the agency it oversees;
- Sufficient powers to call for and examine witnesses and papers;
- Adequate information to render the agency accountable;
- Resources commensurate with the functions the committee is required to perform; and
- Implementation of the committee's recommendations for reform by the government and/ or the agency it oversees" (Obiyo, 2013:105).

Obiyo (2013) has utilised these elements to determine the extent of oversight activities by the portfolio committee of education in Eastern Cape provincial legislature in holding the Eastern Cape Department of Education accountable. The elements are considered as determining factors for the success or rather the effectiveness of committees when they are executing their day to day work, in particular the oversight role. This oversight role entails the legislature's ability and capacity to promote executive transparency and accountability. The elements underline the complexity surrounding the relationship between the executive and legislatures, which committees of legislatures have to confront daily in the performance of their oversight role. The relationship is central in the contention of this study focusing on the oversight work of committees. The relationship, as discussed in section 3.6 of this chapter, and as defined in the separation of powers doctrine and PA theory in chapter 2 of the study, is rooted on the legislature's independence, powers, information asymmetries, capacity, and more importantly shared decision-making, as outlined by Johnson (2005). Therefore, the basic elements for ensuring the effectiveness of committees are important in this study.

The foregoing also underscores the significance of committees in parliamentary oversight, and in turn with the afore-mentioned basic elements parliamentary committees might be effective. In addition, Burnell (2002:294) asserts that *information dissemination, monitoring and reviewing the actions of government to hold it accountable, and playing a key role in policy making as well as taking government to the public are among the functions of parliamentary committees*. Friedberg (2013:306)

writes about oversight centres on a vigorous committee system, but affirms that, while professional staff in committees may advance its work, members of legislatures serving in many committees weaken them. The latter is because members of legislatures may have little time to spend on the work of all those committees, and may have to prioritise some committees at the expense of others. This is mentioned as one of the parameters for oversight potential of committees in section 3.9 of this chapter, which may lead to poor attendance of members (absenteeism) in some committees. Although most of the literature emphasises the importance of parliamentary committees, Burnell (2002:292) argues that committees have little effect when stating that:

> *"…Committees have minimal effect in making government accountable, notwithstanding their hard work and the commencement of a programme. Effective accountability demands not just that the executive is required to give account of its conduct but that the structures of bodies that should hold government to account are enforceable. It is in the matter of enforceability that committees are most deficient".*

The foregoing assertion does not abate the standing of parliamentary committees; however, it questions its effectiveness, whose impact, as revealed by the literature, is difficult to measure. Burnell (2002) concedes that committees do play a part in influencing the conduct of the executive in various ways. It should be noted that there is a gap in the universal scholarship in terms of the effectiveness of committees. When studying parliamentary committees in Bangladesh and Zambia, Ahmed (2001) and Burnell (2002) pointed out that in the two countries and elsewhere, the origins of committees are owed to Constitutions of respective countries, which make their role central.

In the South African context, the aforesaid is a reality. The powers of parliamentary committees are enshrined in the Constitution. For instance, Section 56 of the Constitution indicates that committees have powers to summon any person to appear before it and give evidence on oath or to produce documentation. On the one hand, there is an insinuation that these powers are not being utilised, the reason being that committees have to use them on their discretion (Taljaard, Venter & Jolobe, 2011; Nijzink & Piombo, 2004). On the other hand, Rapoo (2004:8) writes that the

mechanisms that entail the executive to appear before committees are highly effective in provincial legislatures. As outlined in chapter 5 of this study, the limitations in Rapoo's study have been noted earlier on. There is a need to further examine the effectiveness of committees as an oversight tool utilising different approaches and units of analysis. Furthermore, as underscored in the discussion, legislative committees work directly with the executive, where they consider its performance reports. It is, however, important to stress that among these, the budget oversight is considered one of the dominant tools in the work of committees.

### 3.9.2  Budget oversight as a tool

The budget is the most distinct significant policy vehicle and a fundamental instrument in the decision-making process for the government, thus making effective legislatures an integral part in a functioning public finance management system (Folscher, 2006; Botlhale, 2013; Tellier, 2014). This is a tool that the government utilises to prioritise and re-prioritise the public's interests. For example, Teller (2014:193) states that legislatures and legislators' active involvement in the design of public policy would give them relevance. This is one of the reasons why extensive calls have been made for reform in the role that legislatures play in the budget process, and public policy-making in general. International donor agencies have viewed the reform as part of the comprehensive effort to promote good governance (Straussman, 2012:668). The author alleges that this would be realised by increasing the role of legislatures in the budgeting process. In other words, the discussion suggests that legislative budget oversight is weak because of the limited role played by legislatures in the process. So for many years, the donor projects that focus on developing capacity for public financial management have overlooked legislatures and only paid attention to the executive role in budget formulation (Straussman & Renoni, 2011).

From the foregoing, it should be stressed that the scholarship review points out a growing literature on the role of legislatures in the budget process (Santiso, 2004; Folscher, 2006; Posner & Park, 2007; Mckie & Van de Welle, 2010; Straussman, 2012; Tellier, 2014). Yet, this study will attempt to confine itself to boundaries which would assist in attaining its purpose, and in turn responding to the research questions aimed at investigating the ability and capacity of legislature to oversee the executive in order

to promote transparency and accountability (see chapter 1, section 1.4). Folscher (2006:137) writes that "…in Westminster parliamentary systems, legislatures in many countries have been struggling to strengthen their role in budget process, in particular in the preparatory stage and as check of the executive". The example provided in this context is that parliamentarians or legislators approve the expenditure that in part, it has already been spent, because the budget is considered and approved by legislatures often months after the financial year has begun. Put differently, this again shows the limited role of legislatures, to a certain extent, *rubber stamp* the final decisions taken by the executive (Nijzink & Piombo, 2004; Abellera, 2011).

This is underlined by Wehner (2006:767) that the effect of parliaments in the Westminster systems on the budget is restricted to a certain level. However, the author states that the role of legislatures in the budget process varies from one country to the other. For varied reasons, it is emphasised that the global index of legislative powers rates the congress of the United States higher in terms of controlling the power of the purse, while the House of Commons (Westminster) is weak (Straussman, 2012:668). This argument remains unsubstantiated in this context. However, more has to do with several factors that include the wider historical (colonial) constitutional structure and political context as well as legal and procedural aspects of the countries under study (Posner & Park, 2007; Straussman, 2012). It is also argued that internal structures and processes have a role in the budget process. Santiso (2004:55) asserts that internal rules and procedures, to a certain extent, limit the budgetary powers of legislatures by allocating the dominant role to the executive (formulation), and by providing legislatures with the secondary role of proposing amendments, adoption, and performing oversight of its spending. Legislatures confine their roles through provisions that regulate the budget process which are contained in their internal rules and procedures.

While the new reforms intend to expand the role of legislatures in the budget process, Le Roux (2010:40) argues that the role of parliament in a democracy is to approve public policies and legislation. This includes approving the strategic plans and the budget as a definitive manifestation of policy. In part, this study agrees with Le Roux (2010), yet this should be extended to what the reforms attempt to attain. Santiso (2006:68) states that:

*"…while the First-generation fiscal reforms in the 1990s have centred on strengthening the executive functions of government in the management of public finances, often advocating a greater centralisation of budgetary systems and the adoption of numerical and procedural constraints, Second-generation fiscal reforms increasingly emphasise the importance of transparency and accountability, underscore the value of external scrutiny, legislative and societal oversight. While these two approaches are mutually reinforcing, the latter approach to the reform of fiscal institutions necessary require engaging with a broader set of organisations and processes beyond the executive".*

It is important for the budget to consider public interests and to serve as a licit control on spending by government. Deng and Peng (2011) affirm that the budget should be an effective instrument used to promote good governance and the interests of the public. The case provided by Santiso (2006:77) is that the basic principles of public finance should be respected pertaining to the segregation of ownership and management. While the management of public funds is entrusted with the executive, legislatures as custodians of taxpayers and elected representatives should take ownership of the decision on how the funds are spent. In this era of performance-based budgeting (Botlhale, 2013:718), it is believed that reforming the budget process will promote accountability; and in line with the principal-agent theory, the aim should be to protect the interests of the principal. In protecting these interests, legislatures should go beyond what has been happening in the budgetary process. Santiso (2004:50) writes that ideally, legislatures have powers to conduct budget oversight, yet this is not taking place in reality. This should be addressed in order to avoid limitations, including poor access to independent budget analysis and apolitical technical advice as well as the absence of timely information on budget performance. The qualities related to the appropriate role of legislatures in the budget process include:

- "Sufficient time to review the executive budget in advance of appropriations,
- Ability to amend the budget submitted by the executive,
- Ex-post review of agency spending,
- Adequate staff to analyse fiscal and programmatic positions of the executive,
- An established timetable for the budget process, and

- Transparency of the budget reflected by the availability of information to the citizenry" (Straussman, 2012:669).

The above attributes are important and highlight that theoretically, legislatures have powers to oversee the executive's budget. For instance, with regard to transparency as accentuated above, Folscher (2006:134) is of the opinion that it does not only refer to the availability of information; yet the information provided should meet other prerequisites such as accuracy, timeliness, accessibility, comprehensiveness and uniformity. This should happen throughout the entire process of budgeting. Referring to the budget process, Mckie and Van de Walle (2010:1283) outlined three important phases of the process, and these are: budget formulation; execution; and monitoring and evaluation. The authors concur with the argument that legislatures have a role to play in the process, since they indicate that most countries in the sub-Saharan Africa are given roles through the constitutions of their respective countries, yet argue about the extent of the roles as they are limited. As much as the roles are discussed, Mckie and Van de Walle (2010) stress that there are constraints, including lack of power to amend the budget proposal and budget; and non-enforceability of recommendations. Emerging literature on amendment powers and reversionary budget highlight that these are serious limitations (Wehner, 2006; Schick, 2014).

Nevertheless, there are various cases in the scholarship which one might learn from in the endeavour to strengthen the role of legislatures in the budget process. Firstly, one should note that literature on the budget process and reform is mostly dominated by cases of national parliaments, while the contention of this thesis is a provincial legislature. This further indicates the gap in the existing literature of legislative budget oversight. Canada, Uganda and Sweden are some of the countries utilised. Tellier (2014:193) writes that in Sweden "…parliamentarians decide the overall size of the budget, while the government determines the allocations", and in Canada and Uganda mechanisms have been developed for parliamentarians to have their own views about what should be contained in the next budget. In addition, the author's findings highlight that there are vital lessons to learn from Canadian provinces (Outario, British Colombia and Federal government) where there is implementation of public pre-budget consultations. The consultations are held months before the budget consideration and approval to allow participation in the democratic process. Le Roux (2010:34) emphasises that the public should have a say in the process.

Furthermore, Mckie and Van de Walle (2010:1305) point out that many countries are developing parliamentary budget offices as a tool or approach to foster budgetary accountability and transparency. Kenya is cited as one of the examples in the African continent, and it is stated that the parliamentary budget offices are making a success in assisting the work of committees in budget analysis, among others. Yet, Straussman and Renoni (2011:168) stress that though the parliamentary budget offices are recommended, their work vary from one country to the other, similar to the strides to success. In other words, their availability in legislatures should be treated the same as other tools of oversight, they only increase oversight potential, while their effectiveness is dependent on how they are utilised.

The literature has indicated that there are cases one may refer to in the global community and in Africa in terms of budget oversight developments and initiatives. Yet based on the reviewed literature, such cases are scarce in the South African context. This calls for more attention to be paid on budget oversight. Regardless, there are other important tools of oversight in legislatures that complement budget oversight, including questions.

### 3.9.3  Questions as an oversight tool

Questions are utilised in all democratic countries as a tool for control and accountability, among others (Rasch, 2011; Proksh & Slapin, 2013; Madue, 2014; Van Aelst & Vliegenthart, 2014). This is a consensus adopted by various scholars of legislative studies. However, Saalfeld (2011:271) argues that while democratic parliaments offer their members opportunities to ask questions, they vary in their rules of procedures. This means that despite the general adoption of questions as a tool of oversight, their utilisation differs from one country to the other. More importantly, this makes the study of questions as an oversight tool interesting, and requires to be pursued. Rozenberg and Martin (2011) are of the opinion that scholars have not paid thorough attention on parliamentary questions as a significant unit of analysis. For example, in affirming the above assertions, Rozenberg and Martin (2011:394) argue that "…generally, parliamentary questions can be analysed on the basis of their shape, use and impact as they offer original and comparative basis for measuring both individual legislators and legislatures' role within the political system". This contention

finds expression in the argument of other scholars. Martin (2011:260) states that parliamentary questions are different from other oversight tools as they are recorded. It makes them favourable for exploitation by members of parliament, in particular opposition parties. This means that questions cannot be viewed on face value as they are complexities. The literature review has uncovered a lot about parliamentary questions as they are popular in legislative studies.

Questions emerge in various forms in democratic parliaments; the recognised types include oral and written parliamentary questions (Bird, 2005; Akirav, 2011). Questions are utilised to ensure that the executive is accountable. The authors argue that parliamentary questions are important, and this can be observed through their increased utilisation by MPs. Navarro and Brouard (2014:97) add that in the French Parliament, there are also oral questions without debate. Beyond the types of questions, oral (with and without debate) and written parliamentary questions, MPs may also ask supplementary questions at the ruling of the speaker of Parliament (Bird, 2005:354). Salmond (2014:323), using cases of various countries such as Canadian, New Zealand and German parliament, argues that this form of questions might result in a protracted question time. Supplementary questions are raised as additional questions used to follow-up on questions that members of the executive failed to adequately respond to. Perhaps, this suggests that there is a need to study the difference between the two types of questions.

Rozenberg and Martin (2011:396) write that parliamentary questions serve various purposes. In essence, oral questions respond to general policy issues, and written questions deal with particular matters of interest in request for detailed information. The foregoing assertion entails that written questions are better as they provide reliable and precise information from the executive's responses. Moreover, the types of parliamentary questions also vary in terms of response times. Akirav (2011:260) notes that with written questions, the executive takes long to respond as they have stipulated time; while oral questions are responded within an hour or rather immediately in some countries. The author utilises this to determine the efficiency of questions, indicating that oral questions are more efficient. Van Aelst and Vliegenthart (2014:396) elaborate that oral questions carry much value than written questions, since they receive immediate responses. This study, however, argues that it is the opposite, thus agreeing with Rozenberg and Martin (2011) who state that written

questions are better because they provide unopposable, dependable and detailed information about government programmes. Written questions are suited for clarifying and confirming matters of interest (Dandoy, 2011:315).

Payne (2009) writes that although question time remains important where MPs are afforded the opportunity to raise oral questions, it has vast weaknesses. "… Utilising the example of a Member of Parliament asking a particular question on when will a school hall be completed, and the executive provides a broad response about the government policy programmes" (Payne, 2009:22). Regardless of the irrelevant response provided, which is the case for most questions asked by opposition members, the executive utilises fewer time replying to questions, and more time making lengthy speeches (Saalfeld, 2011:272). This means that the executive pays no attention to questions of opposition members, and in turn utilises questions of government backbenchers to deliver lengthy prepared addresses. It is for this reason that Navarro and Brouard (2014:96) stress that "… even if questions are not the most powerful instruments that legislators have at their disposal, questions still allow legislators a great room-for-manoeuvre at the individual level". Cole (1999:98) concludes that oral questions make minimal input in the oversight role of legislatures. The findings cite various reasons related to the ones discussed above, such as party rivalry resulting in members of opposition being the most askers of questions. Questions that are not related to matters under discussion lead to a defensive executive.

Rozenberg, Chopin, Hoeffler, Irondelle and Joana (2011:341) argue that there is not enough literature studying the content of parliamentary questions. This means that little may be known about the effectiveness of questions as a tool of oversight; regardless of what some scholars purported.  It is for this reason that Ayyangar and Jacob (2015) assert that studies focusing on parliamentary questions have mostly studied their volume and design. Such studies conclude that the opposition is mostly active during question time; meaning that the opposition members ask more questions during question time (Salmond, 2004; Proksch & Slapin, 2010; Dandoy, 2011). For example, Rasch (2011:391) states that "…in the Norwegian '*storting*', parliamentary questioning has always been an area for the opposition, but representatives of governing parties today are less active than ever; government supporters have vanished from the scene". It is, however, important to note that these findings are

arrived at by utilising case studies of National Parliaments in the Norwegian '*Storting*', New Zealand; German '*Bundestag*', Sweden and Canadian parliament, among others. Since all these are Westminster systems, this may be the case in the South African context since the country has adopted the Westminster system. But this is inconclusive and requires further investigation.

The opposition utilise parliamentary questions for various reasons. Rozenberg *et al.* (2011:340) and Bailer (2011:303) suggest that oral questions attract the media, and as a result, may be utilised for political competition and confrontation, expressing internal dissent; rewarding policy expertise; and promoting constituency interests. It is believed that parliamentary questions are utilised to exact accountability (Yamamoto, 2007:49). But these assertions question this assumption. It seems like the media anticipates covering question time in legislatures than other activities. This highlights the reasons why question time is used for other purposes than the alleged executive control (Martin, 2011:259; Van Aelst & Vliegenthart, 2014). Yet, this is regarded as the only opportunity available for the opposition to exploit in an attempt to bridge information gaps and control the agenda of legislatures (Salmond, 2004:77; Proksch & Slapin, 2010:54). Instead, Rozenberg and Martin (2011:401) emphasise that "…parliamentary questions can be as much about sending information as getting information; MPs use them to signal ministers, voters, and colleagues with little regard for the quality answer likely to be provided". This may be the case considering that, as discussed, the executive ignores opposition questions, and in most instances the opposition might not even get an opportunity to follow-up or may be restricted by internal rules, among others, to ask such questions.

Salmond (2014:324) highlights that openness in question time varies from one country to the other. Some countries are more open than others. For example, German and New Zealand are open, allowing for supplementary questions to be raised, while Belgium, France, Portugal and Switzerland are less open. In addition, Ayyangar and Jacob (2015:233), who studied Indian parliament, stress that this is the only period where internal rules are relaxed, and members are free from party oversight. This applies to both written and oral parliamentary questions wherein they are left to the discretion of the members of legislatures. Although the discussion highlights that this differs in every country, little is known about the effectiveness of the two "restricted *versus* unrestricted questioning".  It becomes the task of the researcher of this study

to further assess their effectiveness, in terms of which one is more effective than the other.

In the South African perspective, not enough literature exists. However, scholars such as Rapoo (2004) and Madue (2012; 2014) have studied questions as some of the tools of legislative oversight. For example, Madue (2014:869) indicates that while questions are high on the list of legislatures, they make little effect. This is consistent with Rapoo's (2004:12) findings that questions are less effective. More needs to be done as it seems that South African literature on the effectiveness of parliamentary questions is a bit scanty. The only consensus deduced from this discussion is that all democratic legislatures have question time at their disposal, and *in passing,* committees also utilise questions when engaging with the executive. However, the question remains whether or not questions are used for the relevant purpose, which is to hold the executive accountable or for political posturing and competition, among others. This further indicates the prevalence of challenges and constraints in oversight.

## 3.10   CHALLENGES AND CONSTRAINTS IN OVERSIGHT

Globally, challenges and constraints on the oversight role have been studied and acknowledged in the scholarship review discussed in this chapter (Aberbach, 2002; Stapenhurst & Pelizzo, 2002; Lewis & Coghill, 2005; Hudson & Wren, 2007; Rokvic & Ivanis, 2013). The challenges and constraints are universal, however, there is emphasis that most of the challenges are predominant in developing legislatures, which in recent times have been receiving support from international organisations such as the WBI. In the African continent, the challenges are studied by various scholars of legislative and related studies (Shenga, 2007; Alabi, 2009; Fashagba, 2009; Zvoma, 2010; Musavengana, 2012). For example, Zvoma (2010) alludes to the dominance of the executive over the legislature in the Zimbabwean parliament. In addition, the challenges and constraints have been recognised in the South African context (see Johnson & Nakamura, 1999; Rapoo, 2004; 2005; Johnson, 2005; Obiyo, 2013; Madue, 2014). Rapoo (2005) writes that legislatures in South Africa are faced with both macro level and micro level challenges. The two categories of challenges represent both systematic and internal management, respectively. The challenges and

constraints as discussed in this chapter under different themes and sub-themes are summarised.

- Oversight cannot be isolated from the political process. In most instances, oversight as a function is performed in supporting the aims of programmes and the executive, which unintendedly creates a dominant executive over the legislative branch of the state.
- Systems in most instances strengthen the executive at the peril of legislatures. In the Westminster inspired system, the executive is drawn from legislatures.
- Lack of political will and institutional consciousness; poor perceptions by and relations with civil society; lack of formal authority; inadequate access to information, and inadequately prepared legislators; lack of and inadequately trained staff; and ineffective organisation and facilities are dominant (Johnson & Nakamura, 1999:9-10).
- The executive's reluctance to provide responses to legislature's requests.
- Lack of active political opposition results in low participation, bench warming and absenteeism, contributing to the weaknesses of legislatures' committees.
- Lack of capacity and willingness to exercise powers due to political dynamics of strong and weak parties; and inadequate human, financial and infrastructural resources severely limit the capacity of legislatures (Musavengana, 2012).

From the foregoing, a generalisation is made that African legislatures are weak (Shenga, 2007; Alabi, 2009). This is because there is a lacuna in terms of studies focusing on the effectiveness of legislatures, in particular the effects of the oversight role and the perceptions persist. Hudson and Wren (2007:17) affirm that while legislatures as institutions lack capacity, legislators of developing countries are faced with skills, experience and education gap. The constraints limit legislatures in performing their oversight role effectively. As a result, it creates the over-dependence of legislatures on the executive (Rapoo, 2005:5). Fashagba (2009:452) stresses that legislatures have difficulty to get information when they want to work, and the executive becomes reluctant to provide such information. For legislatures to be independent, Lewis and Coghill (2005:62) reason that it may mean having parliamentary privileges, ability to control its own budget and differentiated staff from the rest of the public service. In addition, this study also emphasises the ability of

legislatures to generate their own information to bridge the gap on information asymmetries, which is the main defining aspect in the executive-legislative relations.

The discussions have, to a certain extent, highlighted that some of the challenges and constraints might be addressed only if legislatures partner with civil society and related organisations (Stapenhurst & Pelizzo, 2012:344). This has a particular connotation of alluding to the importance of participation in oversight.

## 3.11 PUBLIC INVOLVEMENT IN THE OVERSIGHT ROLE OF SOUTH AFRICAN LEGISLATURES

It is without a doubt that public participation is one of the cornerstones of the country's democracy. While it may have been recognised as a separate mandate of legislatures, public participation cuts across all the other mandates, including oversight. Rapoo (2004) writes that public hearings through committees when conducting oversight over the executive's performance are some of the oversight mechanisms, among others. Yamamoto (2007) adds that committee hearings are crucial instruments of oversight. Committees need to take government to the people in order to strengthen oversight (Burnell, 2002). It is for this reason that public participation or involvement cannot be divorced from the oversight role of legislatures. It is crucial for the study to examine public participation or involvement in the oversight role, considering that one of the research questions of the study is to determine the extent to which the public participate in the oversight role in order to promote transparency and accountability (see chapter 1, section 1.4). Section 59(1)(a) of the Constitution provide that the National Assembly *must* facilitate public involvement in the legislative and other processes of the Assembly and its committees; and (b) conduct its business in an open manner, and hold its sittings, and those of its committees in public. Similarly, this is applicable to the provincial legislatures as provided for in section 118(1)(a) and (b). This emphasises that public participation is obligatory for the legislative sector, and more importantly, the constitution underscores involvement, which is a different aspect from consultation in the public participation process.

Moreover, the Constitution highlights the role of committees in involving the public in the oversight and law-making processes of legislatures. This is supported by Jacobs and Jones (2009:15) that "the elements of legislative representative bodies such as

Parliamentary Committees play an important role in securing public legitimacy for the political systems". Committees of legislatures should provide the people with an opportunity to have a say in the spending of their resources (Le Roux, 2010). This should be done through the oversight and control of public expenditure by their elected representatives.  For example, in other parts of the world such as the Canadian parliament, centres on the idea of pre-budget consultation are initiated to promote participation (Tellier, 2014:193).

Over and above what has been discussed, most if not all legislatures use similar mechanisms or initiatives of public participation. This, amongst others, includes public education; public hearings; legislative excursions; petitions; co-operative with civil society organisations; people's assemblies and/or sector parliaments; and use of constituency officers. There is little or no evidence of the effectiveness of these mechanisms in fostering effective oversight. Obiyo (2013:110) states that "depending on the programme of the legislature MPLs would either go to the communities or invite citizens to parliament, however, these programmes are narrow, swallow, sporadic and haphazard". In the Gauteng Legislature, studies were conducted which discovered that public participation requires special attention.  For example, Rapoo (2004) in a study on the effectiveness of oversight tools, discovered that both public and budget hearings, and petitions are less effective. The same thing applies to other provinces like Mpumalanga Provincial Legislature. This is important despite the limitations that this study may entail as noted in the literature review. However, it is important to note that it is not the intention of this study to examine the effectiveness of the mechanisms, yet it is concerned with the extent of public participation in the oversight role of the legislatures to promote transparency and accountability in managing public resources and conducting public affairs.

## 3.12   SYNTHESIS

The literature review revealed the existence of scholarship on oversight. Studies have been done on what legislative oversight is, its purpose, role, objectives and its tools. Although the concept of "oversight" has been extensively defined, there is still no common definition of oversight. Most scholars define oversight as an event that takes place after the implementation of programmes. It is one of the reasons that legislative

oversight is censured for being reactive, and unable to deal with emerging challenges, opportunities and emergencies. For the purposes of this study, the purpose and objectives of oversight have been outlined and there is a consensus on the aspects. In the scholarship reviewed, the purpose and objectives have been outlined (Zvoma, 2010; Simmons, 2012). The literature review also revealed the challenges associated with oversight that in turn hinder effective oversight. Amongst the challenges is the perceived dominance by the executive and lack of independence by legislatures.

There appears to be enough evidence that legislatures of most democratic countries utilise common tools of oversight. Surveys by the WBI, and different scholars have studied the potential of oversight by assessing the number of tools utilised by those legislatures. Although there is little evidence on the effectiveness of oversight tools, the study acknowledges a survey by Rapoo (2004) on the effectiveness of methods and techniques utilised by legislatures in South Africa. Literature review suggests that oversight is dependent on various factors, including but not limited to capacity, the independence of legislatures and available resources. The literature reviewed indicates that there is a gap with regard to studies on the impact or effect of legislative oversight in general, and particularly in the South African context. Therefore, this study seeks to examine the effects that oversight might have in the promotion of transparency and accountability as well as public involvement in overseeing the performance of the executive.

## 3.13   CONCLUSION

This chapter presented the literature review which has informed this study. The review has discussed the oversight role of legislatures, and its ability and capacity to hold the executive accountable. This started with the conceptualisation and contextualisation of oversight. The concept 'oversight' was discussed in order to understand its meaning in the context of this study, and to formulate a working definition in order to lay grounds for further discussions. The discussions have paved the way to the role and importance of the oversight role of legislatures. Noteworthy, the executive-legislative relations in the parliamentary system, which is central in the contention of the study, have been discussed.

In addition, the chapter discussed the conditions, political will and incentives of oversight. The discussions were followed by the deliberations about oversight tools. The chapter also provided synthesis of the literature reviewed to identify gaps in order to further make contribution in the body of knowledge. Furthermore, it laid the foundation and paved the way for the chapters to follow. The following chapter provides the institutional framework, performance management and public participation in the promotion of transparency and accountability. It concludes the theoretical chapters of the study, which are an important foundation to base the findings of the empirical study conducted in the Gauteng Legislature.

# CHAPTER 4

# THE INSTITUTIONAL FRAMEWORK, PERFORMANCE MANAGEMENT AND PUBLIC PARTICIPATION IN PROMOTING TRANSPARENCY AND ACCOUNTABILITY

## 4.1 INTRODUCTION

In 1994 South Africa experienced the birth of a new democratic dispensation, which ushered a newly democratically elected government. This brought change in the country, followed by the introduction of the new Constitution of the Republic of South Africa, 1996 to replace the interim Constitution of 1993. The Constitution of 1996 introduced, among others, peace, human rights, and in relation to the study, structures of government and factors governing the structures of government i.e. relationship between the structures in terms of cooperation, powers and functions. As discussed in chapter 2 of this study under the separation of powers, these structures include, among others, the legislature, the executive and the judiciary, with each entrusted with a responsibility to contribute to the functioning of the country's democracy. The advent of democracy in South Africa did not only bring changes, but also hope and promises to the populace, in particular the majority of the people who were previously disadvantaged or segregated by the apartheid government.

The democratic government of South Africa, which has been entrusted with the responsibility of governing public affairs and managing public resources, has been grappling with the reality of meeting the unlimited needs of the people with limited resources. Resource scarcity *vis-à-vis* unlimited needs has been the common denominator in the challenges facing the government of the day. On the one hand, the government has to do with the little it has to ensure that goods and services are delivered to the people. This is the first impression in the reality of the challenges that the government face. On the other hand, the government should ensure that goods and services that are delivered meet the expectations of the people. This is a rather intricate responsibility as it raises questions of accountability, which is discussed in

this chapter as one of the principles of good governance. There should be accountability for goods and services delivered but not meeting the expectations of the people. The constitution in this instance entrenches checks and balances, which are between those who are entrusted with the responsibility of delivering services, and those who are empowered with the obligation of holding them to account for their actions or inactions. This alludes to the focal point of the study, which is the oversight role of the legislature in holding the executive to account for its performance.

The previous chapters outlined systems of governance and theoretical underpinnings in order to define relations between the executive and the legislative branch. The chapters also reviewed the existing literature on the oversight role of the legislature, including the conceptualisation of oversight, tools of oversight and challenges. This chapter outlines the institutional framework, provincial government structures, and powers and functions. In addition, the chapter discusses governance and good governance by paying attention to transparency and accountability. It further studies performance management and public participation regarding their contribution in promoting transparency and accountability, and in general to good governance.

The first section of the chapter focuses on the provincial government structures, powers and functions. This basically outlines the structures, powers and functions of both the provincial legislature and the provincial executive. The second section discusses the concepts of governance and good governance in the context of the study, paying attention to transparency and accountability. The third section addresses performance, which includes performance management and performance measurement. This is followed by public participation in relation to the study. Lastly, the chapter outlines reporting frameworks and legislation. As a premise, the chapter outlines the overview of government. In a nutshell, this encapsulates what government is and what it is not within the context of this study.

## 4.2 OVERVIEW OF GOVERNMENT

It is important to note that every country, whether democratic or not, has its own government (Department of Public Service and Administration, 2003). This is fundamental to underscore before one may discuss what government is or is not because the study puts emphasis on the significance of government in a country. Yet,

the discussion mainly focuses on government in democratic countries, in particular the South African government as the focal point of the study. Keman (2011:1) states that government "… is a set of institutions and concerns a body of actors, which define how and to what extent the public affairs within society are shaped and directed". This provides the context and foundation of what should be expected in alluding to government, and further outlines its complexity as it speaks to a set of institutions and a number of actors that are involved. The Department of Public Service and Administration (DPSA) (2003) cites the same connotation of government and in the process, outlines institutions and bodies responsible for governing in the South African context. Such bodies and institutions predominantly denote to the political executive, namely the president and his cabinet nationally, and premiers and executive councils provincially.

In terms of the separation of powers discussed in chapter 2 of this study, the bodies and institutions as outlined by the DPSA suggest that government mainly refers to the executive branch of state, to the exclusion of the legislative and judicial branches. Venter (2011:83) argues that for this reason "government is often a source of confusion".  For the purposes of this study, the author takes into account the common usage of government, which refers to any section of the state, the legislative, the executive and the judiciary. The meaning is not encouraged to define the concept government in public administration as a field of study and practice. Cloete (2009:57) agrees with the DPSA and Venter (2001; 2011) that "…government usually refers to the individual or individuals who have been appointed or elected to see that law passed by a legislature are implemented", and this particularly refers to the political executive discussed above, which differs from the administrative executive. It is, however, important to note that the political executive, *inter alia,* the president and the cabinet at the national level, premier and executive councils provincially who are the head of the administrative executive, among others, the civil service and departments.

The two references, political executive and administrative/bureaucratic executive are ways in which government is structured. The discussion alludes to the structure of government, which is deemed important in the study as it demarcates what government is or is not, particularly taking into account the scope of the study focusing on government departments headed by Members of the Executive Council (MECs) outlined in chapter 1 of the study. Hughes (1994) argues that in the past (a decade

before democracy), the discourse on government was mainly concerned with size. This argument was aimed at pushing a shift from size to the discourse about the role of government. However, it still acknowledges that size remains important considering the discussion on the structures of the executive and its functions. Keman (2011:4) who alludes "to the executive as the irreducible core of government provides a functional approach to define government, with its functions outlined as follows:

- Managing government, i.e. running the state and its affairs;
- Ruling and regulating public affairs according to constitutional rules and conventions (rule of law);
- Making decisions about the directions of policy-formation i.e. political choice; and
- Exerting (political) leadership both as to mobilise popular support as to gain legitimacy".

Based on the functions outlined above, more is placed in the shoulders of government to ensure that the needs of the people are reflected in its policies. It also entails that the executive sphere, which is referred to as the nucleus of government, has a task to develop and implement policy of the state through its structures (Hicks, Daniel, Buccus & Venter, 2011:44). The authors argue that as outlined in the discussion, the formal structure of the executive is hierarchical as entrenched in the constitution. The example provided is of the national government which chronologically includes the president, the deputy president, cabinet ministers and deputy ministers responsible for government departments. It is important to note that "the executive (in reference to the political executive) is parliamentary, and dependent on the confidence of a majority in the National Assembly" (Venter, 2001:66). As discussed in chapter 2 of the study, this alludes to how the Westminster parliamentary form of government adopted in the country functions, that the executive owes its existence to parliament's majority. As a result, it also alludes to how the executive is established and mandated. Furthermore, it is the purpose of this chapter, in line with the contention of the study, to focus on provincial government structures, and in the main, powers and functions, which are outlined below.

## 4.3 THE SOUTH AFRICAN PROVINCIAL GOVERNMENT

According to the DPSA (2003), the advent of democracy in 1994, through the general elections, gave birth to, among others, nine provinces. The demarcation of South Africa was a move that saw the former homelands being integrated into the nine provinces. These provinces include Gauteng, Limpopo, North West, Mpumalanga, Eastern Cape and Kwazulu Natal, amongst others. Besdziek and Holtzhausen (2011:103) argue that the history of the provinces is a result of constitutional negotiations, which led to the promulgation of the new constitutional dispensation that brought change to the country's political setting. The constitutional negotiations took place in the period 1992 to 1994, and took into consideration the emergence of the new provinces. Rapoo (2000:90) asserts that "during the negotiations South Africa was to allocate constitutional power and authority equitably between the spheres of government to prevent concentration of power at the centre". Put differently, the aim was to decentralise constitutional power and authority from the central government to the nine provinces, and the devolution was expected to countervail the power of the central government. This was an attempt to demarcate the powers and functions of the provinces. Based on international experiences, the emphasis was that strong regions were necessary to dilute the powers of the central government so as to "facilitate the national and equitable distribution of development resources and ensure a greater participation in the democratic process" (Besdziek & Holtzhausen, 2011:103).

Despite the ideals pertaining to the devolution of powers and the constitutional underpinnings that aim to ensure equality and provincial authority, the national and provincial spheres of government enjoy unequal political status (Rapoo, 2000:92). The example provided is that of section 100 of the Constitution, which empowers the national government to supervise and intervene in provincial affairs when provinces fail to fulfil the executive obligation as vested in the constitution. Section 125(2) of the Constitution outlines "the provincial executive powers as follows:

- Implementing provincial legislation in the province;
- Implementing all national legislation within the functional areas listed in Schedule 4 or 5 except where the constitution of an act of parliament provides otherwise;

- Administering in the province, national legislation outside the functional areas listed in Schedules 4 and 5, the administration of which has been assigned to the provincial executive in terms of the act of parliament;

- Developing and implementing provincial policy;

- Co-ordinating the functions of the provincial administration and its departments;

- Preparing and initiating provincial legislation; and

- Performing any other function assigned to the provincial executive in terms of the constitution or an act of parliament".

Rapoo (2005:17) argues that by allocating powers to provinces during the constitutional negotiations, policy makers did not mean to take away the central government's overall authority, but to ensure that the provinces have meaningful powers. This was only to ensure that provinces function as legitimate democratic governments. On the contrary, this could have meant that the existence of provinces would be continuously questioned. Regardless, the role of provinces continues to be under scrutiny, with calls for reducing the number of provinces, among others. Maloka (2000:107) regards the establishment of the nine provinces as an achievement for the democratic dispensation in South Africa as this brings services to the proximity of the people. For this reason, the study acknowledges the role of provinces, in particular by paying attention to the provincial structures i.e. the legislature and the executive.

### 4.3.1  Provincial constitutional structures and functions

In terms of section 104 of the Constitution, the legislative authority of the province is in the legislature, which has the powers to make laws. It is the elected structure of the province consisting of members representing political parties that participated during elections and voted through the electoral system in the country (Besdziek & Holtzhausen, 2011:104). As discussed in chapter 2 of the study, the electoral system espoused is proportional representation. The provincial legislature consists of 30 to 80 members for a period of five years and, in terms section 111 (1) of the Constitution, elects the speaker and deputy speaker in the first sitting after the national and provincial elections. Section 114(1 & 2) of the Constitution outlines the powers of the legislature to hold the executive and any other organ of the state to account, to exercise its law-making powers, and to consider and pass bills into law. Section 115

of the Constitution empowers the provincial legislature or any of its committees that it may: summon any person to appear before it to give evidence on oath or affirmation, or to produce documents; require any person or provincial institution to report to it; compel, in terms of provincial legislation or the rules and orders, any other person or institution to comply with a summons or requirement in terms of the constitution; and receive petitions, representations or submissions from any other interested persons or institutions.

Maloka (2000:112) argues that committees are important structures in provincial legislatures to hold the executive to account, in particular referring to them "as the backbone or the engine room of any parliamentary system". As discussed in chapter 2 of the study, in a parliamentary form of government, the executive is dependent on the confidence of the majority in the legislature. In other words, the executive is appointed or elected from the majority political party in the provincial legislature. Venter and Landsberg (2011:52) assert that in line with section 4.2 as discussed, each of the nine provinces has executive functions that mirror the national executive structure. The provincial executive function consists of the premier and MECs, who are responsible for departments. In the first sitting wherein the speaker is elected, the premier is also elected, who in turn, appoints MECs to head provincial departments from among the Members of the Provincial Legislature (MPLs). According to the DPSA (2003), the MECs become part of a provincial executive council. As discussed, the structure of the provincial executive is outlined as follows:

Figure 4.1: Provincial Executive Structure
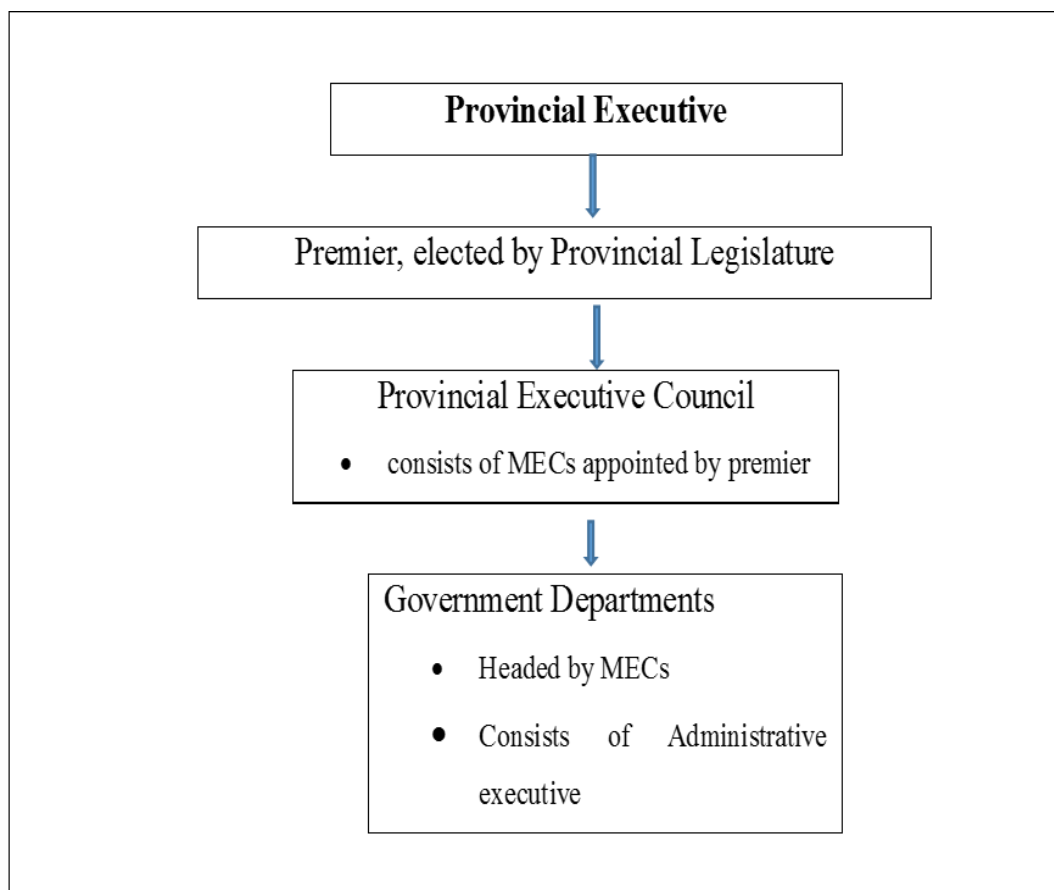
Source: author's adaptation of the information discussed above.

Based on the figure above, the premier is the executive authority of the province, and is assisted by the provincial executive council, or MECs, who deliver the functions and duties apportioned to them. Accordingly, the premier and the executive council "…*are individually and collectively accountable to the provincial legislature and the public for the performance of the functions assigned to them by the legislature*" (DPSA, 2003:18). The provincial governments are entrusted with large budgets to implement policies and to deliver on policy programmes. This becomes the responsibility of government departments headed by MECs and consisting of the administrative executive. In order to implement policies and to deliver policy programmes, government departments have established semi-autonomous structures i.e. agencies and entities or other executive structures. These policies and programmes are outlined in schedule 4 and 5 of the Constitution as functional areas of exclusive provincial legislative competence, and are concurrent with the central or national government.

Table 4.1: Government Functions

| Schedule 5 – Functional Areas of Exclusive Provincial Legislative Competence | Schedule 4 – Functional Areas of Concurrent National and Provincial Legislative Competence |
|---|---|
| <ul><li>Abattoirs</li><li>Ambulance services</li><li>Archives other than national archives</li><li>Libraries other than national libraries</li><li>Liquor licences</li><li>Museums other than national</li><li>museums</li><li>Provincial planning</li><li>Provincial cultural matters</li><li>Provincial recreation and amenities</li><li>Provincial sport</li><li>Provincial roads and traffic</li><li>Veterinary services, excluding regulation of the profession</li></ul> | <ul><li>Administration of indigenous forests</li><li>Agriculture</li><li>Airports other than international and national airports</li><li>Animal control and diseases</li><li>Casinos, racing, gambling and wagering, excluding lotteries and sports pools</li><li>Consumer protection</li><li>Cultural matters</li><li>Disaster management</li><li>Education at all levels, excluding tertiary education</li><li>Environment</li><li>Health services</li><li>Housing</li><li>Indigenous law and customary law, subject to Chapter 12 of the Constitution</li><li>Industrial promotion</li><li>Language policy and the regulation of official languages to the extent that the provisions of section 6 of the Constitution expressly confer upon the provincial legislatures legislative competence</li><li>Media services directly controlled or provided by the provincial government, subject to section 192</li><li>Nature conservation, excluding national parks, national botanical gardens and marine resources</li><li>Police to the extent that the provisions of Chapter 11 of the Constitution confer upon the provincial legislatures legislative competence</li><li>Pollution control</li><li>Population development</li><li>Property transfer fees</li><li>Provincial public enterprises in respect of the functional areas in this Schedule and Schedule 5</li><li>Public transport</li><li>Public works only in respect of the needs of provincial government departments<br>Regional planning and development</li><li>Road traffic regulation</li><li>Soil conservation</li><li>Tourism</li><li>Trade</li><li>Traditional leadership, subject to Chapter 12 of the Constitution<br>Urban and rural development</li><li>Vehicle licensing</li><li>Welfare services</li></ul> |

Source: schedule 4 and 5 of the constitution of the republic of South Africa, 1996 (106 of 1996).

The above indicates that the provincial executive has a vast number of policies and policy programmes formulated in both national and provincial level that it has to coordinate and implement. The provincial executive also has a role to ensure that the local sphere of government implement such policies and policy programmes as required or prescribed in the Constitution. In a nutshell, according to *section C of the*

*white paper on local government* (2000), the provincial government has an important role to play, including a fiscal role; a monitoring role; an intervention role; an institutional development and capacity building role; a regulatory role; an intergovernmental role; a development role; and a strategic role, among others. Rapoo (2000:100) states that despite the powers and functions entrenched in the Constitution, "…*in practice many of the provinces have struggled to establish themselves in respect of their institutional character, particularly in the context of weak administrative capacity and inadequate fiscal resources to determine their own development priorities and develop their own socio-economic agendas as constitutional autonomous governments".* He writes that governance institutions of all provinces have been in existence; however, there have been a struggle on provincial legislatures to demarcate its roles in the whole provincial government system to ensure that they promote good governance, in particular executive transparency and accountability.

## 4.4 GOVERNANCE AND GOOD GOVERNANCE

The aim of this study is to explore the effects of the oversight role of legislatures in promoting good governance (See chapter 1, section 1.3). This makes it critical to discuss good governance as a concept in the context of this study. It is, however, noted that most literature on good governance starts with the concept of governance (Maserumule, 2011:267). Mwanza, Mwitwa and Mukunto (2014:84) argue that good governance emerges from the term governance. Folscher (2006:135) defines governance as "… the exercise of political, economic and administrative authority in the management of a country's affairs at all levels". In addition, Li (2014) in the article titled "*multiple trajectories and good governance in Asia: an introduction',* argues that regardless of the widespread acceptance of the concept governance, its definition remains broad. Taking into consideration the enormity of existing literature on the concept, governance continues to mean various things to diverse people. This ambiguity and broadness creates a challenge in this study, yet it will be important to navigate to a situation where a common denominator is discovered.

Hudson and Wren (2007:12) assert that governance refers to "… the system of actors, processes and rules through which decisions are made and authority is exercised in

a society".  There is a commonality between this description with the one provided earlier by Coston (1998:481) that "… governance represents how things get done; this is, the way in which any social unit- from an entire society to the smallest association – organises itself to make collective decisions, to promote shared interest, or solve common problems". Mubangizi (2012:307) states that governance means "… the process of decision-making and the process by which decisions are implemented or not". These definitions underscore that governance is about decisions made or to be made in the systems and processes to the benefits of society.  In the context of this study, this is crucial. However, the main focus remains good governance. Maserumule (2011:264) argues that although some authors use governance and good governance interchangeably in their scholarship exposition, the two could be mistaken for being synonyms. Good governance receives thorough attention in this discussion whereas *en passant* recognising similar or related concepts.

While acknowledging the definition of governance as discussed above, a new concept is thrown into the mix, 'good government'. Perry (2014) with guest editors (de Graaf, van der Wal & van Montfort) in the editorial note of the Public Administration Review titled '*Returning to our roots: good government evolves to good governance',* emphasises the earlier existence of good government in the twentieth century. Good government denotes the good of the people committed to the advancement and effectiveness of public institutions, and in this case, legislatures. On a different note, Basheka and Sebola (2015) in their article titled '*Good government in Africa: what is the role of bureaucratic governance?*' utilise good government and good governance in the same discussion, suggesting that these concepts represent the same thing or they are synonymous. They argue that good government is supposed to be democratic, amongst others. Conversely, good governance is said to be vital for democracy or its realisation (Hudson & Wren, 2007; Walker, 2007). The authors write that it requires state capability, accountability and responsiveness. Apart from what is regarded as a paradigm shift from good government to good governance, somewhat contradicting the use of the two concepts interchangeably, the concept of good government will not be discussed further, to keep an eye on the ball - 'good governance'. The study, however, concedes that the two concepts are important and related as they both recognise the importance of democracy in their exposition.

Similar to governance, Mubangizi (2012:307) asserts that good governance as popularly utilised is confronted with complexities in its conceptualisation. Maserumule (2011:8) refers to this quandary as 'a conceptual *problematique'.* It is argued that this relates to the connotations of 'good governance' as it means different things to different people. Perhaps this is also related to how it was popularly conceptualised. Horton (2012) studies whether *World Bank 'good governance' is good for the poor,* by revising the history of the adoption of good governance which has over the years opened it to criticism. The term 'good governance' emerges from the context of development and developing countries. The term was emphasised in the World Bank sub-Saharan Africa Report 1989, which is referred to as a second generation of condition for such countries (sub-Saharan African countries) to receive aid. The World Bank stresses accountability, transparency and legal frameworks in its general definition of good governance in the Sub-Saharan report. Perry (2014:27) argues that "… as the traditional institutions of government no longer define 'what works' and 'what is right', questions about the quality of governance automatically return to the centre of public and academic attention". This study also attempts to answer questions about the definition of good governance, and it is important to outline how other scholars define and give context to the concept.

It is important to note that in the literature studied, participation, transparency, accountability, the rule of law and equity, among others, are said to be attributes of good governance. For example, Mwanza *et al.* (2014:82) refer to good governance as "… the accountability and transparency of the government to its citizens and the general participation of the citizens in the government process". This definition is related to the contention of this study as discussed in chapter 1, in which good governance is studied in the context of accountability, transparency and public participation. Emerging from governance as it said, good governance relates to "effective problem solving, decision making or the efficient allocation and management of public resources" (Coston, 1998). These definitions underscore accountability and transparency which are important facets in the contention of this study. Furthermore, one will also note the involvement of the people, which features prominently. Participation, accountability and transparency are in fact among the attributes of good governance, including the following:

- widespread participation;

- ensuring transparency in the actions of governance institutions;

- ensuring equity in the treatment of the people; making decisions by the rule of law;

- being responsive to the needs and desires of the people;

- public accountability and the exercise of strategic vision in planning for development; and

- effectiveness and efficiency in the use of public resources (Graham, Amos & Plumptree, 2003; Mwanza *et al.*, 2014).

These characteristics are significant in the context of this study. Yet the study focuses on accountability and transparency as well as involvement of the public in governance. This will assist in exploring the effects of oversight in good governance. With this in mind, Folscher (2006:135) is of the opinion that good governance "… may be thought of as a system in which the exercise of authority is set up so that power is divided constructively across the institutions of society and is prevented from been usurped by a singular institution, thereby minimising the risk of it being abused". This is crucial as it speaks to the separation of powers between the executive and legislative branch, and thus, *oversight* as the focal point of this study.

Abellera (2011:296) states that the concept of good governance places legislatures at the centre of governance discourse as it stresses a capable, accountable and responsive state. This point makes oversight important in the promotion of good governance. Good governance also recognises institutional monitoring as important and in need of thorough attention (Head, 2012:8). Oversight is significant in holding the executive to account for the utilisation and management of public resources. This is consistent with the definitions of good governance. However, Johnson (2005) argues that instead of promoting accountability, responsiveness and state capability, legislatures are mere rubber stampers, and thus, "…approving the executive's plans and doing little to deliver good governance". Hudson and Wren (2007:14) assert that:

> "…*there have been few systematic efforts to assess and compare parliamentary performance and the contribution of parliaments to delivering good governance. But the evidence suggests that whereas parliament could make an important contribution to good governance, in practice – in most*

*developing countries – and, it might be added in many developed countries - parliaments are ineffective".*

The foregoing is important in the quest to explore the effects of oversight on good governance; yet it may be noted that this might be a dangerous generalisation at this stage as little has been done about the impact of the oversight role of legislatures in the South African context as discussed in chapter 3. Abellera (2011:294) argues that independent legislatures have the ability to hold the executive accountable. This is an important part of good governance. The author, however, emphasises that the degree to which legislatures promote good governance is presently being debated. This pertains to the role of the legislature in holding the executive accountable. Thus, in relation to the study, accountability is discussed below as one of the attributes of good governance.

### 4.4.1  The concept of accountability

As a premise in the discussion of accountability in the public sector (public accountability), it is important to understand what the concept "accountability" means, as defined by various scholars and applied in public administration. Cloete (1991:1) states that accountability means that "… a person should conduct himself in a responsible way, i.e. respect the value of everything with which he comes into contact, as well as those things which are of value to others". The author has provided a general description of what the concept means, and this is not specifically applicable to public administration. It is, however, noted that the same author later defined accountability as "…the duty to answer and report to a higher authority, functionary or institution on the results obtained in the performance of one or more specific functions" (Cloete, 1995:3). This is specific and applicable to public administration. The author also alludes to the fact that to give account on the conduct of government is a requirement prescribed by statute or other institutions such the legislature, which have constitutional obligations.

Kernaghan and Langford (1990:60) in Mafunisa (2002) define accountability as "… the obligation to answer for the fulfilment of assigned and accepted duties within the framework of authority and resources provided". The definition is similar to the one provided by Mwanza *et al.* (2014:83), who assert that accountability is the obligation

of power holders to take responsibility for their actions. Accountability serves as an instrument of monitoring the use of power by those who have been *delegated* the responsibility, and in turn ensure that government effectively carry its day to day function. The definitions outlined have referred to accountability as obligation and responsibility. However, Fox and Meyer (1995:1) have earlier taken it further to include commitment. The authors define accountability as: the responsibility of a government and its agents towards the public to realise previously set objectives; commitment required from a public official to accept public responsibility for his or her action; and the obligation that a subordinate has to keep his or her superior informed of the execution of duties. This represents a complete definition of accountability.

Furthermore, Romzek (2000:22) states that accountability "…is understood as answerability for performance". This is a much-simplified version of the definition of accountability, and takes into account the definition provided by Fox and Meyer (1995), it exemplifies that accountability can be utilised in different levels for various objectives. This also entails that accountability is a broad term comprising various connotations and applications (Callamard, 2010), and hence for the purpose of the study, it is important to discuss its significance.

### 4.4.1.1 Merits of accountability

Accountability as an important element of good governance has been underscored in the above discussion on governance and good governance. It is asserted that further to accountability as a cornerstone to good governance is that modern democracies are characterised by accountable government (Callamard, 2010; Theletsane, 2014). This puts emphasis on the importance of accountability, which is particularly referred to as a hallmark of democratic governance (Shkabatur, 2012:82). The author suggests that the absence of accountability may place doubt on the nature and function of a democracy. In other words, administrative agencies or those responsible for managing public resources should be accountable for such activities. Halachmi and Greiling (2013:566) state that "… democracy remains a paper procedure if those in power cannot be held accountable in public for their acts and omissions, their decisions, their policies, or their expenditures". Accountability is crucial, hence in relation to the study, holding those who are in power accountable places the responsibility on legislatures.

McEldowney (2008:8) *is of the view that accountable governance is crucial to weigh the significance of parliamentary oversight. It alludes that parliamentary oversight should be assessed based on how best the administrative agencies are held accountable.* Helachmi (2011) in Halachmi and Greiling (2013:566) writes that the whole notion of accountability is reciprocal as it depends on power relations between legislatures as the body requesting for accounting and administrative agencies as the party required to account. It is however argued that theoretically, three conditions must be fulfilled to justify the existence of accountability, including the following:

- "First, the party requesting the accounting can affect when and how the account is provided. This should include the venue, avenue and timeframes;
- Second, there are real, as different from symbolic, consequences for any failure to comply with said request; and
- Third, the content or substance of the account can be used by requesting party as a justification for action that would influence the future status of performance of the party that is asked to give the account" (Halachmi & Greiling, 2013:566).

These are important theoretical aspects that guide one towards attaining accountability. They spell out that legislatures should be in position to take responsibility to ensure that administrative agencies account for their activities (McEldowney, 2008). The above aspects also suggest that while accountability is dependent on the power relations between two parties, it should be the initiative of legislatures as the responsible body to hold the executive accountable. Moreover, having discussed the importance of accountability and related conditions that need to be satisfied to suggest the existence of accountability, there is a need to discuss some of the crucial characteristics and components of accountability.

### 4.4.1.2    Characteristics and components of accountability

The extent to which public office holders are held accountable is important in an attempt to effectively and efficiently meet the unlimited needs and wants of the citizens (Ijeoma & Sambumbu, 2013:282). Accountability ensures that the limited resources of government are well managed to meet the service delivery requirements of the people. Schillemans (2008) in Ijeoma and Sambumbu (2013) argue that accountability in the public sector is gaining more recognition as one of the main determining factors of

effective government performance. This assertion entails that for the government to perform effectively, it should be held to account for its activities. Theletsane (2014:151) agrees that accountability continues to be a channel to hold those in power accountable for their actions in managing public resources. However, over the years, there have been varied ways of realising accountability; hence it is important to discuss some of its common characteristics and its components.

Callamard (2010:1213) states that "… regardless of the definition of accountability adopted, there are a number of characteristics beyond discussion. Accountability requires duty bearers and duty holders, a reporting process, a common understanding of what needs to be reported on or against, and consequences for the actions". This justifies the existence of accountability, yet in a situation where a request to account can be ignored in one way or another, accountability does not exist, and it is similar with regard to the lack of consequences from the account provided or lack of account (Halachmi & Greiling, 2013:566). This in part puts emphasis on the reciprocity of accountability. The foregoing is underscored by some of the elements of accountability, which involves: a responsibility conferred; an obligation to report back on the discharge of that responsibility; optional monitoring to ensure accountability; and possible sanctions for non-performance (Kernaghan & Langford, 1990:60 in Mafunisa, 2002).

In addition, Shkabatur (2012:82) writes that there are two components of accountability: explanatory obligation and a punitive component. These components entail the explanation and justification of the exercise of powers apportioned, and related ways for sanctions if there is abuse of such powers (Quinlivan, Nowak & Klass, 2014: 207). There are commonalities in the attributes of accountability presented and more clarity on what accountability means; thus, there is a need to discuss accountability in relation to the South African context.

### 4.4.1.3 Accountability in the South African public sector

Accountability in public administration is considered to be a cardinal aspect; therefore, it needs to be promoted. In the South African context, accountability is emphasised through the separation of the judicial, legislative and executive powers. Accountability is fundamental to the optimal operation of the government. Section 114(2)(a)&(b) of

the Constitution charges the provincial legislature with the responsibility of providing mechanisms to ensure that all provincial executive organs of state in the province are accountable, and of maintaining oversight of the exercise of provincial executive authority in the province, including the implementation of legislation. Section 55(2) of the Constitution apportions powers to the national parliament or assembly to perform such functions related to holding the executive to account. It is asserted that committees in the legislature such as the Standing Committee on Public Accounts (SCOPA) and other Portfolio Committees fulfil this function. Committees play a role in promoting accountability of government in the provision of goods and services to the public (McEldowney, 2008:75).

Accountability is an important mechanism for the provision of service delivery in the current democratic South Africa. It should enhance and entrench democracy in the country (Shkabatur, 2012). These are the main reasons for the South African government to have been explicit about accountability as one of dominant basic values and principles that govern public administration. In Section 195 (1)(f) of the Constitution, accountability is highlighted as one of the basic values and principles that govern public administration, and its attributes further appears on the others. The basic values and principles are outlined below.

- A high standard of professional ethics should be promoted and maintained
- Efficient, economic and effective use of resources should be promoted
- Public Administration should be development oriented
- Services should be provided impartially, fairly, equitably and without bias
- People's needs should be responded to, and the public should be encouraged to participate in policy making.
- Public Administration should be held accountable
- Transparency should be fostered by providing the public with regular, accessible and accountable information
- Good human resource management and career development practices, to maximise human potential, should be the norm.
- Public Administration should be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past

to achieve broad representation (Constitution of the Republic of South Africa, 1996).

These basic values and principles outlines how public administration should function in a normal setting. Hence, other than accountability being categorised as one of the basic values and principles governing public administration, the other values and principles allude to responsibility, commitment and obligation which are some of the defining facets of accountability in considering the definition by Fox and Meyer (1995). It could be argued that the values and principles are crucial in promoting accountability, and they should be pivotal in this study. Furthermore, among the values and principles, transparency is outlined. Halachmi and Greiling (2013) argues that there is a relation between transparency and accountability as increased transparency may lead to greater accountability. Thus, the next section discusses transparency in relation to the study, and it should also provide an opportunity to discuss the relationship between transparency and accountability.

### 4.4.2 The concept of transparency

Michener (2015:184) argues that while transparency has become a *sine qua non* of good governance, it is an ambiguous multidimensional concept. This is to acknowledge the importance of the notion of transparency, yet noting its complexity. Apart from a lack of consensus on the clarification of the concept transparency, there is no well-founded international standards (Callamard, 2010). It is important at this stage to attempt to grasp the meaning of transparency in the context of this study. This is to endeavour to find a common understanding of what transparency means. Callamard (2010:1220) states that "… the Non-Governmental Organisation (NGO) Transparency International has defined transparency as a principle that allows those affected by administrative decisions, business transactions or charitable work to know not only the basic facts and figures but also the mechanisms and processes". This is a general definition, yet it sets the tone in terms of what it is expected with regard to transparency, which alludes to open government.

Mwanza *et al.* (2014:83) attempt to set a premise of transparency in the public sector. The authors assert that "… transparency is premised upon the free flow of information, processes, institutions and information must be made available to any person

concerned with it and sufficient information must be provided for one to be able to make informed choices and to scrutinise government actions". This is succinct as it outlines clearly the purpose of the information that is available and accessible. Kolstad and Wiig (2009:522) in their simplified version of the definition of transparency, assert that more precise, timely and reliable information should be available and accessible to the public and to all relevant stakeholders. This is crucial as it emphasises, among others, what kind of available information and to whom it must be accessible to, which somehow completes the description of transparency. In addition, Mathebula (2015:68) states that "… transparency comprises the access and comprehension of information by the public than more active disclosure". This is more or less the same with the above definitions. However, it adds that accessible information should be easily understandable to the public or relevant stakeholders.

The definitions of transparency outlined in this section provide clarity on what transparency means and represents. There are similarities on the definitions as they allude to availability, accessibility and dependability of the information to all relevant stakeholders. Callamard (2010:1220) stresses that availability and openness of information are commonalities in the definitions of transparency. The author writes that stakeholders should be able to access information of public interest held by those who have been delegated the responsibility to perform certain duties on their behalf. It does not end here, as the information accessed should be utilised for specific purpose or purposes, including as Mwanza *et al.* (2014:83) argue, that it is to scrutinise government actions among others. This alludes to the role and importance of transparency, which is a point of discussion in the next section.

### 4.4.2.1    The role of transparency

Generally, transparency is an important element of good governance (Kolstad & Wiig, 2009:522). This underscores the contention of the study where the focus is mainly on transparency and accountability as components of good governance. Ijeoma and Sambumbu (2013:284) argue that the concepts of transparency and accountability are related as in an attempt to attain accountability in the modern public sector, transparency is a crucial precondition. The concepts, however, should not be misconstrued as synonyms. On the one hand, government as a body who is

responsible for managing public resources must be more open and transparent when conducting its activities. On the other hand, when the oversight bodies such as legislatures utilise the information made available by governments to hold those responsible for managing public resources accountable, it is when transparency leads to accountability (Van Zyl, 2014:347). Moreover, Aktan and Ozler (2008) in Mwanza *et al.* (2014:83) spell out that "… information obtained through transparency serves as a tool for measuring state effectiveness and also as a protective mechanism from the potential arbitrary use of power". This stresses the role and importance of transparency in the public sector organisations.

Kolstad and Wiig (2009:526) state that there is a list of areas where transparency may be essential, and these include public expenditures and revenues; public procurement, awarding of contracts and licenses; awarding of positions and promotions in the public sector; regulation and facilitation of private sector activities; and ownership interests of public officials. This is not comprehensive; however, it alludes that government should be transparent in the performance of its functions. Mathebula (2015:68) writes that the stakeholders should be able to see the performance of the activities of government. For example, Callamard (2010:1220) asserts that relevant laws and regulations should be made available to the public, and relevant stakeholders should be kept up-to-date about any changes among others. This is a crucial role of transparency. Having discussed the importance of transparency, it is crucial to understand how to go about to attain maximal and all-encompassing transparency.

4.4.2.2    Complexities of transparency

Kanyane (2006:313) writes that maximal transparency should be evaluated by the degree to which the public are knowledgeable about the activities of individual government departments. This is essential, although it underlines the complexities of transparency. It suggests that transparency goes beyond openness and availability as the defining attributes as it should also enlighten. It is for this reason that Van Zyl (2014:348) argues that contrary to what is assumed, transparency is not the sole responsibility of government. The author is of the view that the information available should be more reachable and understandable to all relevant shareholders. This should take place in all democracies, including India and South Africa, countries

known to possess high levels of transparency when dealing with budgets. For example, government at most make available high-level information or the documents are top line such as "… total allocations by programme, ministry, or department, while the information that is needed to demand accountability is often disaggregated, e.g. allocations by project or locality" (Van Zyl, 2014:349). This suggests that it may be difficult to demand accountability based solely on budget plans and public expenditure. This simply makes transparency a necessity; however, not an adequate contributing factor for attaining better accountability (Halachmi & Greiling, 2013:566). In other words, while there is consensus that transparency is linked to accountability, the above discussion underlines that transparency is not by definition a precondition for accountability. This is in part contrary to what is alluded to by Shkabatur (2012:83), that transparency is a precondition. From the foregoing, the adequate interpretation of the available information could be reassuring to attain accountability.

Kolstad and Wiig (2009:1) are of the view that the notion of transparency is more complicated, and that it is not necessarily best to have maximal and all-inclusive transparency. On the one hand, the authors argue that there are high costs to keep the public and relevant stakeholders informed about government activities at all times, other than utilising resources for other matters such as the delivery of services. On the other hand, in the quest to keep the public informed at all times, the government may be ineffective in tracking its activities. Michener (2015:184) emphasises that transparency is an important component of good governance, which is closely linked to accountability. In this study, transparency and accountability are studied as primary variables together with public involvement, with the aim of exploring whether the oversight role of legislatures have effects on good governance. This role of the legislature on oversight is crucial to hold the executive, which is entrusted with the responsibility for delivering services accountable for its performance.

## 4.5 PERFORMANCE MANAGEMENT IN THE PUBLIC SECTOR

Performance management in the public sector coincides with the rise of public sector reforms (Verbeeten, 2008; Roos, 2009; Van Dooren, Bouckaert & Halligan, 2010). These reforms are an important and broader part of ensuring that there is improvement in the delivery of goods and services, and in general, service delivery is improved in

government. Managing performance was not introduced in isolation but together with other focus areas such as planning, decision-making, accountability and monitoring, which are important concepts in the public sector (Roos, 2009:10), and some in the context of this study. It is however acknowledged that key to improving service delivery in the public sector is the introduction of performance management, which has a long history. Yet various scholars point out that it receives more attention due to the introduction of the New Public Management (NPM) referred to "as a reinventing movement" paradigm in public service reforms (Norman, 2014; Siddiquee, 2014; Arnaboldi, Lapsley & Steccolini, 2015). This movement of the NPM, which became dominant during the 1980s and 1990s with the authors crediting it to the American scholar 'Christopher Hood', has popularised performance management in public sector organisations.

The NPM puts emphasis on results-based management, which became a *mantra*, with an increasing number of states that have spent more resources such as time and money on performance management. Van Thiel and Leeuw (2002:267) state that "the believers of NPM attribute a high priority to measuring output and outcomes, and aim to base new policies and management activities on this type of information ideally meant to make policy implementation more efficient and effective". This is to highlight some of the important aspects of the NPM, which have an influence on performance management. However, this study did not dwell much on this debate as the only motive was to define the historical context of performance management. Van Dooren *et al.* (2010) argue that while recognising performance to be the main aspect in the public sector, it remains one of the questioned agendas in public administration. This is fundamental as it alludes to the complexity surrounding performance in the public sector. Performance may have different connotations to different people.

Brown (2005) in Fryer, Antony and Odgen (2009:480), acknowledging the increased interest in the subject of 'performance management', argues that there are plenty of (conflicting) reasons for the introduction of performance, which emphasise the degree of confusion on the subject. In addition, for the fact that performance management is dominant in wide diverse disciplines, including, among others, finance, economics, marketing, human resource management and development, management, operations management, organisational behaviour, accounting and public sector management shows that it is a multifaceted subject. Taking into account the complex nature of

performance management, it is important to conceptualise the subject in relations to the contention of the study on performance management in the public sector or public sector organisations.

### 4.5.1  Performance and performance management

Van Dooren *et al.* (2010:2) assert that "performance has become one of the main but contested agendas in public administration". This assertion is important as it underscores two facets about performance. On the one hand, performance is central in the functioning of the public sector, and on the other, the subject is still not fully accepted in public administration. The argument is that performance is a broad concept with various meanings, which are commonly ambiguous (Kouzmin, Loffler, Klages & Korac-Kakabadse, 1999; Nkuna, 2013). For this reason, a need to conceptualise performance in the context of this study cannot be ignored. Dubnick (2005:391) states that "…outside of any specific context, performance can be associated with a range of actions from the simple and mundane act of opening a car door, to the staging of an elaborate re-enactment of the Broadway musical 'Chicago'; in all these forms, performance stands in distinction from mere 'behaviour' in implying some degree of intent". This is a general conception of performance; however, the author also defines performance in the context of the public sector by distinguishing between four perspectives on the subject:

- Performance pays attention to responsibilities executed by a performing agent (government actors), including all actions executed – intentional behaviour of government actors or performing agents.
- The quality of performance can be high or low.
- Performance equals results when it is more about the quality of the achievement than the quality of actions.
- Attention in the conceptualisation of performance relates to both the quality of actions and the quality of achievements – sustainable results (Dubnick, 2005:391).

Performance refers "…to the productive organisation, i.e. one that has capacity to perform and converts this capacity into results –outputs and outcomes" (Van Dooren *et al.,* 2010:4). This is because as a concept, performance is also an agenda that

articulates change and improvement either by an individual or organisation. Arnaboldi *et al.* (2015:1) argue that the notion of government doing more with less was propagated and became a *catchphrase*, with the maintenance or improvement of quality of service delivery as an end pursued by governments. In other words, the government has to put to good use the available scarce resources to meet the unlimited needs of the communities. In order to realise this, there is a need to manage the performance of government actors. Verbeeten (2008) writes that public sector organisations have moved away from the past of depending on action controls such as rules and procedures to control organisations. The move witnessed in the early 90s brought changes in management control in such organisations, including a change towards output controls. In other words, the public sector has in the past introduced new ways of managing performance of government actors, hence the need to conceptualise and contextualise performance management.

Hanif, Jabeen and Jadoon (2016:99) underscore that performance management is an important barometer to test the wellbeing and contribution of an organisation to society. This is to ascertain that the organisation moves towards the right direction to achieve its given mandate or rather constitutional mandate in relation to the study (See sub-section 4.3.1). The authors are also of the opinion that in general, the interpretation of performance management can be both management and measurement comprising information and action. Radnor and Barnes (2007) in Fryer *et al.* (2009:481) assert that performance management "…is action based on performance measures and reporting which results in improvement in behaviour, motivation, processes and promotes innovation, and includes recording performance (information) possibly against a target or analysis". The foregoing description of performance management is all-encompassing as it alludes to what needs to be done to manage and measure performance, and in turn what should be expected from the actions taken by the relevant stakeholders.

While acknowledging its all-encompassing nature, Fryer *et al.* (2009:491) state that "performance management is beset with paradoxes and balancing acts, starting with such fundamentals as what is its purpose? Is it to make savings or improve performance?" In the middle of the paradoxes, there is a need to distinguish between the public and the private sectors as the latter is driven by profit, while the public sector

strives for value for money. Roos (2009:17) states that performance management in the public sector focuses on the following "dimensions of performance:

- Mission – the effective achievement of statutory intents, executive's aims and commitments and the agency's functions and purposes.
- Service – responsiveness and timeliness, accessibility and equity, and courtesy to client groups and stakeholders.
- Economy/efficiency – spending within approved budgets, accountability for use of public money and demonstration of value-for-money and productivity".

These are important dimensions of performance that focus on performance management. These dimensions are linked to each other in the sense that government actors need to deliver services in line with their mandate expressed through their missions in an efficient and effective way. As a result, the dimensions may ensure that there is improved performance management in the public sector. Curristine, Lonti and Jourmard (2007) argue that improved public sector performance management is directly linked to the introduction and use of performance information in countries in the Organisation of Economic Co-operation and Development (OECD).

### 4.5.2 Performance information

It is important to note that when managing and measuring performance, the importance of performance information is brought to the fore. Verbeeten (2008:430) asserts that performance information in public sector organisations may be used for learning purposes in order to improve performance. The focus on performance information such as objectives and targets should position politicians to be informed and be able to inform the public on how their money is utilised (Sing, 2003; Shah, 2005). This is for the purpose of transparency and accountability as discussed under section 4.4 of this chapter. The management and measurement of performance for transparency and accountability should be able to tell politicians how government actors perform (it indicates areas where the organisation excels and where improvement is necessary). Moreover, the framework for managing programme performance information provides key performance information concepts, which are important in performance management in public sector organisations.

Figure 4.2 Key Performance Information Concepts
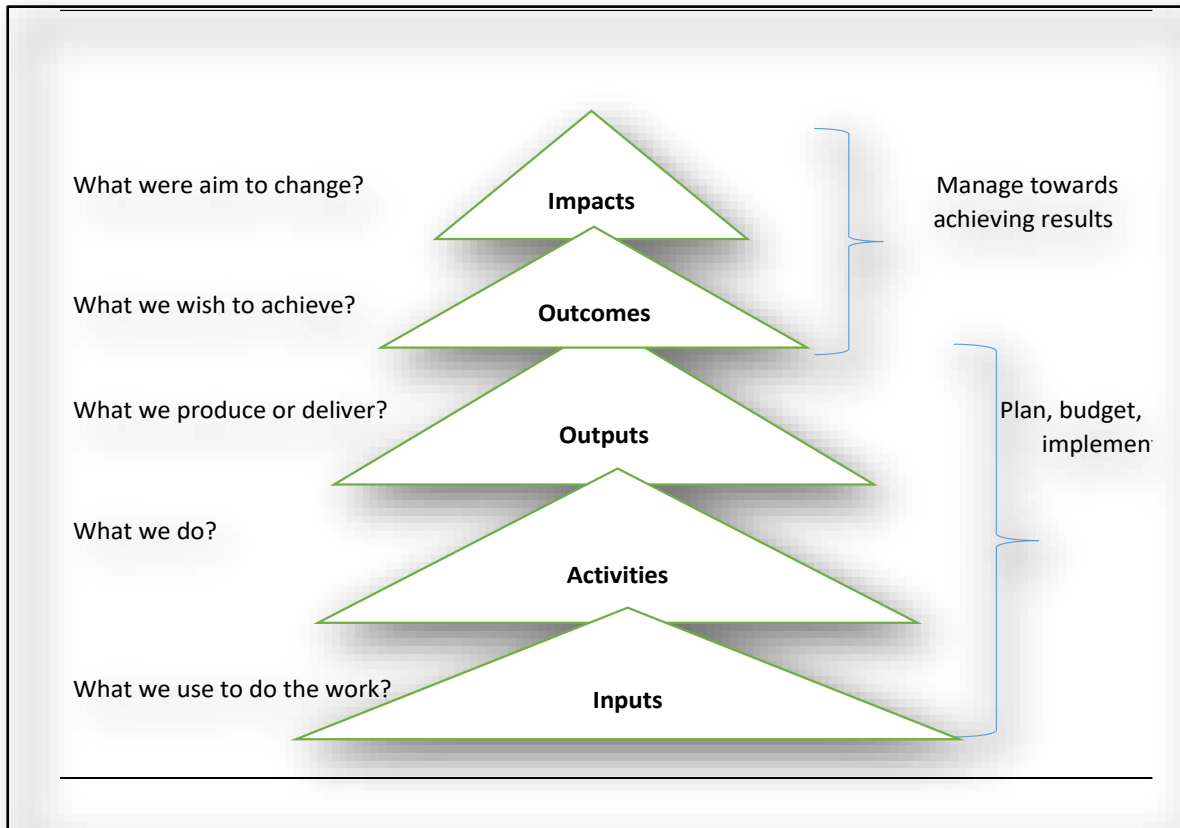


Source: National Treasury of South African Framework for Managing Programme Performance information (Government Printer, 2007:6).

The above figure depicts important concepts of performance, and the importance of performance information. Fryer *et al.* (2009:490) argue that for any organisation to have an effective performance management system, there is a need for information. The author adds that despite technical challenges such as indicators and setting targets which may exist, the importance of performance information is paramount in the promotion of transparency and accountability of public sector organisations. In essence, public sector organisations or government actors should continuously report their performance in order to satisfy their accountability function as defined by laws of a country (Roos, 2009:38). There are also other benefits emanating from the use of performance information, which are as follows:

- "It generates a sharper focus on results within the government.
- It provides more and better information on government goals and priorities, and on how different programmes contribute to achieve these goals.
- It encourages greater emphasis on planning, and acts as a signalling device that provides key actors with details on what is working and what is not.
- It improves transparency by providing more and better information to parliaments and to the public, and has the potential to improve public management and efficiency" (Curristine, Lonti & Joumard, 2007:3).

These are some of the benefits reported as part of the reform for the Organisation of Economic Co-operation and Development (OECD) countries. The OECD countries underline that the use of performance information has wider positive implications in the conduct of government or government actors. Curristine *et al.* (2007:12) assert that "the central aim to use the performance information reform is to improve decision-making by providing better and more concrete information on the performance of agencies and programmes". The availability of better and more concreate information will enable different stakeholders, in particular those with the responsibility for oversight to be in a position to manage the performance of the government. This also emphasises the role and functions of performance management.

### 4.5.3 Role and functions of performance management

Performance management has not only become a dominant concept over the years, but an agenda in the public sector. This dominance is brought about by the need of government and government actors to keep their promise of increasing performance. Van Dooren *et al.* (2010:5) assert that "fiscal stress pressured the public budget and legitimacy crisis pressured the politico-administrative system – as a response, governments pledged to do more with fewer resources – a government that work better and cost less". This indicates that performance management will remain pivotal to government, and has two objectives in government, one on the pursuance of improved service delivery, and the other on strengthening governmental or public accountability (Siddiquee, 2014; Hanif *et al.*, 2016). Siddiquee (2014:268) adds that performance measures are utilised, in particular Key Performance Indicators (KPIs) to target and assess the performance of government and government actors. The main

aim of this exercise is to establish a linkage between the delivery of public services and accountability of government. The twin objectives of performance also demarcate the role played by performance management as follows:

- Public performance is related to improved accountability and transparency on what the public service has been delivered (input) and what has been attained ultimately in terms of outcome and impacts. This alludes to performance information linked to greater decision-making by government actors or within government, ensuring enhanced accountability.

- Through performance management, relevant parties or stakeholders would learn and increase their performance in the delivery of services. This entails that performance management creates transparency, which highlights areas where there is improved delivery of services, and areas of weaknesses in order to ensure that improvement can be put into place (Siddiquee, 2014:271).

Performance management is understood to be the cornerstone to increasing transparency and accountability in the delivery of services within government. Transparency and accountability are studied in this study as key attributes of good governance. Fryer *et al.* (2009:491) state that *"…despite a quarter of a century performance management within the public sector, there are still major problems and expected improvements in performance - accountability, transparency, quality of service and value-for-money have not yet materialised. Performance management is beset by the unresolved problems of defining indicators, their quality and their reporting".* In other words, performance management still requires close attention and activism from various stakeholders or parties such as legislatures, civil society and the public to ensure that governments deliver quality of service. This should be a way of attaining value-for-money, and increased transparency and accountability by government rather than waiting for disaster to happen.

According to Shah (2005:2), the foregoing is a necessity despite emphasis placed on performance management dating back to the 1980s, with governments encouraged to identify and report performance measures for their programmes. This was a shift towards a result-based orientation which became the new paradigm in the public sector performance management. Heinrich (2002:712) asserts that taking into account the shift and evolving conceptions, methodologies and designs, improving public

management and programme outcomes remain the sole key purpose for performance measurement in public sector organisations.

### 4.5.4  Performance measurement

Performance measurement is sometimes used in the place of performance management. In other words, performance measurement and performance management are used interchangeably in public administration, yet the two are not the same (Fryer *et al.*, 2009; Roos, 2009; Nkuna, 2013; Hanif *et al.,* 2016). This is done without providing a proper context on the difference between the two. This however does not necessarily mean that one is less important than the other; they are both fundamental to managing performance in the public sector. Mensah and George (2015:97) argue that one cannot manage without measuring. For the purpose of this section, Fryer *et al.* (2009:481) assert that "…a crucial element of a performance management system is performance measurement – monitoring that shows where change is required, and which will in turn produce the desired behaviour that will produce improved performance". The concept of performance measurement is central in dealing with performance in the public sector as there is a need to measure the efficiency and effectiveness of government spending and the delivery of services (Mandi, Dierx & ILzkovitz, 2008). The authors argue that this is underlined because measuring efficiency and effectiveness remains a conceptual challenge, particularly in relation to public spending, which is for multiple objectives in the public sector and in turn, outputs cannot be easily quantified. The foregoing assertion is in comparison with the private sector wherein goods and services (outputs) are for the market, and as a result, price data is available as a tool to measure the performance.

The need to measure efficiency and effectiveness is a defining factor in the public sector (Shah, 2005). Radnor and Barnes (2007) in Fryer *et al.* (2009:481) write that performance measurement "…is quantifying, either quantitatively or qualitatively, the input, output or level of activity of an event or process". This outlines the importance of performance measurement, and action that needs to be taken when measuring performance in an organisation, the public sector/ government in relation to this study. The definition also considers performance management; however, it is important to note that measurement and management remain two different concepts. Siddiquee

(2014:270) asserts that measurement and management are two facets of managing performance with different connotations. He states that performance measurement "…is the ability of tracking performance against targets and identifying opportunities for improvement, by contrast performance management implies actions needed in order to improve performance in future". The two (measurement and management) correlate because one takes place after the other and somehow complement each other (Mensah & George, 2015).

From the above context, the focus of performance management, which encompasses the two facets - measurement and management, entails the identification of goals to accomplish, allocation of decision rights, and measuring and enhancing performance of government. According to Verbeeten (2008:427), this asserts that "by quantifying goals and measuring whether they are achieved, organisations reduce and eliminate ambiguity and confusion about objectives, and gain coherence and focus in pursuit of their mission". Rhodes (1994) argues that the key phrases in performance management and measurement in the public sector are value-for-money and better use of resources. As discussed in sub-section 4.5.3, despite the fact that the public sector, through the introduction of NPM, adopted performance as one of the private sector techniques, the motive for the public sector varies from the private sector. The private sector is motivated by profit while it is not the case in the public sector; the emphasis when measuring performance in the public sector is on value-for-money derived from the utilisation of the scares public resources (Roos, 2009; Nkuna 2013). Value-for-money principles are namely economy, efficiency and effectiveness. In the utilisation of the scarce resources or maximising the use of scarce resources towards the attainment of government objectives as outlined in section 4.2, there is a need to also realise economy, efficiency and effectiveness.

### 4.5.4.1 Economy

Economy represents the first basic principle of value-for-money in the delivery of goods and services to the public by the government. This is because economy entails the inputs made available by the government to deliver outputs towards the realisation of the desired outcomes (Sing, 2003). In other words, economy entails that public resources available to produce goods and services are required by the public towards

the improvement of their livelihoods. The author also argues that this should not be only about the available resources to produce goods and services, but also be about the less/minimal resources to achieve maximum goods and services. This is about doing more with less. According to Philip and Daganda (2013:9), the government should strive to eradicate waste in the utilisation of resources, taking into account that it is faced with the challenge of resource scarcity to address the unlimited needs of the public. In addition, economy "denotes the cheapest possible option for the production of the output. Economy measures ask: was the service delivered at the lowest possible cost or did the service delivered cost more than comparable services elsewhere?" (Shall, 2000 in Roos, 2009:23).

Sing (2003:130) adds that inputs should not only be the cheapest but of quality and quantity to maximise the production of goods and services essential to the public. Furthermore, he highlights that in the evaluation of economy, there is a need to consider all costs of inputs relevant in the production of particular goods and services. Inputs as used to represent resources may include, among others, human, financial and technical resources.

### 4.5.4.2    Efficiency

The economic utilisation of resources by the government is aimed at maximising the production of goods and services. This represents efficiency as it is the relationship between inputs made available and outputs produced (Sing, 2003; Nkuna 2013). The efficiency of government should be determined by the extent to which maximum outputs are produced against minimum inputs received for any quality and quantity. Philip and Daganda (2013:9) write that this is about the streamlining of services. In other words, it means that the government should adopt approaches and techniques to eliminate complex and unnecessary steps in order to simplify the process in the delivery of goods and services. Efficiency is fundamental when the government considers a better way to use less resources available to address the unlimited public demands for the delivery of services (Theletsane, 2014).  Therefore, "efficient service delivery would thus imply the satisfaction of service delivery goals with frugal use of resources" (Crous, 2002:21). There is a need for government to be efficient in order to realise its role as government is defined by its goals and their achievement thereof.

Shall (2000:13) states that "efficiency tries to capture how productivity resources are translated into service delivery, and basically ask the question, did we perform the job without wasting resources or did we do things right?". The foregoing put emphasis on the economic use of resources to attain a government objective or goal. In this regard, the government needs to put measures in place to ensure that it achieves an input-output ratio. Mandi *et al.* (2008:3) argue that the input-output ratio is considered to be the primary measure of efficiency of government programme. The authors argue that "the greater the output for a given input or the lower the input for a given output, the more efficient the activity is". Put differently, resources devoted in production should not overweigh the services delivered, or the services delivered should not overweigh the resources devoted. The input-output ratio is important to ensure that government delivers services to meet the demands of the public, and in turn contribute to the improvement of their livelihood, which represents the desired outcome.

## 4.5.4.3    Effectiveness

The efficient delivery of services is aimed at maximising the outputs to ultimately reach the desired outcome. This represents effectiveness, which is the output towards the achievement of the government objective or goal, i.e. the outcome (Mandi *et al.*, 2008:3). The outcome should be indication of the success of the resources utilised in the attainment of the set objective in government. Outcomes as the measure of effectiveness attract interests from policy makers and legislators, which makes it the most important principle of value-for-money. Theletsane (2014:120) asserts that "effectiveness refers to the extent to which institution achieves its policy outcomes, operational goals and other intended effects". It means that services and goods produced should be able to satisfy the set objectives (Sing, 2003). For example, it is fruitless for a public sector organisation with the objective to eradicate poverty to provide social services that are both economical and efficient but not responding to the set objective. In addition, Philip and Daganda (2013:9) are of the view that effectiveness entails specifying the set objectives in ensuring that resources are utilised to resolve problems. The government's efforts to ensure economic and efficient delivery of services should not be a futile exercise.

Shall (2000) in Roos (2009:23) states that "effectiveness has to do with the degree to which objectives are achieved, and basically ask the question, did the job achieve the desired results or did we do the right thing". The foregoing stresses that effectiveness encompasses goals or objectives set. In service delivery, this emphasises the satisfaction of goals, that is, achievement of service delivery targets (Crous, 2002; Theletsane, 2014). An effective government is therefore a government that realises its service delivery targets (goals or objectives); this should be utilised to measure effectiveness as the most important principle amongst the 3Es, economy, efficiency and effectiveness. Although, the importance of effectiveness is underscored, it cannot be isolated from the other principles (Mandi *et al.,* 2008). This suggests that there is an existing relationship between the 3Es.

### 4.5.5 The relationship between the 3Es (economy, efficiency & effectiveness)

Rhodes (1994:144) asserts that the acronym 3Es - economy, efficiency and effectiveness represent the first thrust of change in the public sector. These "Es" emerged in the 1980's and remain significant in performance management in the public sector as the principles of value-for-money, even though a shift to focus on quality and customer satisfaction as part of the NPM is stressed (Rhodes, 1996; Kouzmin *et al.,* 1999; Shall, 2000; Philip & Daganda, 2013). Value-for-money as a yardstick used to manage and measure performance in the public sector remains important. As a result, the South African government departments across the three spheres, National, Provincial and Local government have to maintain the 3Es (Theletsane, 2014:63). This puts emphasis on the significance of the 3Es in managing the performance of government departments. As the measures for performance management, the 3Es should not be separated from each other as they correlate and show a working relationship (Sing, 2003; Theletsane, 2014). For example, Mandi *et al.* (2008:2) state that "the analysis of efficiency and effectiveness is about the relationship between inputs, outputs and outcomes". The assertion highlights the relationship between the 3Es in managing performance, which is outlined in figure 4.3 below.

Figure 4.3: Relationship between the 3Es
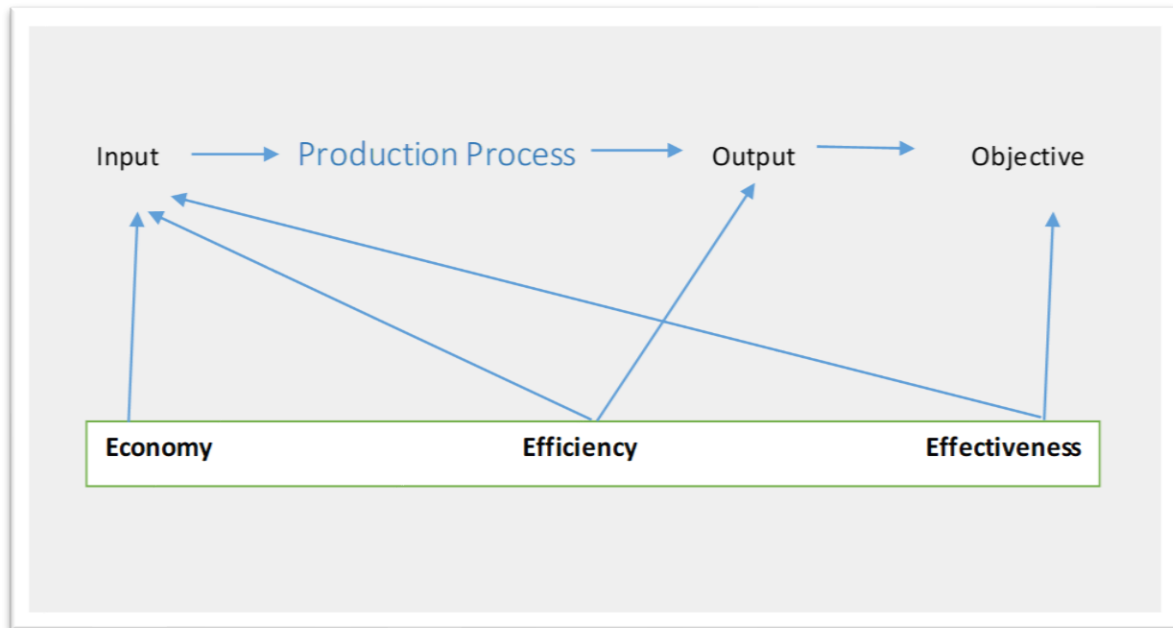


Source: Prinsloo and Roos (2008:9)

Prinsloo and Roos (2008) in Roos (2009:24) argue that the figure above represents an interaction between the 3Es, and emphasises that the principles should not be utilised in isolation. According to Sing (2003:130), economy represents the quality and quantity of inputs (resources) made available at the minimal cost; and efficiency means the relationship between the minimal inputs made and maximum outputs (quantity and quality of services) realised during the production process; while effectiveness focuses entirely on outputs, outcomes and impacts. Sing (2003) in Nkuna (2013:166) states that "effectiveness refers to the extent to which an activity or programme achieves its intended objectives". This is as highlighted in figure 4.3, which depicts effectiveness as the relationship between the inputs made and the objectives achieved. As discussed in sub-section 4.5.4.3, the objectives represent the output to the outcomes and impacts, which make it the most crucial measure amongst the three 3Es, yet difficult to assess. Mandi *et al.* (2008:3) assert that

> "…*the outcome is often linked to welfare or growth objectives and there may be influenced by multiple factors, including outputs but also exogenous environment factors. The effectiveness is more difficult to assess than efficiency, since the outcome is influenced by political choice*".

The foregoing sums up the difference between outputs and outcomes, which in the discussion are represented by efficiency and effectiveness, respectively. The two are sometimes used interchangeably. However, as outlined through figure 4.2 in sub-section 4.5.2 about performance information, they have different meanings and represent different phases in performance management. Mandi *et al.* (2008:3) provide an example of such difference utilising the education system. The authors are of the view that the outputs of the education system can be equated to the achievement rates of learners of a particular age. This means that the qualifications acquired by the overall working age population could be the final outcome of the education system. Put differently, it means that the outputs of the programme is what it produces, and the outcome is what the programme wish to achieve with the goods and services produced. Furthermore, as discussed in section 4.5, the key to achieve the foregoing and performance management in general is involvement of various stakeholders.

## 4.6    PUBLIC PARTICIPATION IN THE CONTEXT OF THE STUDY

Public participation as an area of study is an extensively researched subject which has attracted and sustained interest over the years. The same might be expressed with regard to public participation as a strategy; however, it remains one of the significant and most contested subjects. With this in mind, it is prudent for the concept of public participation to be clarified to lay the foundation, in an attempt to understand its complexity. This may in turn assist in identifying some of the gaps that may exist, in particular between theory and practice. Bearing in mind that the study focuses on public participation, a broad clarification is provided, yet paying special attention to the legislative sector. It is also important to underline that public participation exists within the legislature mainly as a mandate; however, in relation to the contention of this study public participation will be discussed in the context of oversight. Therefore, the terms citizen, public and community, and other related terms are often used to refer to the participation and involvement of the people in the activities of the state.

From the above, Maphunye and Mafunisa (2008:463) state that "…public participation in decision-making and policy making processes should be understood in the context of democratic theory and the overall analysis of democracy". The authors underscore the importance of public participation in a democracy by asserting that it is the

cornerstone of a democratic society. For instance, the Open Democracy Act of 1994 outlines that for South Africa to be regarded as a democratic country, public participation needs to be evidence-based, moving away from rhetoric. In the same manner, Pandeya (2015:7) highlights that it is in the nature of a democratic regime for the relationship between society and state to change drastically. This should entail the relationship moving from dictatorial to deliberative, transparent, participative and collaborative to allow the people to be involved in the activities of the state.

This is fundamental as Bekker (1996:41) defines participation "…as an activity undertaken by one or more individuals previously excluded from decision-making process in conjunction with one or more other individuals who were previously the sole protagonists in the process". The definition emphasises the shift that has been underlined above, that public participation is important in a democracy. In addition, Fox and Meyer (1995:20) provide a delineation that is based on the public administration perspective. Public participation is thought to be the involvement of citizens in a wide range of administrative policy-making activities, including the determination of levels of service, budget priorities, and the acceptability of physical construction projects in order to encourage a sense of cohesiveness within a society. This assists to understand the extent to which public participation is expected to happen, and alludes to involvement, which is entrenched in the Constitution.

Thus, in a legislative perspective, Creighton (2005:1) refers to public participation "…as the process implemented to ensure that the public's opinions are considered in terms of decisions that affect the communities. It is a way of communicating and interacting with people on their needs, concerns and values and incorporating them into legislative and better-informed decision making". There are commonalities between this definition and the one outlined above, yet if public participation is to be a reality, it has to be guided by a set of values and principles. In an endeavour to attain what public participation involves, Theron (2009:114) outlines the core values for the practice of public participation formulated by the International Association of Public Participation (IAP2) in 2002 as follows:

- The public should have a say in decisions about actions that affect their lives.
- Public participation includes the promise that the public's contribution will influence the decision.

- The public participation process communicates the interest and meets the process needs of all participants.
- The public participation process seeks out and facilitates the involvement of those potentially affected.
- The public participation process involves participants in defining how they participate.
- The public participation process communicates to participants how their inputs affected the decision.
- The public participation process provides participants with the information they need to participate in a meaningful way.

This is crucial to further broaden the understanding of what is expected in public participation or the public participation process. However, it was criticised as arguably the most ambitious public participation programme in South Africa so far. In relation to the contention of the study, this should be taken into consideration, and utilised as a yardstick in the endeavour to realise the role and purpose of public participation. From the foregoing, the next section discusses the role and purpose of public participation in the legislative sector.

## 4.6.1 The role and purpose of public participation

In a study on oversight in the Education Portfolio Committee of the Eastern Cape legislature, Obiyo (2013) asks a critical question: is the legislature fulfilling its constitutional mandate of vigorous review of activities and measures of government and administration, and on whose behalf? In other words, is the legislature an effective representative body of the people, responsive to the preferences and needs of citizens? Whiteley (2003) asserts that the level of trust to elected representatives, political parties and in parliament/legislatures has, to a certain extent, dropped to low levels. It is argued that understanding the perspective and confidence (or lack thereof) of ordinary people in legislative processes such as oversight and law-making is important. As backed by various studies, this remains significant. However, most of such studies are in the form of perception surveys.

Legislatures serve as an avenue that privileges citizen voice and policy influence. This underlines the role and purpose of public participation and its process in legislative processes such as oversight and law-making, amongst others, as legislatures are a crucial interface between citizens and government. It is stated that "those who have access to and participate in legislative process express a voice in government" (Obiyo, 2013:109). Public participation has the ability to reinforce the relationship between the citizens and the elected representatives. This will be a way of avoiding some of the consequences of the breakdown of the important linkages between the citizens and their representatives. Despite the dynamics surrounding different political systems, elected officials are expected to be accountable to citizens and behave in accordance with their wishes (Shockley, 2014). The author raises fundamental points which underpin some of the reasons why there are both proponents and critics of public participation as a concept and strategy.

For these reasons, rhetoric calls have consistently been made for increasing public participation in the activities of legislatures, which is an idea supported by both politicians and officials. However, Russell (2013:569) cautions that similar to social inclusion and gender equality, it is preferred whether public participation is supported in practice or not. Fox (2009:674) indicates that "some value public participation in its own as a form of enriched citizenship and accountability; others because of the legitimacy it confers on decision making, the improved representativeness of decisions it secures or the more efficacious policy outcomes that can result". Regardless of this, public participation allows for diverse voices to be heard in decision-making processes, that is, in addition to the legitimacy it confers to the final decision and sense of ownership. Critics, on the other hand, doubt whether the participation of citizens in decision-making is capable of influencing final decision-making. It is argued that while legislatures are prepared to hold public meetings and hearings, and organise town hall forums, amongst others, there is little or no guarantee that they will listen to the results of such participation events (Sutcliffe, 2008:59).

Ulbig (2008:535) in Hooghe and Marien (2011) argues that *a loud voice falling on deaf ears is not as important as a quieter one spoken to someone who is listening.* Public participation should, in its true nature, promote satisfaction and trust between the citizens and elected representatives or rather legislatures as a representative body. This entails that there is a need for a meaningful participation in legislative processes

such as oversight and law-making. Wills (1995:2012) writes that terms such as participation, consultation, and involvement may all represent very different aspects of the public participation process. It is argued that "the meanings and usage of each term may also vary according to the context in which it is used". This means that the meanings of public participation may also be contested by various interests in the process. For this reason, there is a need to outline some of the several models to classify the types and degrees of participation in the activities of legislatures. These models are from old to new, and are as follows (Chun & Cho, 2012:131):

- The ladder model of participation which was first popularised by Arnstein in 1969 has eight layers representing public participation. The lower levels of the model represent non-participation, and the upper levels represent citizen power that might be categorised as involvement of the people in relation to the contention of the study. The model is outlined in Figure 4.4 below.

Figure 4.4: The Ladder Model of Participation

| Level 8 | Citizen Control | Citizen Power |
| Level 7 | Delegated Power | |
| Level 6 | Partnerships | |
| Level 5 | Placation | Tokenism |
| Level 4 | Consultation | |
| Level 3 | Informing | |
| Level 2 | Therapy | Non-Participation |
| Level 1 | Manipulation | |

Source: Arnstein (1969) in Chun and Cho (2012:131)

- Interaction-based participation model – entails various stages such as i) One-way interaction, ii) Consultation and iii) Active Participation.

- The digital democracy model - includes social media, blogs and portal sites, among others.

- The Social Media-based participation evolution model – includes Wikis, blogs, microblogging (e.g. Twitter), Fora, Social Networks (e.g. Facebook), social content crowdsourcing (e.g. YouTube) and others.

The above aspects are a mixture of both online and offline mechanisms, and they assist to understand the levels or extent that public participation can reach to realise its intended outcomes. However, it may be misleading to assume that participation always leads to the desired results. It is stated that "they have their own trajectories, and such depend on the institutional and contextual specificities of the participatory events, and in turn some studies have found that public participation can produce negative outcomes" (Pandeya, 2015:71). As such, negative outcomes such as political and elite domination, tokenism participation, socioeconomic exclusion and reprisals, and feelings of alienation and powerlessness need to be avoided. Thus, there is a need to understand the context of public participation such as historical, social, political, economic and geographical circumstances of the people or communities involved. This points out that participation should be informed by research, or rather be research based. Furthermore, there is a need to study some of the public participation initiatives utilised as well as emerging mechanisms that may have potential to promote the oversight role of the legislature. In this case, a global perspective is provided.

### 4.6.2  Perspective on mechanisms of public participation

As discussed in the study, there have been repeated rhetoric calls to increase the number of public participation mechanisms to allow many people to be involved in the activities of legislatures. Fox (2009:674) argues that "while many populist measures designed to enhance public participation through more direct and participatory decision-making mechanisms have particularly gained traction, many of the proposals fail to take account of what the public really wants in terms of engagement and participation". There is a need to examine whether the mechanisms are actually what the public wants. For there is a danger that if the scope and scale of what the public wants is misread, any new mechanisms will in fact become damaging groundswells of

impassioned factions or organised interest groups (Fox, 2009). It risks being dominated by those with the loudest voice or rather the elites, and organised businesses. At the end, the mechanisms do nothing to extend public participation to a number of people, and in turn to attain effective oversight.

Traditionally, mechanisms such as brochures, media publicity, and call centres are often used to share information. Nyerere (1967) in Munyoro (2015:31) elaborates that access to information is important for informed citizens to participate in legislative oversight activities. Nyerere (1967) in Munyoro (2015:31) asserts that

> "… *while other countries in the world aim to reach the moon, we must aim for the time being at any rate to reach the villages by providing them with the necessary information".*

Opinion polls, surveys, commending periods, public hearings, citizen panels and workshops are used for public consultation, gathering of feedback and opinion of citizens. In addition, government often use citizen forums, conferences and juries to promote the active participation by the public (Chun & Cho, 2012:130). It is asserted that the objective of these mechanisms is simply to inform the public about legislatures' plans, because there are top-down forms wherein the agenda is already set. These mechanisms have been augmented by the utilisation of Information and Communications Technology (ICT) based mechanisms proving deliberation process, opinions and feedback. Some of the examples using internet include web portals, online spaces, discussion sites, web based public participation, and social media tools.

Before one discusses the modern mechanisms further, it is important to note that the success of both traditional and modern mechanisms is dependent on various attributes. To discuss a few, Ebdon and Franklin (2006:444) in Pandeya (2015:69) stress that participation outcomes depend on: (a) the participation environment such as the structure, the political culture, and the provisions of participation; (b) the participation design such as timing, the participation agenda, and participant selection methods, (c) participation mechanisms; and (d) expected outcomes. Similarly, the UN (2008) states that meaningful participation is dependent on various socio-political and administrative factors. These include the existence of a democratic and decentralised government structure, policy provisions, the availability of, and access to information,

participation mechanisms, staff responsiveness, capacity building programmes, political commitments, and other related factors.

More work needs to be done first before a public participation process can take place. For example, Obiyo (2013:110) writes that "some of the participation programmes have not been draw up with proper research done to find out what the situation is in the communities". On the other hand, the modernisation process through the utilisation of internet is becoming common in various countries, yet significant variances are in the degree of implementation of accountability and e-participation (Martinez, Martinez & Pradas, 2013). Despite this, there is little existing literature that focuses on ICT in legislatures or in particular e-participation. However, this provides useful insights. It is outlined that internet is a cheap and accessible means of public participation.

Xu (2012) argues that most recent studies have paid attention to the new generation of ICT. This includes web 2.0 technologies and social networking media and their effects on democracy. One of the examples provided by the author is the Barack Obama elections campaign, which demonstrated the power of the new generation of ICT, which has become impossible to ignore as a means and an end in public participation. It is, however, argued that e-participation tools should provide the following basic capabilities.

- Capability to create the participation base: an online network of interested citizens should be established.
- Capability to communicate: the participants should be able to express their opinions, positions, analysis, questions, responses and rebuttals.
- Ability to express their preferences, degree of agreements, and to vote: this is crowed-based consensus building activity that the tool should provide in order to serve as a deliberation tool (Xu, 2012).

Amongst others, social media and other ICT tools provide some of these capabilities. Moreover, the combination of ICT tools can provide the necessary minimum capabilities. Ferber, Foltz and Pugliese (2006) assert that the proponents of cyber-democracy support the internet as a new approach to boost public participation. Moreover, it is important to distinguish which one between the traditional and modern mechanisms is effective. On the one hand, Theron (2009:114) contends that "current

approaches to public participation (traditional) often tend to be ad hoc, incremental, unstructured, unbalanced and uncoordinated and some even smack of window dressing". The existing channels for public engagement with parliament are still far from active. The absence of any programme to guide the work of committees, such as the relationship with the constituency is a major weakness vis-à-vis parliament engagement with civil society (Shenga, 2007).

On the other hand, citizens and elected representatives do not seem to agree, or have the same opinion about what method between institutionalised (traditional) methods such as public hearings and non-institutionalised (new) methods such as the internet is most effective in establishing the interface between the citizens and legislatures (Hooghe & Marien, 2011; 2012). Citizens favour the non-institutionalised method. The study cited has utilised questionnaires focusing on both citizens and elected representatives in western societies or developed countries focusing on the interface between the citizens and legislatures. This emphasises the role that citizens should play in the activities of the legislature to monitor the service delivery performance of the government in order to promote accountability.

## 4.7 LINKING PERFORMANCE MANAGEMENT AND PUBLIC PARTICIPATION

Scholars in varied fields such as Political Science and Public Administration, among others, have studied the relationship between performance management and public participation to foster government accountability (Heikkila, 2007; Van Ryzin, 2007; Mizrahi, Vigoda-Gadot & Cohen, 2009; Halachmi & Holzer, 2010). The relationship is underscored as a primary one within public administration. For example, Heikkila (2007:239) asserts that public management scholars have, in the past, expressed growing interest in both the concepts of performance management and public participation in enhancing accountability in government. However, the two concepts have long been recognised for their different importance. On the one hand, performance management has been linked with transparency and accountability, with the notion that performance management should promote accountability of the government for the delivery of services (Jones & Bouckaert, 2017); and on the other hand, public participation has a long history as a concept of greater democracy; the emphasis placed on public participation as a crucial component of the democratic

governance process (Halachmi & Holzer, 2010). In other words, traditionally, performance has always been an approach for accountability, while public participation was not used for accountability purposes but to promote inclusive participation in government decision-making to shape democracy.

It is argued that more recently, there has been a move to link performance management and public participation to ensure transparency, responsiveness and accountability in the public sector (Heikkila, 2007). The call has been to incorporate the inputs of the public in developing performance indicators and in monitoring the performance of the government. This is important because the expectations of the citizens are important determinants on how government set its objectives and on whether the government achieves its goals. Van Ryzin (2007:521) states that: "…*government performance - particularly the actual outcomes or accomplishments of government efforts - are often not well measured or not measured at all. Even when good outcome measures are available, citizens often respond based on their perceptions of performance, which may or may not correlate with outcome measures collected by public administrators".* The assertion stresses the importance of public participation in performance management. Tomkins, Herian and Hoppe (2010) in Halachmi and Holzer (2010:382) write that this is one of the promising approaches to assist the government in addressing the daily challenges and the reality. The authors assert that: "…*on the one hand*, *there is a need for proper use of performance measurement for establishing and demonstrating accountability to foster a more prudent use of resources, and on the other, a need for more systematic opportunities for broad citizen participation in the design and evaluation of public programmes to make government responsive to the actual (vs imagined) public needs, priorities and preferred models of service delivery*". This is crucial as it illustrates what needs to be done to attain accountability through performance management, and the role of the citizens in performance management. Furthermore, as discussed in sub-section 4.5.2, it also emphasises the role of reporting on performance information.

## 4.8 LEGISLATION AND POLICY FRAMEWORK FOR REPORTING IN SOUTH AFRICA

The role of legislation and policy framework in the South African context cannot be underestimated. Legislation is fundamental in the functioning of government. Similar to any government, the South African government has a legislative framework that outlines how it should function to ensure the welfare of its citizens. For the purposes of this study, this section outlines the regulatory and policy framework encouraging reporting from the government to oversight bodies or performance monitoring bodies, and in relation to the study, the legislature. Roos (2009:38) writes that to fulfil the accountability function, it is fundamental for any government to report on its performance. It is, however, important to note that as much as there is a framework for reporting, the AGSA's office cautions that there are limited guidelines, and in turn lowers the level of acceptable performance reporting (AGSA, 2002/3). This suggests that the framework utilised is broad, yet it remains important for performance reporting by the government. In this respect, the Constitution of the Republic of South Africa, 1996 is the supreme law and forms the basis for every law enacted in the country. The enactment of other legislation should not contradict its stipulations. It is therefore important for the section to outline the constitutional prescripts for reporting in the context of the study.

### 4.8.1  The Constitution of the Republic of South Africa 1996

The Constitution of the Republic of South Africa, 1996 sets the tone for performance reporting by the government and a point of departure for any framework in the country. The premise is on section 114(2) of the Constitution, which is predominately utilised in this study to justify the oversight role as the constitutional mandate of the legislature. The section allocates powers to the provincial legislature to hold the executive or any organ of state accountable to it. In the context of this study, this prescribes for government to fulfil its accountability function. This accountability function is emphasised through section 115(2) which, among others, requires "any person or public institution to report to the legislature". In addition, section 118 of the Constitution encourages that in the process of government fulfilling its accountability function, there

should be access and involvement of the public in such activities of the legislature and its committees.

Furthermore, section 133 of the Constitution on accountability and responsibility of the executive, proclaims that, among others, the responsibility of the MECs is to carry the functions of the executive as head of departments and administrative executive (see sub-section 4.3.1) apportioned to them by the premier, and in turn account to the legislature on the performance of such functions and the exercise of their powers. Sub-section 3(b) of the Constitution notes that for accountability purposes in their performance, full and regular quarterly performance reports should be provided to the legislature. The sub-sections discussed under section 133 are important as they outline, on the one hand, the mandate of the executive to perform its functions and, on the other hand, they enshrine the accountability obligation that should be fulfilled. In the context of the discussion of section 133, the Constitution provides basic guidelines on performance reporting. Other frameworks should be consistent with it, and one of those prescripts is the Public Finance Management Act, 1999.

### 4.8.2  The Public Finance Management Act, 29 of 1999

The Public Finance Management Act (PFMA), 29 of 1999, among others, seeks to ensure that the government is managed efficiently and effectively. Efficiency and effectiveness in terms of the discussion in section 4.5.4 of this chapter are the basic principles of value-for-money, which are utilised to measure performance in the public sector. The PFMA stipulates the performance information that needs to be reported by a public institution or government to attain its objectives of securing transparency and accountability. In addition, the act outlines the role of different stakeholders or role players in ensuring that the government is economically, efficiently and effectively managed with much attention directed to the management of public funds and reporting of performance information. Section 65(1) mandates the executive authority to table reports to legislatures, both National Parliament and Provincial legislatures. This entails that the executive authority is required to fulfil its accountability function to legislatures. The section stresses the performance information to be reported, including, *inter alia,* annual reports and financial statements of departments and other

organs of state such as public entities, while its section 2 enforces section 1 by outlining remedies that need to be taken for failure to report.

The foregoing is rather an example of the sections of the PFMA that specify the performance information to be reported by the government and any organ of state. Roos (2009:38) states that "although the PFMA stipulates that performance information be reported, the quality of the information is sub-optimum". He suggests that there is still a need for ways to ensure that the performance information reported is of high quality. This also puts emphasis on the role of legislatures to ensure that the performance information meets their standards. Furthermore, there is a need to acknowledge other legislative and policy frameworks.

### 4.8.3  Framework of managing programme performance information

As discussed in sub-section 4.5.2 of this chapter, the Framework for Managing Programme Performance Information (FMPPI) puts emphasis on the significance of preformation information in ensuring transparency and accountability. Performance information is used to measure the performance of the government in order to determine how well it is doing. According to the FMPPI (2007:1) performance information "also facilitates effective accountability, enabling legislators, members of the public and other interested parties to track progress, identify the scope for improvement and better understand the issues involved". This is important in relation to the study as it alludes to the role of the legislature in monitoring the performance of the government, while it also points out that the public and other stakeholders should participate in performance management of government departments and any organ of state.  In addition, one of the aims of the framework is to ensure that the government provides the legislatures, the public and other interested stakeholders with timely, accurate and accessible performance information to foster transparency and accountability.

Furthermore, the framework outlines the kind of performance information required, and documents and reports that should contain such information. For example, for in-year reporting of performance, quarterly reports are needed to report on progress on the implementation of plans and budget, and for end-year reporting, annual reports are required to report on performance against budget and plans (FMPPI, 2007:5). The

reports are referred to as accountability reports or departmental performance reports as their purpose in relation to the study is to equip the legislature and the public with information to hold the government to account for its performance when the legislature exercises its oversight mandate.

### 4.8.4   Oversight model of the South African legislatures

The Oversight Model of the South African Legislatures, also known Sector Oversight Model (SOM), is a unified framework for legislatures in South Africa, including the nine Provincial Legislatures and the National Parliament. The purpose of the framework is to equip legislatures to be in a position to conduct effective oversight over the executive to enhance the delivery of goods and services to the betterment of the lives of the communities. In a nutshell, SOM enforces the constitutional mandate of legislatures to oversee the executive and, in turn, the executive is expected to account to the legislature. The framework is a guide to both the legislature and the executive to attain greater accountability. On the one hand, it guides the executive as per the Budget Cycle Model (BCM) on the performance reports expected to be tabled in the legislature on a certain period, and on the other, it guides the legislature on, among others, the kind of performance information expected from each performance reports tabled in the legislature. According to SOM (2012:19) "the BCM is founded upon definite timelines for reporting by departments", and outlines the type of performance reports that should be submitted.

Furthermore, the framework guides the legislature on how to go about in the consideration of the performance information submitted by the executive through its performance reports. SOM also outlines the role and responsibility of various role players in ensuring that the executive is transparent, responsive and accountable for service delivery performance, among others.

### 4.8.5   Guideline for legislative oversight through annual reports

The guideline puts emphasis on the role of legislatures, both National Parliament and Provincial Legislatures to hold the executive accountable in terms of section 55 and 114 of the Constitution, respectively. It alludes to Annual reports as a strategic

oversight instrument that can be used to assess the performance of the departments and public entities against performance targets and budgets. In relation to the contention of this study, section 118 of the Constitution as discussed in sub-section 4.6.1 of this chapter is cited, which underlines the need for the executive to provide full and regular reports to the legislature. It is, however, important to note that annual reports as an end-year reporting means tabled in the legislature once in a financial year, hence regular reporting, represent the end of every financial year (see sub-section 4.7.3). The guideline emphasises that annual report is backward looking as it reports actual performance end year, while strategic plans and budgets are forward looking as they indicate the intentions in the coming year. The three, strategic plan (annual performance plan), budget and annual report are regarded as the most important documents to be tabled every year by any department, governmental agency or public entity.

From the foregoing, there are challenges that legislatures, particularly Portfolio Committees, have to address when considering the Annual report or any other report which, among others, include the quality of the performance information reported. According to the Guideline for Legislative Oversight through Annual Reports (2005:4), "*there is a need for Portfolio Committees to ensure that departments provide good quality service delivery information in their strategic plans with tight performance targets and then to ensure that departments report against those targets in their annual reports*". This emphasises the argument by Roos (2009) in section 4.7.2 of this chapter about the quality of the reports or performance information from the departments and public entities being sub-optimum regardless of the availability of legislative and policy frameworks for reporting.

## 4.9  CONCLUSION

The purpose of this chapter was to discuss the institutional framework, performance management and public participation in promoting transparency and accountability. This is aimed at responding to the third objective of the study on the participation by the public in the activities of the legislature to monitor the performance of the executive in order to promote transparency and accountability. The chapter started with the institutional framework, which was basically about government structures, powers and

functions in South Africa, and in particular relating to the study focusing on the provincial government. The discussion on government structures, powers and functions paved the path for the study to focus on governance and good governance with emphasis on transparency and accountability, which is key to this study. This was followed by the discussion on performance management in the public sector encompassing areas such performance information, performance measurement and the 3Es, among others. In addition, public participation in the context of this study was discussed. Lastly, the chapter discussed legislative and policy framework for reporting to promote transparency and accountability. This chapter, together with preceding chapters, has laid a theoretical foundation of this study in order to accomplish its objectives. The next chapter outlines the research methodology of this study.

# CHAPTER 5

# RESEARCH METHODOLOGY AND DESIGN

## 5.1 INTRODUCTION

The previous chapters provided discussions on the theoretical issues relevant to this study. The aim was to outline the relationship between the legislature and the executive branches of government, which is central in the study of the oversight role of legislature in South Africa. The existing literature review on the subject of the study was discussed with the aim of identifying gaps in prior studies in order to justify the study of this nature, and also establish a basis of the findings of this study. The chapters outlined are important in this study, and attempt to theoretically respond to the research questions as outlined in section 1.4 of chapter 1 of this study. Although the preceding chapters might have highlighted the kind of design utilised, there is little detail on how to go about realising the study objectives as discussed in section 1.3 of chapter 1. Therefore, the current chapter (chapter 5) discusses the research methodology of the study. Mouton (2001) holds that the research methodology chapter represents one of the most important chapters, if not the most important chapter of a scientific research.

Scientific research can be defined as a process of establishing knowledge through various objective methods and procedures (Welman, Kruger & Mitchell, 2005). This underscores the significance of research methodology in this study, which is the how part towards attaining the findings of the study. Research methodology represents facets that determine the nature of the study. In some cases, studies refer to either research methodology or research methods and, in most cases, studies utilise research methods and research methodology interchangeably. The two continue to be used as one, but they have different meanings in research. Therefore, they need to be properly conceptualised to understand their connotations in scientific research. Brynard and Hanekom (2006) argue that research methodology is concerned with the process of conducting research, and emphasise that research methodology entails the approaches that the researcher has to take to address the research problem.

Research methods may refer to research tools utilised as part of the adopted methodology.

The foregoing discussions indicate that the research methodology chapter is an important part of this study. In addition, while it is acknowledged that this chapter mainly discusses how the adopted approaches have been applied, the need to understand research methodology should not be ignored. This alludes to the need to provide both theoretical and empirical discussions of the research methodology and research methods used in the study. As it has been alluded to in several occasions about the adopted methodology, Brynard and Hanekom (2006:36) write that in the execution of the research project or particularly in compiling the thesis, the researcher has to select particular approaches which, as outlined in chapter 1, guide the study towards the achievement of its objectives in order to address the research problem.

Thus, this chapter deals with research methodology and particularly, the methodology adopted of the study, which determines the direction and focus of the thesis. The chapter commences with a broad discussion of the research methodology and the design utilised, and provides both the theoretical and empirical orientation of the study. The discussions aim to establish and provide a clear understanding and justification of the research methodology. The reasons for the choice of the research methodology used are given. The research methodology indicates the unique character of the study and contributes towards the justification of the study.

## 5.2 RESEARCH METHODOLOGY AND DESIGN

The research methodology and design section is important in that it assists the study to realise its purpose and objectives. The methodology and design entail the plan and approaches that are followed in the study.  It is argued that the choice of a research approach is influenced by various facets. Creswell (2009) highlights that the problem under study, the experiences of the researcher and the envisaged recipients play a part in influencing the choice of the approach. In this regard, based on the experience of the researcher and the research problem presented, the study is exploratory, with an empirical bias. The approach chosen enabled the researcher to understand and explore legislative oversight as this area of scholarship particular its effects, is still understudied. Creswell (2009) argues that to explore is one of the reasons for the

choice of qualitative research. Bless, Higson-Smith and Kagee (2006:44) assert that "exploratory research is to gain a broad understanding of a situation, phenomenon, community or person". This is important as it also assists in the design of the study.

The research design of the study was flexible, allowing the study to arrive at its intended objectives as well as responding to the research problem. The primary design designated in this study is a case study. Nieuwenhuis (2007:75) argues that case study has been applicable for a number of years in varied disciplines to respond to "how and why" questions, among others. These kinds of questions, according to Creswell (2009), are explorative in nature. Case study affords the researcher an opportunity to explore one case with unique characteristics or a number of cases (Leedy, 1997). The case study as a systematic inquiry describes and explains a phenomenon in its natural setting, utilising multiple sources of data. The main data sources to be utilised in the study take the form of participant observation, semi-structured in-depth personal interviews and use of document sources. The use of multiple sources is considered one of the strengths of a case study. The study examines the effects of oversight role of legislatures in South Africa with specific reference to the Gauteng Provincial Legislature (GPL), which is alluded to be a unique case among South African legislatures. It is referred to as *a centre of excellence within the global legislative community* (20 Years Review Report of the GPL, 2015:7).

In addition, Brynard and Hanekom (2006) assert that it is upon the researcher to decide which research methods to apply in the study. In this study, a qualitative research method was employed, and was justified by the research problem investigated. Inductive logic was also utilised in the quest to derive meanings from the subjects. This is because qualitative research has its own strengths (Creswell, 2009), including flexibility to respond to explorative questions in the study. Amongst others, the main data collection tool would be the researcher. The researcher meaningfully participated in the observations and interviews as well as in the document analysis, which is one of the strengths of qualitative research. Mouton (2001) is of the view that a method of research entails the path of conducting research. It is referred to as the how part of doing research. This entails an action plan and strategy, which include in particular tools and materials needed in building towards the realisation of the objectives of the study.

Research methodology is an important part of the study and should be presented in a precise manner. As outlined by Brynard and Hanekom (2006), the researcher has to select data collection procedures guided by nature of the study; thus, population target, sampling design, data collection tools and data analysis. Furthermore, the study discusses the characteristics and strengths of qualitative research.

### 5.2.1 Qualitative research

Leedy (1997:105) asserts that "qualitative study is an inquiry process of understanding a social or human problem, based on building a complex, holistic picture, formed with words, reporting details of views of informants, and conducted in a natural setting". Marshall and Rossman (1999:57) argue that aspects such as the holistic picture, views of the participants and a natural setting are some of the characteristics and strengths of qualitative research. A natural setting in qualitative research is stressed; this is referred to as a naturalistic context (Leedy, 1997; Nieuwenhuis, 2007). The naturalistic context represents the description and understanding of a phenomenon in a natural setting, and seeks to derive meanings from the views of the participants. According to Bless *et al.* (2006:44), the nature of qualitative research affords the researcher with an opportunity to record human experiences where such experiences are taking place. In addition, Creswell (2009) identifies the following as characteristics of qualitative research, and further outlines what is meant by each characteristic.

- Natural setting – qualitative researchers tend to collect data in the field on site where participants experience the issue or problem under study.
- The researcher as a key instrument – qualitative researchers collect data themselves by examining documents, observing behaviour or interviewing participants.
- Multiple sources of data – qualitative researchers typically use multiple forms of data collection, such as interviews, observation and documents, rather than rely on a single data source.
- Inductive data analysis – qualitative researchers build patterns, because the researcher focuses on learning the meaning that the participants attach to the problem or issue, not the meaning that the researchers wish to bring to the research or which writers express in the literature.

- Emergent design – the research process for qualitative researchers is emergent.

- Theoretical lens – qualitative researchers often use lenses to view their studies, such as concepts of culture, ethnography gender or race.

- Interpretive – qualitative research is a form of interpretive inquiry in which researchers offer an interpretation of what they see, hear and understand.

- A holistic account – qualitative researchers try to develop a complex picture of the problem or issue under study (Creswell, 2009:175-176).

The above-mentioned characteristics identify qualitative research which assist in justifying the choice of the approach in this study. In qualitative research, the researcher often interacts face-to-face with the participants and may be in a position to appreciate what the participants experience daily in executing the oversight mandate. In fact, a qualitative researcher may be directly involved in the case under investigation and becomes part of the main research problem and solution-seeking surrounding the study. Creswell (2009) emphasises the role of the researcher in qualitative research, where the researcher is more involved in the study with the participants. In addition, although it has been long categorised under anthropology and sociology with related designs such as ethnography, fieldwork and participant observation, qualitative research is utilised in various social sciences disciplines and related designs (Nieuwenhuis, 2007). Furthermore, Creswell (2009:27) underscores the importance of literature and its use in qualitative research. Literature review is discussed in the next section.

### 5.2.2  Literature review

The review of existing literature forms an important part of research (Mouton, 2001), and is referred to as a point of departure in research (Majam & Theron, 2006). Bless *et al.* (2006), however, posit that before one takes steps of conducting a literature review, there is a need to consider the purpose and techniques of reviewing the literature as broad issues to guide the process. Hence, the purpose of the literature was to assist the study to recognise discrepancies and gaps that justified this research on legislative oversight. Majam and Theron (2006) elaborate that literature review is done for various reasons, including but not limited to, establishing a research and

theoretical context to base the study. This is what the literature review for this study was aimed at. Brynard and Hanekom (2006:31) argue that literature study, to some degree, should encompass pertinent documents, and more importantly, from experts in the field of study. To add to the discourse, experts in the field should be identified by, among others, the number of their publications in the field and the impact of such publications. Mouton (2001:87) states that not only pertinent, but most recent and reliable literature should form part of the review; and that reliability should be determined by the publication source of one's work. This study took into consideration recent and relevant studies conducted with regard to the oversight role of legislatures, and noted the authority question in mind. This was determined by the availability and accessibility of literature in the area of study.

The literature reviewed in the previous chapters mostly entailed recent literature in the form of publications such as journal articles, conference proceedings, books and commissioned work, including studies, policy briefs and reports. Yet, this did not exclude old relevant literature sources that might add value to the study. Henning in Braynard and Hanekom (2006:31) maintains that in compiling a literature review, any relevant document should be included in the literature survey. Wellington in Majam and Theron (2006:605-606) is of the opinion that the aspects mentioned below are part of the purpose of literature review:

- identifying gaps in knowledge and developing a research problem;
- identifying a theoretical framework upon which to base research;
- identifying issues and variables related to the topic; and
- identifying methodologies.

Furthermore, Welman *et al.* (2005:38) assert that "literature review sets the scene for the clear formulation of the research problem". This alludes to the purpose of literature review, and at the same time, highlights what the literature is used for in a study. Creswell (2009) supports that reviewing the existing literature is important in order to frame the problem of the study, and this takes place in the beginning of the research, that is, either during the proposal phase or in the introductory chapter of the study. The author also writes that literature is used in the literature review chapter, which is a separate chapter in the study, and in the final chapter wherein literature is used to compare and contrast findings, particularly of the qualitative study (Creswell, 2009:27).

The use of literature is dominant in all types of qualitative designs, and is an important feature which formed part of this study (See Chapter 2, 3 & 4). Furthermore, Bless *et al.* (2006:25) assert that one of the purposes may include "to study definitions used in previous works as well as the characteristics of the populations investigated, with the aim of adopting them for the new research". In this study, the literature review assisted in demarcating the study area and the target population by identifying gaps and weaknesses of previous studies on the subject of the oversight role of legislatures, in particular within the South African context.

## 5.3 DESCRIPTION OF THE STUDY AREA

The Gauteng Provincial Legislature (GPL) is one of the nine (9) South African provincial legislatures formed on the 27th of April 1994. It is constituted in terms of chapter six (6) of the Constitution of the Republic of South Africa, 1996 which defines the structure of provincial governments in the country. The GPL consists of 73 members elected through a system of proportional representation (www.gpl.gov.za). This is a system wherein political parties are allocated seats proportional to the number of votes they have received during provincial elections (Mattes, 2002). Since provincial elections take place after every five years, this explains that the legislature is elected for a term of five years. Based on this assertion, the current term of governance is the 5th term of the legislature. The legislature derives its oversight mandate from Section 114(2) of the Constitution pertaining to the powers to hold the executive accountable for its actions or inactions.

It is crucial to note that when conducting the daily business of the Legislature, the House, comprising a collective of MPLs, is divided into Portfolio Committees. Each of these committees is attached to a department in the Provincial Government, and has a duty to enhance the department's ability to deliver services through advisory, monitoring and oversight (The Gauteng Legislature, 2017). There are standing and ad hoc committees dealing with diverse issues and those requiring specialised expertise. According the Gauteng Legislature's 20-year review report (2015), the Gauteng Legislature has 11 Portfolio Committees and 6 Standing Committees. In addition, there is an administration staff complement headed by the Secretary to the Legislature that provides operational support to the work of committees in the house. The

administration consists of Corporate Support (101), Core Business responsible for parliamentary support (196) and Office of CFO (37), amongst others, resulting in a total of 362 employees in the GPL (The GPL's Annual Report 2013/14).

Taking into account the vastness of the study area, it was unfeasible for the study to focus broadly on the Gauteng Legislature and its 17 committees served by 73 MPLs and supported by 196 staff complement. As asserted that the day-to-day business of the legislature, in particular oversight takes place through Portfolio Committees, the study focused on MPLs and Key support staff supporting these Portfolio Committees, mainly five Portfolio Committees overseeing key provincial departments. The Portfolio Committees include those overseeing Economic Development, Health, Education, Social Development and Human settlements (and Cooperative governance and Tradition affairs). The study paid attention mostly to the fourth term of legislative business (2009-2014) building towards the 23 years of a democratic South Africa and beyond, which speaks to the current term 2014-2019. Thus, the target population is outlined to demarcate the study.

## 5.4 TARGET POPULATION

The population of the study included employees of the GPL working in the core business stream responsible for supporting committees; Presiding Officers, particularly the Chairperson and Deputy Chairperson of Committees; and Members of Provincial Legislature (MPLs). The employees include, among others, the Office of the Chairperson and Deputy Chairperson of Committees with Oversight mandate (The GPL's Annual report 2013/2014:28), Senior Managers and Managers for Research and Committees Support Unit, and mainly Committee Support Staff such as Senior Researchers and Researchers, Group Committee Coordinators, Senior Coordinators and Coordinators (SOM, 2012). The support staff provides the necessary support to the Legislature, in particular its Committees to effectively oversee the executive which, in this instance, comprises provincial departments headed by Members of the Executive Councils (MECs). As asserted, the population derives from committees overseeing key provincial departments, and on average, each committee consists of six full-time MPLs; yet most serve in more than one committee. On average, committees are supported by eight support staff. However, this study focuses on only

key support staff, mainly researchers and coordinators. Based on the population, a sampling method and size are outlined.

## 5.5 SAMPLING DESIGN

The study employed purposive sampling in its quest to attain results of the intended objectives. The nature of the investigation entails the sampling of respondents who possess specific knowledge and experience on the oversight role of legislatures in South Africa, particularly the GPL, which is the subject of examination. It was a suitable sampling method noting that the researcher knows and understands the population under study (Bless & Higson-Smith, 1995; Maree, 2007). The researcher was able to identify possible interviewees as justified that little is known about the subject, in particular the effects of oversight (Kumar, 2011). As an employee of the study area, this positioned the researcher to be able to identify specific people to be interviewed. This is postulated by Welman *et al.* (2007), that purposive sampling could be the utmost significant form of non-probability sampling because it assists the researcher to recruit the population based on their knowledge and the purpose of the study. The target population was made up of 78 respondents, including 38 Support Staff, four Senior Managers, six Managers and 30 MPLs.

Phago (2010) asserts that qualitative research is not similar to quantitative research wherein the researcher decides on the size of the sample before the study begins. Hence, in this study, the sample size was not fixed, but 34 semi-structured in-depth personal interviews were conducted, which is slightly above the 30 interviews representing the average for most qualitative doctoral studies (Mason, 2010). The exact sampling size was determined utilising saturation as a guiding principle. Mason (2010:1) argues that "if a researcher remains faithful to the principle of qualitative research, sample size in the majority of qualitative studies should generally follow the concept of saturation". It entails a situation in which confirmation of earlier collected data and repetition happens. This could mean that the data collected does not bring new insights based on the aim of the study, among others. Furthermore, data collection instruments that were utilised in this study are outlined.

## 5.6 DATA COLLECTION METHODS

Data collection forms part of research and entails collecting data from different sources. The data can be categorised into two types, namely; primary and secondary data. Primary data refers to the data which the researcher collects in person, including newly found data. Secondary data is existing data that has already been collected by other researchers to solve other research problems (Brynard & Hanekom, 2006). Primary and secondary data can be obtained through data sources, which include observation, self-reporting, documentary and physical sources (Mouton, 2001). These are commonly utilised data sources in research, particularly in master's and doctoral studies. The researcher utilised both primary and secondary data collected through various data sources in the form of interviews, observation and document analysis as dictated by the qualitative nature of this study. The data instruments are discussed, with some of the themes used for data collection.

### 5.6.1   Semi- structured personal interviews

The study employed semi-structured in-depth personal interviews as a way of collecting data from the respondents. Creswell (2009:181) argues that qualitative research interviews enable the researcher to meet face to face with the participants to collect data. Other forms of qualitative interviews include focus groups and telephonic interviews. This study utilised semi-structured interviews to collect primary data to solicit information on the extent of the executive-legislatives relations, including the responsiveness of the executive and the effects of oversight in promoting transparency and accountability. Laws (2003) in Theron and Saunders (2008:276) asserts that a personal interview "exposes the researcher to the practical reality of the research topic". Semi-structured personal interviews conducted were important to utilise in order to determine the levels of knowledge on the subject. According to Brynard and Hanekom (2006), the face to face qualitative interviews enable the researcher to gain direct knowledge from the participant who is an expert in the subject of inquiry. This became possible by taking into account the qualitative nature of the study wherein the participants were selected based on their knowledge of the oversight role of legislatures. As discussed in section 5.5 of this chapter, purposive sampling was

employed to ensure that the right participants were interviewed in order to collect relevant data for the study.

The interviews were crucial in this study to ensure that in-depth primary data was collected through questions aimed at exploring and probing the contention of the study on the effects of the oversight role. Semi-structured interviews are commonly utilised in qualitative research to validate data collected from other sources. Furthermore, interviews empower the researcher to probe and clarify answers related to the subject. In turn, the researcher "can identify new emerging lines of inquiry that are directly related to the phenomenon being studied" (Nieuwenhuis, 2007:87). As discussed, semi-structured interviews corroborate other sources of data. The next section looks at observation as one of the qualitative data collection methods utilised in the study.

## 5.6.2 Observation

The researcher used observation directly in the setting where the research was conducted. This enabled him to have a first-hand experience of the participants, and be exposed to the practical reality of the research topic (Creswell, 2009:197). Nieuwenhuis (2007:85) writes that "observation is utilised to enable the researcher to gain insight and understanding of the phenomenon being studied". The author is also of the view that observation may sometimes be criticised for its selectivity and subjectivity. This is because the researcher has to take decisions on which areas of inquiry to observe. However, one is able to hear, see and be part of the experience together with the participants in the natural setting, as it provides the researcher with an insider's perspective (Cohen, Manion & Morrison, 2007:396). In addition, Robson (2002) in Cohen *et al.* (2007:396) asserts that "what people do may differ from what they say they do, and observation provides a reality check". Observation was also utilised to collect primary data to support the semi-structured interviews, particularly regarding activities in the execution of the oversight role of legislatures concerning the effectiveness of processes and the implementation of tools and mechanisms by committees in the Gauteng Legislature in holding the executive accountable. This also enabled the researcher to observe the behaviour of the participants in conducting oversight.

Creswell (2009) writes that qualitative researchers have a choice in the utilisation of observation as a tool of data collection. Such choices determine their role, which are varied from a non-participant to a complete participant. As a result, participant observation was utilised. Nieuwenhuis (2007:85) opines that in this kind of observation, the researcher forms part of the process, and is involved in the activities together with the participants. Furthermore, as discussed, interviews and participant observation formed part of the primary data sources. To supplement these sources, documents were utilised as secondary data sources.

### 5.6.3  Document analysis

Document analysis is a type of data collection. Document analysis was utilised to collect secondary data in order to supplement and corroborate primary data sources, which are semi-structured personal interviews and participant observation. This was in recognition of the fact that documents can be employed to collect both primary and secondary data. The data sources in document analysis include both published and unpublished documents. Unpublished data sources represent primary data, and published data sources represent secondary data (Nieuwenhuis, 2007:85). The author writes that unpublished documents include, among others, institutional reports, minutes of meetings, correspondences, agendas, and published documents include books and articles. The researcher took into account the assertion which distinguishes between primary data and secondary data in terms of the kind of documents. The study concedes to have utilised both unpublished and published documents. In addition, Creswell (2009:181) argues that qualitative documents may either be public or private documents. On the one hand, public documents refer to newspapers, minutes of meetings and official reports, and on the other, private documents allude to personal journals, letters and emails.

The researcher collected public documents such as official committee reports, committee agendas and programmes, and research documents, amongst others. This enabled him to analyse existing official documents, which included reports, question papers, programmes and minutes, amongst others. The tool was utilised to collect secondary data on the 'form and types". This includes processes, role players, tools and mechanisms of the oversight role of legislatures in promoting transparency and

accountability as well as public involvement. From this perspective, qualitative documents, semi-structured personal interviews and observation were important for data analysis purposes.

## 5.7 DATA ANALYSIS

Qualitative data analysis is an on-going process involving data collection, processing, analysing and reporting (Nieuwenhuis, 2007; Creswell, 2009). This entails that the data is analysed concurrently during data collection, interpretation and reporting. Cohen *et al.* (2007:462) argue that data analysis involves broader issues from, amongst others, organising to noting patterns, themes and categories of the data collected. The authors are also of the view that there are varied ways of analysing qualitative data, and in their words *'there is no single or correct way'*. The most important factor to be considered when analysing data is fitness for purpose. This suggests that the researcher must know the aim of data analysis, which is a determining factor for the type of data analysis conducted. Gall, Borg and Gall (1996) in Leedy (1997) allude to three approaches of conducting qualitative analysis, including interpretational, structural and reflective analyses. The three approaches are utilised in case studies, making them relevant in this study. This entails that data analysis must be suitable to the research design and approach of the study. Therefore, in this study, the researcher employed interpretational analysis involving the examination of the data collected for constructs, themes and patterns. The qualitative nature of the study also allowed the analysis to utilise the literature review to compare and contrast the findings by referring to the literature chapters and cross referencing.

The data collected in the study was organised and prepared after the interviews were transcribed. The data was analysed with the aim of identifying common themes, patterns and experiences of the respondents. The common themes and patterns identified also assisted in ensuring credibility, quality and conformability of data collected, amongst others. This is in response to reliability and validity questions in qualitative research (Golafshani, 2003). Moreover, interpretation was employed to understand qualitative experiences of the respondents. Having discussed the data analysis, the next section discusses how reliability and validity of data in this qualitative research or study was attained

## 5.8 RELIABILITY AND VALIDITY

The fixation over reliability and validity in research is brought about by the question of rigour (Morse, Barrett, Mayan, Olson & Spiers, 2002), which is central to research and relates to evaluating the worth of the study conducted, including the veracity of the findings and integrity of assumptions made (Long & Johnson, 2000). Twycross and Shields (2005:36) state that "rigour relates to the overall planning and implementation of the research design and it is concerned with whether the study has been carried out in a logical, systematic way". To ensure rigour, Lincoln and Cuba (1985) are of the view that there is a necessity to consider credibility, transferability and auditability of the study, and in particular, of the research findings. Hence, the study carried out the verification of data through prolonged data collection and member-checking to attain credibility; identification of resemblances in the findings for the purpose of transferability; and provided a clear and detailed explanation of the research process to assist in assessing dependability (Lincoln & Cuba, 1985). While rigour amplifies the need for reliability and validity, it is argued that reliability and validity relate better to quantitative than to qualitative research (Morse *et al.,* 2002; Twycross & Shields, 2005).

Long and Johnson (2000:31) assert that dependability and consistency are more applicable to qualitative research than reliability. Validity in qualitative work refers to appropriateness of the data, tools and processes (Leung, 2015). Qualitative work evaluates both reliability and validity by focusing on trustworthiness, credibility, authenticity, dependability, worthiness and truthfulness. Creswell (2009) writes that procedures such as prolonged data collection, member-checking, rich and thick description are useful to the researcher to check the accuracy of findings. Member-checking and prolonged data collection have already been mentioned as applicable. On the one hand, the researcher used different forms of a question with same connotation during the interview of the participants to verify responses (Long & Johnson, 2000). In addition, follow-up interviews were conducted with the participants for verification and clarity (Creswell, 2009). On the other hand, observation as part of the data collection instruments was scheduled from the early part of the study.

Furthermore, to ensure reliability and validity of data, Morse *et al.* (2002) suggest that activities such as methodological coherence, sampling sufficiency, theory development, collecting and analysing data concurrently are vital. The use of purposive sampling in relation to the study enabled the inclusion of participants who are knowledgeable and experienced about the oversight role of legislatures in order to assist in successfully reaching the saturation of categories in the study area.

## 5.9 CONCLUSION

The chapter has provided an outline of the research methodology and design adopted in the study. The research methodology and design of the study was discussed in order to provide a clear picture on the design, plan and strategy that has been utilised to address the research problem of the study. It has been emphasised that there is a need to precisely outline the research methodology and related plans in order to justify the choice of the kind of methods utilised in this study, among others. The chapter has outlined both the theoretical and empirical discussions on the methodology and design of the study. In a nutshell, the study employed qualitative research considering that the study is exploratory in nature. This has allowed the researcher to utilise various data collection sources such as semi-structured interviews, observation and document analysis. This is one of the characteristics and strengths of qualitative research.

The focus was on the oversight role of the GPL wherein the views and experiences of the participants of the study were taken into account. Their behaviours in conducting oversight over the executive in order to promote transparency and accountability as well as public involvement were observed. In addition, both unpublished data sources such as official reports and minutes, and published official reports such as commissioned studies and articles were utilised in the study. The qualitative nature of the study has placed the researcher in the centre of the sampling design, data collection process, and analysis of the data collected. The qualitative nature of the study is rooted in the natural setting. The purposive sampling method was used to choose participants with knowledge and experience in order to explore the subject, in particular its effects of which, as indicated by the reviewed literature in previous chapters, and in particular chapter 3 of this study, little has been studied.

Furthermore, the chapter has paved the way for the next chapter, which focuses on the analysis of the data collected in the study using the population, sample design and method, and data collection tools discussed. As discussed, the primary data of the study was collected utilising both semi-structured in-depth personal interviews and participant observation. Document analysis was used to collect both primary and secondary data to supplement the other two data collection instruments. Semi-structured questions covered various themes following the objectives of the study, and included, among others, understanding and significance of oversight, the executive-legislative relations in oversight, the capacity and ability of the legislature to focus on various role players, methods of oversight in promoting transparency and accountability as well as the involvement of the public in oversight.

The chapter that follows focuses on the research findings, analysis and interpretation of the data collected utilising the methods outlined in this chapter. This enabled the researcher to present the findings and to further provide a detailed discussion.

# CHAPTER 6

# RESEARCH FINDINGS, ANALYSIS AND INTERPRETATION

## 6.1 INTRODUCTION

The previous chapters outlined the historical overview, theoretical foundations and literature review as well as the institutional framework which forms the basis of the findings of the study. These were aimed at laying the foundation of the study in an attempt to conceptualise and contextualise it on the oversight role of democratic legislatures in promoting good governance in South Africa with reference to the GPL. This chapter attempts to respond to the objectives of the study as outlined in chapter 1, and which were also theoretically discussed in the previous chapters (chapter 2, 3 & 4). The chapter provides an analysis of the data collected in the GPL through various data collection instruments based on the methodology and design adopted, including qualitative research and its methods as discussed in chapter 5 of the study.

This chapter presents the findings of the data collected in the GPL. The aim of the study was to respond to the objectives, which include the relationship between the legislature and the executive; assessing the legislature's ability and capacity; and determining the extent to which the public participate in oversight activities. The data was collected through various data collection instruments, namely, semi-structured in-depth personal interviews, sources from documents and participant observation. The data analysed is in line with the objectives, and presented through identified common themes relevant to the study. As a starting point, the findings are presented through responding to the main issues of the study.

## 6.2 PRESENTATION OF FINDINGS

This section presents the findings of the data collected in the GPL through various qualitative data collection methods as discussed in chapter 5 of this study. The data was collected through semi-structured personal interviews, participant observation and document analysis in an attempt to respond to the objectives of the study outlined in chapter 1. In this regard, semi-structured personal interviews were the main data

collection tool utilised to collect primary data from the participants. The participants were selected using non-probability (purposive) sampling to target participants with knowledge and experience on the subject matter in line with the objectives. As a result, 34 semi-structured personal interviews were conducted in the GPL. The population comprised 24 Support Staff and 10 MPLs (current and former). The breakdown of the respondents is presented in the table below:

Table 6.1: The respondents interviewed in the GPL

| MPL | Researchers | Coordinators | Total |
|-----|-------------|--------------|-------|
| 10  | 13          | 11           | 34    |

During the interviews, one of the questions pertained to educational background. The study found that most of the participants, including MPLs and support staff, had tertiary qualifications, with researchers having post-graduate degrees. Regarding the MPLs, the target was those who were in the GPL for more than one term, noting that the current term of governance 2014-2019 was fairly new when the study commenced.

The questions for the interviews were semi-structured to enable the researcher to probe further the subject matter in order to explore the extent of the complexities of power relations between the executive and the legislature. This includes the responsiveness of the executive and the effects of oversight on transparency and accountability. In addition, participant observation was utilised to collect primary data to supplement the interviews. The researcher used participant observation to observe the effectiveness of processes, the implementation of tools and mechanisms utilised by committees in the GPL to promote transparency and to hold the executive to account as well as the involvement of the public in oversight. Participant observation was also used to observe the behaviour of the participants in oversight activities. To complement the interviews and observation conducted, the researcher used document analysis to collect both primary and secondary data in the form of published and unpublished documents. The data collected pertains to inter alia, the 'form and types' encompassing processes, role players, tools and mechanisms of oversight. Thus, the findings of the data collected from the GPL is presented.

### 6.2.1 The relationship between the legislature and the executive

The relationship between the executive and the legislative branch is crucial for effective oversight (Salih, 2005). However, as argued in chapter 3 of the study, there is an imbalance in the relationship between the executive and the legislative branch. This argument highlights that generally, the executive has hegemony over the legislative branch. This is the main challenge that faces most legislatures. The challenge is manifested in various ways such as the executive's reluctance to cooperate and be responsive to the requests of the legislative branch when conducting its oversight. Thus, in determining the nature of the relationship, the researcher asked questions on the views, opinions and experiences of MPLs and support staff on the oversight role and its significance, the kind of relationship and the executive's responsiveness as well as actions taken against the executive's reluctance to cooperate. The data collected from the GPL reveals the following:

6.2.1.1 Understanding the oversight role of the legislature and its significance

Oversight has been defined in various ways by different scholars, as ex-post or ex-ante, and the combination of both as conceptualised and contextualised in chapter 3 of the study. There was however consensus that oversight entails both ex-ante and ex-post activities as the definition adopted in the study. These activities include those that take place before and during implementation, and after implementation to assess value for money. This is also defined through the Sector Oversight Model (SOM, 2012), which guides the South African Legislative Sector in conducting oversight, and GPL in particular. The definition referred to places emphasis on oversight as a proactive rather than a reactive activity that was always censured to be weak and unable to deal with emerging challenges, emergencies as well as take advantage of available opportunities. It was therefore crucial to assess whether such asymmetries in the understanding of oversight still exist or rather exist in GPL, which may be a key contributory factor in the effectiveness of oversight or lack thereof.

On the one hand, both MPLs and Support staff demonstrated a common understanding of what oversight is. They have alluded to oversight as the mandate of the legislature to hold the executive to account for its actions or inactions. The

understating of oversight entails that the GPG departments and their agencies account to the legislature, and mainly to committees in the legislature for the attainment or non-attainment of targets set in the beginning of the financial year through their Annual Performance Plans (APPs). One of the respondents said that *"the departments set their plans or targets at the beginning of a financial year, and the committees use the plans to hold them accountable quarterly and annually".* The departments account on the implementation of policies, and the achievement of service delivery outputs and outcomes within a set period and apportioned budget. The latter pertains to the departments and agencies accounting on their inputs versus the outputs attained as discussed in chapter 4 as part of performance measurement. The emphasis is on "the executive reporting to the legislature on both financial and non-financial performance for a particular period". In addition, the executive accounts on any other matter that the legislature requires it to account on in relation to the executive mandate.

This understanding of oversight is in line with Section 114(2)(a)&(b) of the Constitution, which empowers provincial legislatures to hold the executive or any organ of state accountable. As observed, this is what happens in practice as the provincial executive organs of the state, departments and some of the agencies account quarterly to committees in the Legislature. The responses provided by the respondents were also based on their own experiences in directly performing oversight. It is, however, important to note that despite the common understanding of the oversight role of legislatures in the GPL, asymmetries exist as the emphasis is on ex-post oversight, which alludes to holding the executive to account after the implementation of policies, programmes and activities of the government to assess value for money. This implies that the ex-ante part is missing from the understanding of oversight, which may emphasise that not much is done with regard to proactive oversight. Yet, this cannot be summarily concluded as there are still other subjects for discussion in this analysis of the data collected from the GPL.

On the other hand, understanding of the oversight role of the legislature signifies common understating of its significance. The respondents put emphasis on holding the executive accountable, which is the constitutional mandate and not a party or individual mandate. As discussed in chapter 2 of the study, there is an emerging view held by few which alludes to party mandate, denoting the quandary wherein MPLs are caught between being party representatives and representatives of the people. In this

instance, an MPL emphasised the significance of oversight as ensuring that the party mandate is implemented or executed. In not so much detail, the MPL stated that "*I am here deployed by the ANC to ensure that the mandate of my party is implemented, and if I can receive a call from my party to stop attending the committee meetings to go and campaign for the 2019 elections, I will do so without questions*". This assertion was also supported by another MPL from the ANC. This is important to highlight as it will assist in taking the study forward; that while a common understanding of the significance of oversight exists, there are emerging versions of its importance or it is not that much important.

6.2.1.2 The nature of the relationship between the executive and the legislature on oversight

The nature of the relationship between the executive and the legislature on oversight is cited in sub-section 6.2.1 as one of the main challenges of the legislature. This is despite the fact that the legislative branch in the country is empowered by the Constitution to hold the executive to account for its actions or inactions in managing public resources, and the delivery of goods and services.  Both MPLs and support staff stressed that the GPL has been faced with such challenges relating to the complex nature of its relationship with the executive over the years while it was still grappling to grasp its mandate, particularly oversight since the advent of the country's democracy. One of the respondents underlined that "*this is because there were no much oversight activities taking place, with more attention on building democratic structures, capacity and repealing past unjust laws*". It is asserted that oversight activities in the GPL increased over the years, particularly since the 4th term.

As discussed in chapter 2, regardless of the increase in oversight activities, some of the respondents are of the view that the legislative-executive relation remains complex due to various systems of governance utilised in the country. Among others, there is a suggestion that the electoral system, political party system and parliamentary form of government contribute to the complexity of the oversight in executive-legislative relation. The systems outlined have unintentional consequences, which create a rather dominant executive over the legislative branch. This is because parties have the

authority to decide on who to represent the party in government, and makes it easier for political parties to recall representatives if they do not tow the party line.

On the one hand, the foregoing has, to some extent, weakened the legislature as most if not all representatives deployed as MECs are senior party members in the ruling party, the ANC. Through the systems (particularly the PR closed electoral system), at the top of lists of political parties submitted before the elections are senior party members who will be the first to be allocated seats in the legislature, and therefore get preference in establishing the executive. The example provided by some respondents is that the committee chairpersons who are junior to MECs in terms of party ranking are expected to lead committees in ensuring that the executive account to the legislature. A respondent said that *"imagine the MEC Paul Mashatile who is the chairperson of the ruling party ANC in the province and the MEC for Human Settlements expected to be held accountable by the chairperson who is a junior in the party"*. On the other hand, in some instances, the systems assure a strong relationship between the executive and the GPL in accordance with the parliamentary form of government as MECs remain MPLs. In turn, it enables positive interactions and working relations, mostly between MPLs of the ruling party and the executive, represented by MECs. However, most of the respondents are wary about the strong relationship between members of the same party as it is sometimes protective.

Some of the respondents, particularly staff explain the complexity of the relationship between the executive and the legislative branch through the separation of powers. One respondent said, *"the understanding of the oversight mandate over the years has enabled the GPL to be in a good position to exercise its oversight obligation as it is required by the constitution"*. In terms of the separation of powers, the GPL committees are obligated to hold the executive to account and in turn, the executive accounts to the legislature on a quarterly basis and whenever it is required to account. This is also in recognition of the doctrine of separation of powers that there will always be an interaction between the two branches outside the quarterly performance reporting (see chapter 2). The doctrine allows the GPL committees to interact on a regular basis with the executive, particularly the GPG departments and other organs of state. This is reciprocal as the executive invites the GPL committees in its activities. The foregoing, however, does not mean that some of the challenges do not persist in terms of the relations. The challenges that carry on are related to what is outlined in chapter 3 as

the power relations.  In terms of power relations, the executive utilises its expertise to dominate the legislature, which may be better expatiated through the Principal-Agent (PA) theory adopted in the study to explain the relationship.

Regarding the PA theory discussed in chapter 2, the emphasis is on the expertise of the executive versus the legislature, which creates an imbalance in the relationship between the two branches in terms of power relations. The imbalance is described as information asymmetry, which perpetuates the overdependence of the legislative branch on the information provided by the executive to conduct oversight. The respondents highlight that this remains the case, however, there are strides made in the GPL in building its own capacity and introducing instruments in an attempt to bridge the information gap that exists between the executive and the legislature. The latter is in line with the initiatives by international organisations such as WBI and IPU, advocating for increased institutional capacity and the independence of the legislative branch, as discussed in chapter 3 of the study. One of the respondents said that "*there were times wherein oversight was not well understood, and committees were denied access to projects, even departments were afraid and not willing to appear before committees, however the situation has changed*".  Most of the respondents are of the view that overall the relationship between the executive i.e. the GPG departments and the GPL committees has improved, although there are areas that require further attention. Thus, the areas of improvement and those necessitating further attention are discussed in response to other questions below.

6.2.1.2.1 *Building trust through shared responsibilities*

The relationship between the legislative and the executive branch in modern democracies is based on shared responsibilities. The shared responsibility is based on the understanding of the role of branches of government (Johnson, 2005). This entails that the legislature should understand its role, and equally the executive should do the same. This they do by allowing each other a room to exercise their constitutional mandate based on the separation of powers, as discussed in chapter 2 of the study. The purpose of shared responsibilities is to build a relationship based on trust, enabling an inter-play or interaction between the executive and legislative branches. In general, the GPL and other legislatures in the country struggled to grasp its

mandate, particularly oversight, since the advent of democracy. This view is held by most of the respondents, including MPLs and support staff alluding that the South African legislatures spent most of their infant years in rectifying and passing new legislation in an effort to address the needs of the populace with little oversight activities. However, oversight activity has increased since the fourth term of governance, 2009-2014 and in the process, the relationship between the executive and the GPL has improved in general. The latter is currently based on trust through shared responsibilities. However, there are areas still requiring attention.

From the foregoing, it is important to mention that oversight depends on a good working relationship between the executive and the legislative branch. The respondents highlight that there is a good working relationship between the GPG departments and committees. This pertains to the GPG departments appearing before the GPL committees to present whatever reports and information is required. This used to be a difficult task on the part of the executive wherein GPG departments were reluctant to appear before committees. Currently, GPG departments appear before committees whenever they are required. The relationship has moved to become reciprocal in which the executive further takes initiatives to inform committees about their programmes outside the quarterly, and annual reporting. For example, one respondent said that *"the departments sometimes invite committees to attend their programmes including the hosting of seminars and launching of projects as well as joint oversight visits"*. The latter however at most is the initiative of committees where during their oversight visits invite representatives of the GPG departments to become part and to respond to questions that may arise during the visits. The above represents an example of how the relationship between the executive and the legislative branch has been built on trust through shared responsibilities.

6.2.1.3 The executive's responsiveness to the requests of the legislature

Chapter 3 of the study has discussed constraints and challenges hindering oversight, that is, the reluctance by the executive to cooperate, which pertains to various aspects such as the reluctance by the executive to appear before the legislature, and its reluctance to respond to questions and requests for information by committees. The latter is the focus of this section, which is discussed as the main challenge facing

legislatures in general. The respondents stress that the GPL has over the years been faced with the challenge wherein from time to time the GPG departments were unwilling to respond to questions and requests for information. It is something that the GPL battled with, to try and build a working relationship with the GPG departments to foster transparency and accountability. According to most of the respondents, including MPLs and support staff, the GPL has witnessed an improvement in the responsiveness of the GPG departments and their agencies as well as entities to questions, resolutions and requests for information. One respondent said that *"there is an improvement in committees as they used to struggle to receive responses although I may say, there is little improvement noting the challenges".* This is regarded as a positive. However, it is recognised that challenges persist in various facets. There is emphasis that despite the responsiveness, the challenges exist regarding the quality of the responses provided and complying with the timeframes set by GPL, and in particular its committees.

On the one hand, some of the respondents (particularly researchers) point out the quality of the responses, essentially citing that information provided to committees and responses is sometimes vague. This appears in most cases as the reluctance by the executive to provide satisfactory responses and the information required. For example, "*a question will be raised by a committee concerned about what the reason for the delays in a certain project in the second quarter of the financial year is, and what steps are taken to address the delays. The GPG department responsible instead of responding to the question, it will indicate to the committee concerned that it has addressed the delays in the third quarter, noting that at the time of considering the second quarter, it is halfway towards the end of the third quarter".* This may be complimented. However, it does not assist the committee concerned to understand the reasons for the delays to avert them in future projects. In addition, if the responses are not sometimes vague, they provide misleading information. The GPG departments may claim to have attained the implementation of certain projects, only to realise that the information provided is not a true reflection. Mostly, the GPG departments may have not done so purposely but failed to conduct their internal oversight and verification of the performance reported by other agencies and contractors.

On the other hand, most of the respondents' stress that committees are faced with the challenges of GPG departments and other organs of state not responding in time to

the questions and requests for information, and not adhering to timeframes in general. This also includes delays in responding to committees' house resolutions. For the GPG departments not to comply with the timeframes set by the GPL and in particular committees regarding questions, resolutions and requests for information sent is regarded as a serious challenge. This is because delays in providing responses obstruct committees to hold the GPG departments and other organs of state to account. Committees mostly depend on the information provided by the GPG departments and their agencies when they need to conduct oversight visits, or any other oversight activity aimed at holding them accountable.

For instance, one respondent said that "*the GPG departments may report on their performance reports to have transferred patients from one facility to other facilities in the Gauteng province. Taking into account that Gauteng is a province consisting of various regions, without physical addresses and contact details, the committee dealing with the report on health cannot be able to conduct oversight visits to verify the reports and evaluate the effect of such actions and decisions taken by the executive*". Therefore, when the information requested is received late outside the timeframes set by the legislature, the issues may have been overtaken by other events, and in circumstances where there were challenges, things could have worsened.

6.2.1.4 Actions taken for the executive's reluctance to cooperate and to respond to requests by committees

Most of the respondents are of the view that while acknowledging improvement in the responsiveness of the executive, there are areas requiring attention in GPG departments. These grey areas are exacerbated by lack of actions taken against the executive's reluctance to account for its performance. The executive's reluctance in relations to the improvement entails delays in providing vague responses provided to committees. Although this is not to discard the fact that there are some instances where responses to requests, questions and resolutions are not provided at all, both MPLs and staff stress that in general, committees in the GPL do not take actions to ensure the executive account. For example, in situations where the GPG departments fail to provide the required information, committees will not take action and will do little to follow-up on the requests. One MPL said that *"the only time I remember a portfolio*

*committee taking action for a GPG department's unwillingness to provide the required information was on the Portfolio Committee of Social development. When it appeared before the portfolio committee, the Gauteng Department of Social Development (GDSD) was not allowed to continue with its reporting, and was instructed to go back and prepare what is required".* As a result, it had to accept and come back on the agreed date to account on the particular issues with relevant information.

As discussed in chapter 4 of the study, accountability does not only entail the executive appearing before committees and report on their performance, it also entails actions taken for its unwillingness. Therefore, in situations where there are no consequences for the actions of the executive relating to its unwillingness, delays and vague responses, there is absence of accountability despite the GPG departments regularly appearing before the committees in the GPL. Most of the respondents, in particular support staff, agree that this is a serious concern facing committees in the GPL, which has been emphasised over the years. As discussed in sub-section 6.2.1.1 above, the emphasis is that oversight activities in the GPL have since increased; however, the weakness in promoting effective oversight is the lack of actions taken by committees against the executive's reluctance. This is in particular reference to following-up on the requests by the committees, and commitments made by the GPG departments and any other organs of state. Following-up is very important. One respondent stressed that *"I think committees need to follow-up and not wait for the departments to respond in their own time or follow-up when they appear before them"*. For example, if a GPG department or in the case of the GDSD provides vague responses, it amounts to evading accountability, hence without actions or follow-up, there is no accountability.

6.2.1.5 The influence of partisanship in the decisions of committees when conducting oversight over the executive

The scholarship studied asserts that committees work better because they become representatives in partisan composition. The composition of committees takes into consideration all parties that won seats during the elections, and this is despite the number of seats a party received (see chapter 3). As observed, this is the case in the GPL, wherein political parties that manage to assign MPLs in committees are given the opportunity to do so before committee business can commence. It is however

important to note that the more political parties are represented in a committee, diverse views are expected, in particular conflicting or partisan views. The struggle becomes to establish a working relationship in order to effectively execute the oversight role. A good working relationship is important for committees, which are responsible for the bulk of the work of legislatures (Madue, 2013), and this cannot be attained if committees spend most of their time in disagreements based on partisan posture instead of arguing about best ways of holding the executive to account. Most of the respondents are of the view that committees offer a suitable platform to MPLs to work together without political grandstanding and competition, something that happens mostly in the house plenary during debates and questions. The literature stresses that debates and oral questions in the house attract the media, and for this reason, the media may be used for political competition and confrontation, among others, as discussed in chapter 2 (Bailer, 2011).

The respondents point out that Committees in the GPL always struggle to become nonpartisan, and at best for low partisanship where disagreements prevail or are unavoidable. One respondent said that *"the disagreements happen when committees are considering bills in which the opposition are sometimes expected to produce a minority report"*, it is a case of differing views based on partisanship. It has however been observed and attested by most of the respondents that committees strive for low partisanship in such special circumstances, but in conducting their oversight, Committees in the GPL strive to be nonpartisan or for low partisanship. This is because committees, through their chairpersons, always ensure that there is consensus among MPLs by giving equal opportunities to all MPLs to raise their views, comments and noteworthy, the opportunity to ask questions when the GPG departments in particular appear before the legislature. One respondent said that *"Portfolio Committees avoid party politics, because there is agreement between the two big opposing political parties, the DA and ANC who have more members in most if not all committees",* this is verified, and evidently so based on the results of the latest elections. Most of the respondents emphasise that bipartisanship is prevalent when committees are adopting oversight reports. One respondent said, that "*I have seen even when members belonging to the ANC are not in attendance or absent, committees adopt reports, with members of the DA supporting the adoption*".

Some of the respondents however caution against some support staff who seems to forget that they are supposed to serve committees in non-partisan ways. Some support staff become partisan in the support they provide to committees. One respondent stressed that *"the staff go to the extent of aligning to certain political offices or show support to certain members because of political affiliation, and this obstructs oversight".* Thus, this should be avoided in order for committees to realise their oversight potential and effectiveness. Furthermore, the relationship between committee chairpersons and the MECs is a cause for concern as it becomes protective in certain instances, and obstructive when conducting the oversight role.

### 6.2.1.5.1 *Protective relations between committee chairpersons and Members of the Executive Council*

In the crux of the relationship between the executive and the legislature is the interactions between committees and government departments led by both committee chairpersons and MECs. Most of the respondents highlight that the importance of the relationship between committee chairpersons and MECs, which is central to the oversight role of committees to hold the executive to account. In ensuring that committees hold the executive accountable, the leadership of the committee chairpersons is as important as the leadership of the MECs in ensuring that the executive in GPG departments and other organs of the state account to the GPL, particularly to committees. It is however mentioned that party politics and systems of government contribute to the kind of relation sustained between committees and GPG departments. Most of the respondents, mainly support staff emphasise that the relationship is one wherein the MECs have hegemony over the chairpersons of committees because of reasons related to party politics. One respondent stressed that *"the MECs have a senior status over the chairpersons of committees, and being an MEC is viewed as a promotion that is desired by chairpersons".* In addition, the MECs and the portfolio committee chairpersons are from one political party, the majority party, as in most parliamentary systems. The two parties have a common party mandate, which in most cases conflate and conflicts with the oversight mandate of the legislature.

As an example, "*one chairperson of a committee in outlining his view and understanding of the oversight mandate, highlighted that I am in the legislature to implement the mandate of the political party that deployed him*". This could not be probed further. However, the understanding is that the respondent conflates the mandate of both his political party and the legislature. Hence, most respondents, in particular support staff, outline that the relationship between the MECs and committee chairpersons as contributes to the weakness in the GPL's oversight role. The relationship "*is referred as a cosy relationship wherein committee chairpersons protect the MECs to evade accountability to committees*". The cosy relationship takes place wherein some MECs are absent in consecutive committee meetings due to other reasons, with the committee chairpersons handling it as normal. One respondent said that *"it is however worse in situations where MPLs will ask questions in committee meetings, and engage the MECs and the GPG departments in general, yet committee chairpersons respond on behalf of the MECs*". This does not only suggest a protective relationship, but it is also an attempt to obstruct the oversight role of the legislature in promoting transparency and holding the executive to account.

Moreover, as stressed by some of the respondents, chairpersons would even go to the extent of attempting to sway the MPLs not to ask many questions as they will be given an opportunity in future meetings and engagements. This can be viewed as an attempt to hinder transparency and accountability, and in turn, may result in committees being reactive. This means that in future meetings and engagements, the possibility is that committees will be responding to events that may either have worsened or overtaken by other events. Most of the respondents' stress that this however has no influence on the MPLs. Committees in the GPL are multiparty committees, and chairpersons, in terms of the standing rules of the GPL, are obliged to give the MPLs an opportunity to ask questions when the executive appears before committees and whenever there are emerging issues requiring attention. Thus, in general there are instances where partisanship prevails; however, committees are multiparty and characterised by low partisanship.

## 6.2.2 The legislature's ability and capacity to promote transparency and hold the executive accountable

In the literature (chapters 2 and 3), it is stressed that when it comes to weaknesses and challenges related to the oversight role of legislatures, which contribute to ineffective oversight, legislatures are censured. This may be justified as the oversight role is the domain of legislatures, not the executive. This is embedded in the constitutions of most democratic countries, and in South Africa in particular. There is however a general view that legislatures of most developing countries and, in particular African legislatures, have always abandoned their oversight role. According to Abellera (2011), this is because they are characterised as weak due to their institutional capacity and limited decision-making, among others. In relation to this study, this implies that there are serious doubts on whether legislatures have capacity and ability to conduct oversight over the executive. This has to do with whether legislatures have knowledge and resources as well as the ability to generate their own information. The questions asked were aimed at responding to the pertinent issues central to the oversight role. The data collected from the GPL revealed the following:

6.2.2.1 The levels of education and experience, and its relevance to the work of committees

On the question pertaining to educational background and experience, the study found that most of the participants, including MPLs and support staff, had tertiary qualifications, with researchers having post-graduate qualifications and over three years' research and policy analysis experience. The support staff included mainly researchers and coordinators who formed part of the interviews. This is stressed considering that there are various role players supporting the work of committees, as discussed in sub-section 6.3.3.2 of this chapter. However, this is not something to worry much about as committee researchers and coordinators are the main components of the professional support provided to committees in the legislature (Maloka, 2000). Regarding the MPLs, the target was those who are in the GPL for more than one term, noting that the current term of governance 2014-2019 was fairly new when the study commenced. Taking into account the levels of education and experience of both MPLs and support staff, there was a need to look at their relevance

in the work of committees. In this instance, support staff (researchers and coordinators) provided most of the responses, with most of the MPLs deciding against responding to the question of relevance of their education and experience in the work of committees. This is because MPLs were not comfortable with the question. On the other hand, "most of the researchers believe that their educational background and experience is relevant to the work of committees, while most of the coordinators have a contrary view". Some researchers indicated that experience has taught them that in the GPL, researchers are mostly appointed in terms of committee specialisation, while as for coordinators, there is a tendency of reshuffling from one committee to the other.

6.2.2.2 Knowledge and familiarly with the oversight role of the legislature

On the knowledge and familiarity with oversight role of the legislature, and whether it assist in attaining the intended results, it was difficult for the first few interviews conducted because at most, the answers were yes without motivating why this is the case. This raised more questions than answers, and a decision was taken by the researcher to utilise the responses provided by the respondents on other questions such the question on the understanding of the oversight role and its significance. Most of the MPLs and support staff displayed knowledge and familiarity with the oversight role and work of committees. This stems from the understanding that oversight is a constitutional mandate of the legislature, and its significance is to hold the executive, in particular government departments and any organs of state to account for its performance as planned through their APPs. It was however still difficult to determine whether the knowledge and familiarity assist in attaining the intended results as most respondents responded with a simple yes. Thus, it can be concluded that the MPLs and support staff have knowledge and are familiar with the oversight role of committees, and that such knowledge contributes to attaining its intended results.

6.2.2.3 The adequacy of staff complements and capacity to support the work of committees of legislatures

Capacity has been acknowledged in chapter 3 of the study as one of the challenges facing most democratic legislatures, particularly in developing countries. Most of the respondents interviewed in the GPL encompassing both support staff and MPLs view

capacity as a challenge that has faced the GPL for a long period. This has had an impact in the work of committees in the legislature. It is highlighted that in general, the GPL has capacity and support to promote transparency and to hold the executive to account. While mentioning the available capacity and support, some of the respondents highlighted that there are areas that are still lacking. Most of the respondents indicated that there is capacity and professional support to committees coming from various units and role players. On the one hand, the MPLs put emphasis on the available capacity and support that committees receive from committee researchers and, in general, the research unit of the GPL. Committee researchers provide committees with objective analysis and verification of the performance of GPG departments. One of the MPLs said that *"as members generally, the researchers make our work easy and we value their support, and quality of their work, but we need to rely more on research and expert advice".* Over the years, the GPL has built capacity and support, this is with reference to various units within the GPL such as research unit among others. On the other hand, some of the MPLs and support staff stress that in general, public participation and committee support units need further attention, however acknowledging that there are some positives that can be singled-out in those units. Generally, most respondents highlight that there is adequate capacity to support the work of committees, which can be improved over time. One respondent said, "*there are high level committees supported by more than one researcher, coordinator and administrator, in future they may be a need for public participation officers to be attached to each committee to provide dedicated support as it is not the case".*

Moreover, there is also capacity among the MPLs in general. However, they stress that there should be continuous capacity building programmes. It is also noted that there are some MPLs who are lacking capacity. The lack of capacity is prevalent on some of the new MPLs than those that are serving their second or more terms. This happens despite workshops that are conducted at the commencement of a term of governance. Judging by the level of engagement and the nature of questions asked when the executive appears before committees, some MPLs still find it difficult to comprehend the work that committees execute. Some respondents stress that the root of the capacity deficiency in new and old MPLs is because mostly MPLs are not assigned to committees based on their specialisation, while acknowledging the efforts made by the DA in the GPL that seems to assign MPLs according to their knowledge,

experience and interests. However, as observed, some of the parties with lesser number of MPLs have no choice but to make the most of what they have to ensure that they are represented in most Committees in the GPL. Furthermore, most of the respondents mentioned that while noting the available capacity and support (see sub-section 6.3.3.2), the GPL recognises the need to continuously build capacity and support among MPLs and support staff. This is a way of enabling the legislature to effectively execute its mandate to hold the executive to account as well as to ensure that the public participates in the oversight role of the legislature.

6.2.2.4 The benefits of having many tools of conducting oversight

There are various tools of oversight that the legislature deploys to hold the executive to account. These tools have been discussed in chapter 3 of the study. Stapenhurst and Pelizzo (2006) studied these tools in order to study oversight potential. In chapter 3, the literature points out that globally democratic legislatures utilise similar tools of oversight. The difference is that some legislatures use more tools of oversight than others, which is the approach deployed to study legislatures' oversight potential. A study conducted by the WBI utilising surveys to various legislatures highlight that the number of tools used by the legislature determines its oversight potential. The GPL has over the years increased the number of tools utilised to hold the executive to account. The tools of oversight include those that are utilised in committees such as departmental reports (Budget, Quarterly and Annual report); questions; oversight visits –announced and unannounced; committee inquiries; committee hearings and those that are used in the house such as motions, debates and questions –written and oral (Rapoo, 2004; SOM, 2012).  Most of the respondents are of the similar view that having a number of tools increased the GPL's oversight potential. There has been an increase in oversight activities within the GPL, and the number of oversight tools enable the legislature to utilise different approaches to promote transparency and to hold the executive to account. The how part of the utilisation of some of the tools is discussed further in section 6.3.4 of this chapter.

6.2.2.5 Views, opinions and experiences on the effectiveness/usefulness of the oversight role and oversight tools utilised by committees

The number of tools and methods of oversight used does not necessarily mean or signify effective oversight as discussed in chapter 3. There was a need to get the opinion and experience of the respondents on the effectiveness of the tools and methods used to promote oversight in the GPL. Most of the respondents believe that the tools and methods of oversight utilised in committees are more effective than those used in the house. The emphasis is on the nature of oversight that exists in committees as compared to the house. Committees in their nature endeavour for low partisanship, while it is the contrary in the house where partisanship and politicking is the order of the day. As discussed in sub-section 6.2.1.5 above, Committees in the GPL are non-partisan or at best strive for low partisanship, while political competition exists in the house. On the latter, the example is the questions in the house, specifically, both oral and written questions which before the fifth term of governance, were dominated by opposition parties (Committees' Situational Analysis, 2014). The ruling party has not shown much interest with regard to utilising such questions to hold the executive to account in the GPL. Moreover, questions in the house were viewed by the opposition as an opportunity to hold the executive to account. Most of the respondents confirm what is discussed in chapter 3 of this study that questions in the house are ineffective and remain dominated by opposition parties, and the reluctance to provide adequate responses by the executive. There is, however, emphasis by some on the need to study the nature of responses provided to questions raised in the house by opposition parties, which is not the purpose of this study.

Taking into account the focus of this study, most of the day to day work of legislatures takes place in committees (SOM, 2012). Committees utilise most of the methods to conduct oversight, which are believed to be effective based on the views of most of the respondents and as observed. The studied tools and methods of oversight utilised in committees include independent verification, oversight visits and fieldwork research, FIS and Departmental reports (budget, quarterly and annual report) encompassing methods such as research analysis, questions and departments appearing before committees. In addition, one of the respondents said that "*I think the introduction of committee inquiry as a new tool of oversight for committees is important.* However,

committees have not yet taken advantage of the tool, and only few committees started using or piloting the tool. Committee inquiry has a potential to promote effective oversight as it gives the GPL committees powers to summon any person or organisation to appear before committees under oath, and to take legal actions against any attempt to mislead committees. As discussed, other than the committee inquiry, other tools and methods are utilised by most committees. How some of the tools and methods are used is discussed in section 6.3.4 below. Overall, there are varied responses in terms of the effectiveness of the oversight role as most MPLs interviewed are of the view that it is effective, while with most staff, it is a yes or no. Yet, after on further probing, most support staff are of the view that it is effective; a few continue to hold the view that the oversight role is ineffective, although they are also of the view that some of the tools are effective.

6.2.2.6 The legislature's ability and capacity to generate own information

Information is the most pivotal facet for legislatures to be able to promote transparency and to hold the executive accountable. As discussed in chapter 4 of this study, the executive needs to report regularly on its performance information to legislatures. This is a norm at the GPL as prescribed by statutes and policy frameworks. However, this is not the end as the information reported is mostly high-level or top line allocations by programme (Van Zyl, 2014). To demand for accountability, more detailed information is required, and in turn it depends on the executive's willingness to provide timely, accessible and adequate information when requested. Based on responses from the GPL in sub-section 6.2.1, to a certain extent the executive intentionally withholds information and maintains its information advantage over the legislature, which results in what is defined through the PA theory as information asymmetry (see chapter 2). Hence, the question on the legislature's ability and capacity to generate its own information was central to probe one of the main defining features of the power relations between the executive and the legislature. In an attempt to get its power back, the legislature should be in a position to generate its own information, and in the case of the GPL, most of the respondents, including MPLs and staff, assert that it has that ability and capacity.

There are different tools and mechanisms utilised by GPL committees to generate their own information. Such tools and mechanisms include fieldwork research, FIS, independent verifications and oversight visits as well as external reports from research institutes and chapter 9 institutions. Although most of the respondents, including support staff assert that most of these tools and mechanisms have proven to be effective, they are not utilised to their full potential when conducting oversight. The tools include inter alia performance reports, Focused Intervention Study, independent verifications, oversight visits and fieldwork research. Some of these tools and mechanisms have been thoroughly discussed in section 6.3.4 to determine their effectiveness. However, tools such as research institutes and chapter 9 institutions are not discussed as most of the respondents' stress that these are not used regularly or not at all in most committees. Few researchers expressed the view that the tools are utilised, but emphasised that their utilisation needs to be strengthened. One of the respondents said that *"yes, I think they are used well, but time constraints push committees to rush their processes to meet their quarterly target. I think that mostly FIS(es) are rushed by committees, you cannot expect to conduct a thorough study within a quarter, sometimes it needs time which is a luxury to committees".* In conclusion, the GPL has the ability and capacity to generate their own information, and such information has proved to be useful (see sub-section 6.3.4.3). However, some respondents believe the usefulness depends on various factors in particular the chairperson of the committee. One of the respondents stressed that *"sometimes you can do your fieldwork, but after you share the report with the chairperson, nothing is done about it".* Some respondents said that sometimes in the research analysis produced, they are told what to include or not to include. Regardless of the positives, this highlights that challenges impeding oversight persist.

6.2.2.7 Challenges contributing to weaknesses in the oversight role of the legislature

Most of the respondents, especially staff argue that among the challenges facing the GPL in its attempt to conduct effective oversight are its internal processes, procedures and arrangements. These factors play a fundamental role in either the success or failure of the GPL to influence the executive to promote transparency and accountability. Challenges mostly contribute to the inefficiency and ineffectiveness of the GPL as they are at the centre of the support provided in the oversight role of

committees to ensure the executive, in particular, GPG departments and other organs of state, to account to the legislature. This is surprising considering that it is over 23 years of democracy in South Africa, and in the face of it, the GPL continues to pride itself as a modern and activist legislature, and a leader within the global legislative community (20 Years Report of the GPL, 2015). The question is, what makes one to be a modern and activist legislature, and a leader within the global legislative community? The respondents point out that for the GPL to consider itself a modern and activist legislature, it should be in a position to respond to emerging challenges, emergencies and be able to take advantage of opportunities in order to strengthen its oversight role and as a result promote effective oversight. Failure to swiftly respond to emerging challenges and emergencies and to take advantage of the available opportunities has been discussed in chapter 3 of the study.

The abovementioned is discussed as one of the dominant attributes characterising weaknesses of democratic legislatures in developing countries. The respondents, particularly coordinators isolate the internal processes, procedures and arrangements as contributory factors. The GPL has become too bureaucratic over the years, which contribute to its inefficiency and in its ineffectiveness. One respondent said that *"this is because there are unnecessary processes, procedures and arrangements within the GPL, which do not assist committees, but obstruct the work of committees"*. For example, the respondents put emphasis on committees conducting strategic planning to plan for projects and activities to implement in a financial year to ensure efficiency in their operations. Despite the process of planning, committees have no control over the implementation of the projects and activities. They are however still expected to motivate for the implementation of their plans, which goes through official memorandums to be approved by a number of managers and leaders within the institution before they can be implemented. This in turn, hinders committees in implementing their plans and to be proactive in their oversight role. Some respondents argue that this is triggered by, among others, lack of understanding roles and responsibilities among support provided by other units, and appreciating the work of committees.

6.2.2.7.1 *Lack of understanding roles and responsibilities*

Committees are at the centre of the mandate of the legislature, in particular the oversight role. This stresses that committees are responsible for carrying out the day to day work of the legislature. Chapter 3 of the study emphasises that committees are the engine rooms of legislatures to deliver its mandate, and this does not only point to oversight. The mandate encompasses, inter alia, law-making and public participation. However, oversight remain the focus of the study. The respondents, particularly staff, are of the view that the first step is for different directorates and units within the GPL to appreciate and recognise the importance of the role of committees in the legislature. This does not only point to parliamentary directorate and its units i.e. research and committee support who are directly involved. Putting it differently, one respondent said that *"there is a need for the GPL in general, and support directorates and units in particular to understand that their existence within the legislature is subject to the support provided to committees of the house or they exist to support committees"*

The foregoing suggests that committees should be the focus for every support unit within the GPL, because what some of the respondents noticed is that other support components seem to hold contrary views, thinking that committees' existence is dependent on their existence. This results in sporadic and inconsistent support provided to committees, which renders them inefficient and ineffective as they cannot successfully implement their projects and activities. The example provided for support units needed for functioning of committees are budget, transport and supply chain management unit. These units may not be directly involved in the oversight role of committees. However, they are crucial activators to ensure that the GPL discharges its mandate, in particular oversight. Committees cannot be able to conduct an oversight visit without budget or supply chain procuring services, and transport to ensure that the MPLs and other important stakeholders and role players are taken to venues or communities. Therefore, it is important that different directorates and support units within the GPL become more involved in the work of committees.

### 6.2.2.7.2 *Programming and time constraints*

The budget, capacity and time constraints are dominant challenges facing the legislative sector, particularly in most developing countries (see chapter 3). The GPL is not immune from this. Most of the respondents say that the above constraints and challenges are a reality, with more emphasis on the programme and time constraints as the main issues negatively impacting oversight role of ensuring transparency and accountability. There is emphasis that the legislative sector operates differently from other institutions, with specific reference to the GPL. This argument is one of the reasons advanced, which contributes to the congested programme and time constraints in the day to day oversight work of committees in the legislature. On the one hand, the work of committees mostly responds to the Public Sector Oversight Model (PSOM) and the Budget Cycle Model (BCM), in which committees are guided on what they will be considering each quarter of a financial year, i.e. the budget, annual and quarterly reports of government departments and other organs of state as well as Focused Intervention Studies (FIS) emanating from the budget and annual reports. In addition to this, committees also respond to the work referred to the legislature such as bills, mostly bills referred by the executive and section 76 bills referred to provincial legislatures by the National Council of Provinces (NCOP). On the other hand, other than responding to the BCM and bills referred to, GPL committees have other programmes such as stakeholder engagements and workshops and oversight visits, among others (Committees Term Programme, 2017). These committees have to ensure that they consider all reports and bills referred to the legislature and, at the same time, implement their own plans each quarter.

As observed and taking into consideration most of the respondents interviewed, committees in the GPL have on average four meetings in a quarter to consider the abovementioned. For example, in the first quarter of a financial year, they consider the budget of that financial year and fourth quarter reports of the previous financial year. They also have to deal with their plans, strategic planning sessions, stakeholder engagements and oversight visits. The GPL has only two days for committee work in a week. The other days are considered constituency days for MPLs, among others. It is important to also highlight that in the two days, a committee can only sit once as committees are clustered to avoid conflicts in the programmes of MPLs, and to ensure

that various committees have the required number of MPLs in order to function effectively. MPLs are stretched as most serve more than two committees, depending on the number of seats a political party is allocated (propositional to the number of votes won) during elections, equal to the number of MPLs versus 17 committees existing in the GPL. Based on the results of the elections that constituted the fifth term of governance (section 6.3.1 below), all political parties in the GPL are stretched, yet some are more stretched than others. In addition, MPLs have political party work where most of them indicated that they also serve other sub-committees in their party caucus besides committees in the legislature. This points out that MPLs remain active members of their political parties. As observed, some of the MPLs devote most of their times in party work, which is one of the reasons given for their absence. The foregoing compounds the time limits because when the GPL deals with the programme, it also has to consider MPLs' busy schedule.

### 6.2.3 The extent to which the public participates in the activities of the legislature to monitor the performance of the executive

The literature outlines that as discussed in the study, there has been rhetorical calls for increased public participation in the legislative sector. This refers to public participation in processes and decisions of the legislature. From the foregoing, public participation in general takes place in the GPL across all the mandates. It is however important to note that public participation does not only involve the participation or involvement of those affected by decisions in the processes and decision-making, but they should be able to contribute to, and influence such processes and decisions as discussed in chapter 3 and 4 of this study. The legislature is regarded as an avenue that should offer opportunities to citizens to voice their concerns and to contribute to policy decisions. It should be an interface between the political representatives and the citizens. This is something that was recognised by most of the respondents during the data collection; that the legislature's committees facilitate participation with emphasis on stakeholder involvement. The respondents are of the view that stakeholders should be placed at the centre in the processes of the legislature, in realising its mandate of law-making, public participation and oversight. This is one of the fundamental questions that the respondents were asked during the data collection

in the GPL. There is consensus that there is a need to realise value-for-money from public participation activities undertaken by the GPL and committees in particular.

Some of the respondents highlight that public participation is a costly exercise. This is because committees in the GPL devote most of their budget on activities related to public participation in general. This entails providing transport for stakeholders, booking venues, accommodation and catering, among others. Despite this, questions still arise around whether public participation is able to realise its intended purpose on oversight. Most of the respondents note that public participation is an exercise mostly implemented in the GPL for compliance since it is a constitutional obligation. However, there is no value-for-money for this costly exercise. The questions asked by the researcher probed approaches used for involving the public, the level of participation, and the influence of such involvement in promoting transparency and accountability. The data collected from the GPL further revealed other issues.

6.2.3.1 The ways in which the public, in particular stakeholders are involved in oversight work of committees

Stakeholders participate in various ways in the mandate of the legislature. As discussed in the literature, to emphasise this, public participation cuts across all the mandates, inter alia, law-making, public participation and oversight. This is also to assist in examining the extent of the participation by the public in the legislature's activities. In the law-making process, the public participate through public hearings, which is an activity where the public is invited to make inputs and comments in the bills that are before the GPL. This constitutional obligation takes place before the bills can be passed into law. As observed, public hearings are mandatory when there is a bill before the legislature or has been referred to by the NCOP. The relevant portfolio committee, which deals with the mandate that the bill seeks to address, has the responsibility to host such public hearings. For example, when a bill on liquor is introduced in the legislature, it becomes the responsibility of the portfolio committee on economic development to take it through various consultation processes and public hearings before it is adopted by the legislature.

With regard to the public participation mandate, stakeholders are invited to participate in the GPL through various activities. These activities include, amongst others, public

participation forums, workshops and sector parliaments. The latter entail public participation platforms targeting specific groups, inter alia, youth, people with disabilities (PwDs), women and workers' parliament. These sectors deal with issues affecting a specific group of people. They offer them a platform to raise their issues that require the attention of government of the day. The activities take place annually, and most are hosted in line with the commemoration of those specific days. For example, youth parliament is always hosted around the 16th of June annually in commemoration of the youth day, 16th June 1976.

On the oversight role, section 118 of the Constitution states that the legislature and its committees should conduct its day to day work in an open environment and in public. Thus, committees should foster participation in their daily work. In conducting oversight, committees in the GPL hold, among others, Bua le Sechaba, stakeholder engagements and workshops. Other than that, committees have to invite stakeholders to their committee meetings when they deal with performance reports of the executive, in particular departmental reports such as quarterly, annual and budget reports to make inputs and comments on issues directly affecting them (Committee Term Programme, 2017). The emphasis has always been taking the legislature to the people, with the committees holding, among others, meetings to consider annual and budget reports hearings outside the legislature. In addition, stakeholders participate in committees, FIS and oversight visits. The discussion provides clarity on how stakeholders participate, but there was a need to probe further to understand how they get to participate in the events, meetings and engagements.

6.2.3.1.1 *Stakeholder identification and mobilisation*

Stakeholder identification and mobilisation is an important step in public participation or in processes involving the public in the oversight role. This determines who participates and who does not participate in a planned event. In other words, it acts as a gatekeeper. This is one of the first steps in public participation just after the determination of the agenda, part of planning. It is an important stage noting that one of the purposes of public participation is to give an opportunity to the people who were previously disadvantaged, and more importantly, as discussed in chapter 4 of the study, those who are affected by the issue on the agenda. In the GPL, this is the

responsibility of public participation officers who are tasked with ensuring that relevant people and stakeholders in particular, attend to the events of the legislature, and to the day to day work of committees. The respondents are of the view that stakeholder identification and mobilisation, which as part of planning, contributes to weaknesses in public participation on oversight.

The foregoing is held by most respondents that formed part of the study, if not all. The view is stressed by one respondent that "*the fact that committees continuously receive irrelevant stakeholders in gatherings and engagements is the root cause, which is contributory to the lack of or weaknesses in public participation*". Over the years, this has been an issue of concern for committees in the GPL. There is also a tendency of receiving the same stakeholders for different consecutive gatherings and engagements with different issues on the agenda. Some of the respondents think that "the structures utilised by the GPL in general to identify and mobilise stakeholders are flawed". This is because in most cases, the stakeholders attending the gatherings and engagements are recruited through parliamentary constituency offices (PCOs) and ward committees mostly aligned to the ruling party. In some instances, the events will be attended by Community Development Workers (CDWs). Noteworthy, the gatherings and events are mostly attended by the people whose aim is not to contribute to the oversight role, but have certain interests.

There are however a few committees who manage to attract and receive relevant stakeholders in their meetings, gatherings and engagements. Such committees include, among others, the portfolio committee on education. This is because the committee has managed to identify, and established working relationships with its key stakeholders. The committee on education has key stakeholders such as Non-Governmental Organisations (NGOs) i.e. section 27, and School Governing Bodies (SGBs), among others. Yet, the committee still fails to attract and receive relevant stakeholders from the public at large when dealing with specific issues on the agenda. This suggests that while acknowledging not having a stakeholder database for key stakeholders for most committees as a challenge, stakeholder education is lacking in most instances, which disadvantages most of the populace from participating or even attending by those who are directly affected by the issues on the agenda.

Some of the respondents also believe that the scheduling of the gathering and engagements disadvantage most people that are directly affected from participating. For instance, on issues of education, one respondent said that "*most of the people who send their kids to various schools are at work during the day, hence it is not advisable to host gatherings during working hours, expecting parents to attend*". Therefore, the discussion clearly highlights the effect of stakeholder identification and mobilisation on public participation, meaning that irrelevant stakeholders may as well cast aspersions on the stakeholder contribution, inputs and comments.

6.2.3.2 Views on stakeholders participating from an informed position provided with timely, accessible and adequate information

Once stakeholders have been identified and mobilised to attend the gatherings and engagements, they are expected to participate, which may be considered the second step in accordance with the information collected during data collection. The GPL put emphasis on this stage as encouraging meaningful participation by stakeholders (Presiding Officers' Priorities, 2014). This points out that stakeholders who are in attendance should make contributions, inputs and comments that effect the issue on the agenda, and oversight in general. It encourages active participation on the issues under discussion, assuming that there may be passive participation given challenges such as committees attracting irrelevant stakeholders. This was discussed in chapter 4 of the study, that is, the stages of participation, which include, among others, one-way interaction, consultation and active participation (Chun & Cho, 2012). Interestingly, the GPL has been frank about what exactly it wants to achieve in terms of public participation, which is active public participation or rather meaningful public participation as it is referred to. This is to acknowledge the value of contributions, inputs and comments from the public as a cornerstone for democratic consolidation, and holding the executive to account.

Most of the respondents, however, mention that active public participation or rather meaningful participation in real setting within the GPL, particularly in the day to day work of committees, is not taking place. Given that committees continue to attract and receive irrelevant stakeholders in their oversight work, passive participation becomes prevalent. Stakeholders do attend to committee gatherings and engagements.

However, they do not provide substantive contributions, inputs and comments in the oversight work. In most instances, stakeholders make contributions, inputs and comments that are irrelevant to the issues in the agenda. For example, *"stakeholders will attend a gathering or engagement hosted by the portfolio committee on economic development, yet the issues that come out in terms of contributions, inputs and comments will be on housing and crime instead of entrepreneurial and employment opportunities as it will be expected".* Some respondents argue that this does not only point out to irrelevant stakeholders, but also inadequate public awareness prior to the planned engagements and gatherings.

In addition, in instances where the stakeholders participate and make substantial contributions, inputs and comments, most of the respondents indicate that there are no diverse views noting the approaches utilised to identify and recruit stakeholders such PCOs and ward committees attached to the ruling party at most. This was observed where, in one desperate instance, when one committee was considering departmental performance reports, a community hall in Rabie Ridge was filled with CDWs on their orange uniforms as if they were waiting to clean the hall after the gathering or maybe they were just seizing the opportunity to have free lunch at the expense of taxpayers. Other than that, there was also a need to further study whether the contributions, inputs and comments find expression in committee reports. This is because committee reports provide an opportunity for stakeholders' contributions, inputs and comments to make positive effects on oversight.

6.2.3.3 The extent of stakeholders effecting the oversight role of the legislature to hold the executive to account positively

As alluded by most of the respondents, the reports produced by committees in the legislature are important to legitimise and give traction to contributions, inputs and comments of stakeholders. This is because committee reports contain recommendations of committees from the discussions held, which are then tabled in the house for adoption as the resolutions of the legislature. The resolutions are shared with or sent to the executive, in particular relevant departments for consideration, provision of responses and implementation. This puts emphasis on the importance of committee reports, not only in the public participation process, but in the day to day

oversight work of committees in the legislature. However, some of the respondents (mainly staff) mentioned that not all reports are tabled in the house; such include sector parliament and stakeholder engagement reports, among others. This renders the findings and recommendations emanating from such gatherings and engagements less important.

It is important to note that all committee reports focusing on the executive's performance are tabled in the house. These reports include, among others, quarterly and annual reports of various departments as well as the budget report. According to the GPL's guideline of assisting respective committees on the focus areas in the assessment of the executive's performance, public participation is one of the areas of emphasis (COVAC for Executive Oversight, 2012). The guideline was introduced especially for the standardisation of oversight and, in the process, addressed issues of concern; one being public participation in the day to day work of committees in the GPL. This is because despite previous attempts to encourage stakeholder contributions, inputs and comments in the work of committees, things have not improved.

Most of the respondents assert that this attempt of introducing the guideline and others before did not make any difference in terms of contributions, inputs and comments by stakeholders. What makes matters worse is that stakeholders do not even attend to most of the committee oversight meetings scheduled on average four times per quarter (Committees Term Programme, 2017). Yet, if they do attend on those few occasions, it is either they are not well prepared or they are not given a sufficient platform to make contributions, with both instances reducing them to mere observers. This suggests that committee meetings are at most, a one-way interaction. It means that while one may claim the presence of participation, such participation is devoid of activism. There is no active participation of stakeholders in the day to day oversight work of committees.

Various committee reports for 2009 to 2017 studied show that there is no improvement in terms of contributions, inputs and comments by stakeholders in terms of finding expression in the reports of committees in the GPL. In most cases, there are no stakeholders in attendance. However, of the popular writings that stakeholders attended, there were no contributions, inputs and comments made during that

meeting. This raises many questions about approaches used to involve stakeholders in the oversight work of committees.

In addition, there are gatherings and engagements other than meetings dealing with performance reports of the departments where stakeholders are given more attention. These include sector parliaments and Bua le Sechaba, where the focus is on specific issues of service delivery on the agenda. The mechanisms are discussed while noting that the focus of the study is not necessarily the mechanisms of public participation, but to assess the extent of participation or involvement of the public on the day to day oversight work of committees. The respondents hold that the approaches utilised on the mechanisms are exemplary, in which stakeholders are taken through public education and preparatory workshops before the actual events. This is to ensure that they (stakeholders) are well informed on the issues to be discussed on the agenda.

It is, however, argued that despite the preparatory steps taken before the events for the selected mechanisms such as sector parliaments and Bua Le Sechaba, which in turn result in substantial contributions, inputs and comments by stakeholders, there are weaknesses in the implementation of findings and recommendations as well as lack of feedback. Generally, most of the respondents note that lack of implementation and feedback are major challenges in the process of involving stakeholders in the day to day work of committees. The lack of implementation and feedback has the ability to discourage future participation by the public as the public fails to realise the value that they add in the oversight role of the legislature. So, by implementing the recommendations and providing feedback, the legislature acknowledges the value of contributions, inputs and comments made by stakeholder involvement or participation. In instances such as sector parliaments as mechanisms of public participation in the legislature where stakeholders meaningfully participate, one respondent said that "*there have been recorded dissatisfaction from various stakeholders*", where two examples were provided deriving from the GPL. This is to assist the study in understanding the effects of lack of implementation of recommendations and feedback in terms of the objectives of the study. This considers that examples are more related to the public participation mandate than the public participating in the oversight activities in the legislature.

As observed and asserted by some respondents, the first example is workers' parliament where workers indicated that they will not continue attending talk shows. This is because they have been raising similar issues affecting them in two consecutive years, but there is no action taken and feedback provided by the legislature. As a result, the workers' parliament, which was supposed to be an annual event, was not hosted for two consecutive years as a result of lack of implementation and feedback. The second example is the Lesbians, Gays, Bisexual, Transgender and Intersex (LGBTI) parliament, where stakeholders were reluctant to participate in the 2016/17 sector parliament because of what they perceived as the legislature's failure to take them seriously or lack of feedback. The leaders of the sector were invited to several meetings where promises were made about feedback before the actual event, but such feedback session did not take place, which led to delays during the main event as stakeholders who attended were unwilling to continue with the event.

These two examples highlight the negative effects that lack of implementation and feedback have on stakeholder involvement or participation in the legislature. The respondents however stress that lack of implementation of recommendations and feedback should not be singled out, in particular when dealing with public involvement or participation in the day to day oversight role of committees in the legislature.

6.2.3.4 Opinion on the effectiveness of approaches used to involve stakeholders in the oversight role of the legislature

Most of the respondents hold the view that some stages in the process have effects on what becomes the end results. The emphasis is on the planning stages where stakeholders are identified, mobilised and prepared to attend committee engagements. This refers to the type of participant stakeholders as compared to sector parliaments in which stakeholders are well categorised as women, youth, PwDs, and workers, among others. In the day to day oversight work of committees, stakeholders are not categorised as such. Most respondents of the GPL that formed part of the study stress that committees do not have dedicated stakeholders or what is commonly referred to by respondents as stakeholder database. This means that committees have no existing relationships with stakeholders within businesses, NGO's and civil society organisations. As a result, this makes it difficult for committees to involve

stakeholders in the oversight role to participate meaningfully. The planning stage also indicates that stakeholders participating in the daily oversight work of committees are either irrelevant or participate from an uninformed position. Subsequently, this renders the whole exercise null, which some of the respondents referred as 'ticking the box' exercise.

Ticking the box is evident in the reports of various committees when they are dealing with performance reports from the executive, in particular departments. For example, in analysing quarterly programmes of committees in the GPL, various stages are suggested on how a certain performance report applicable in that quarter will be considered. Firstly, the committees indicate that the first meeting will be to consider a research analysis of the departments' performance reports. Secondly, the second meeting will consider the presentation by the departments on their performance for the period under review. Thirdly (third meeting), committee reports are produced and presented to committees by committee coordinators for adoption by committees before they may be tabled in the house (Committee Term Programme, 2017). The three stages are prevalent in the term programme of committees, and point out gaps that exist. It is only in the second meeting where the departments present before committees that stakeholders are mostly invited and will be making inputs in the presentation. This is in contrast with calls by presiding officers and standing rules of the GPL to involve stakeholders or the public in the oversight processes of the committees (GPL Standing Rules, 2010:60).

From the foregoing, there is a missed opportunity not to involve stakeholders in first and third meetings. On the one hand, the first meeting, which considers the analysis, is important as it assists committees with independent and objective analysis of the departments' performance. Thus, stakeholders' inputs may have an effect in holding the executive to account when they appear before committees to present their performance. This will also ensure that stakeholders are informed about the executive's performance beforehand. On the other hand, the third meeting, which adopts the report, will give stakeholders the opportunity to assess whether their contributions, inputs and comments have found expression in the reports of committees in the legislature. Yet, since the involvement of stakeholders happens sporadically, the result becomes either the attendance of irrelevant stakeholders during the meeting with departments, or relevant but uniformed stakeholders.

As a result, the section on oversight on public involvement in the committee reports contains the following expression, for example: "*as required by the Standing Rules of the GPL, organisations/stakeholders were invited to the committee meetings wherein the committee was considering and reporting on the 3rd Quarterly Performance Report of the Department that convened on the 9th February 2017. However, no written or oral submissions were received by the committee*" (3rd Quarter Report EDEARD, 2016/17:13). As observed together with the responses from the respondents, this exercise is equal to ticking the box, where the register is the only indicator that the stakeholders participated in the meeting. This further entails that there is no value for money derived from the public involvement or participation in the oversight work of committees, which is a costly exercise on its own.

In conclusion, based on the data collected, the GPL's public involvement process is incomplete because there is lack of implementation and feedback. This is due to various reasons, which are discussed in the analysis involving failure of the planning stage - identification and mobilisation, among others. The analysis pointed out lack of proper planning, which resulted in, inter alia, either irrelevant or uninformed stakeholders participating in committees' engagements and meetings.

## 6.3 DISCUSSION OF THE RESULTS ON OVERSIGHT EFFECTIVENESS

The following section discusses other findings of the study deriving from the data collected at the GPL. The findings are discussed based on common issues that were predominant during data collection.

### 6.3.1 The Gauteng Provincial Legislature as the representative body of the people

Generally, there is consensus from most of the respondents on the importance of the GPL as a democratic institution. The GPL, among others, promotes representative democracy, which is ushered in through a form of democratic national and provincial elections held by South Africa (SA) every 5 years to allow the people to elect their representatives. In the electoral system espoused by the country as discussed in chapter 2 of the study, elections give the people an opportunity to elect their

representatives to represent them or their mandate in the legislature. The representatives take the form of political parties which have a much bigger role in the legislature in addition to representation. The elected political parties deploy representatives to the legislature proportional to the number of votes received during elections as per the country's electoral system (PR). For the purposes of this study, the breakdown of representation of different political parties in the GPL is outlined below.

Figure 6.1: Representation of Political Parties in the GPL

| Event | Date | ANC | DP / DA | NP / NNP | COPE | EFF | IFP | VF / VF+ | ID | ACDP | UDM | Others |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1994 election | 27 April 1994 | 50 | 5 | 21 | — | — | 3 | 5 | — | 1 | — | 1+ |
| 1999 election | 2 June 1999 | 50 | 13 | 3 | — | — | 3 | 1 | — | 1 | 1 | 1 |
| 2003 floor-crossing | 4 April 2003 | 50 | 12 | 3 | — | — | 3 | 0 | 1 | 1 | 1 | 2 |
| 2004 election | 14 April 2004 | 51 | 15 | 0 | — | — | 2 | 1 | 1 | 1 | 1 | 1 |
| 2005 floor-crossing | 15 September 2005 | 51 | 12 | — | — | — | 2 | 1 | 1 | 1 | 0 | 5 |
| 2007 floor-crossing | 15 September 2007 | 51 | 13 | — | — | — | 2 | 2 | 2 | 1 | 0 | 2 |
| 2009 election | 22 April 2009 | 47 | 16 | — | 6 | — | 1 | 1 | 1 | 1 | 0 | 0 |
| 2014 election | 7 May 2014 | 40 | 23 | — | 0 | 8 | 1 | 1 | — | 0 | 0 | 0 |

*Source:* Independent Electoral Commission (IEC) of South Africa, *www.elections.org.za.*

The above figure highlights how different political parties have been represented in the GPL since 1994 to date, and shows other aspects pertaining to the type of representation in the legislature that are pertinent to the contention of the study. These aspects include the type of a party system, party system change and the emergence of new political parties as well as the fading of political parties in the legislature. Overall, the GPL consists of 73 representatives. Since 1994, the African National Congress (ANC) has won elections for more than 3 consecutive times, which entails that one party has been dominant in the elections in Gauteng province.  This is a key feature of the dominant party system, which has characterised South African politics since 1994. Yet multiple parties remain represented in the GPL, depicting a feature of a multi-party system, which the country espoused in its first general elections. Features of various party systems are discussed in chapter 2 of this study, particularly the adopted multiparty system and a dominant part system experienced. Based on the figure depicting political parties' representation above, there is a sign of party system

change or consolidation towards a multi-party system, with the ANC's representation in the GPL declining since the 2009 elections and the Democratic Alliance (DA) gaining mileage. This is encompassed by the emergence of new political parties, notably, the Economic Freedom Fighters (EFF) recently.

As discussed in chapter 3 of the study, most of the respondents are of the view that the dominance of one political party and the decline in the turnout of the dominant party has an effect on how oversight is conducted in the legislature. The dominance of the ANC in the GPL over the years has contributed to somehow the weakness of the oversight role of the legislature. As discussed in chapters 2 and 3 of the study, this results from the parliamentary system adopted, which defines the relationship between the executive and the legislature. The executive owes its existence to the majority in the legislature. This entails that the ANC has always had the numbers to be in a position to appoint the executive among its representatives. As discussed in chapter 2 of this study, the system also entails that members of the executive remain members of the legislature, which does not depict a clear separation of powers.

The weakening in representation of the dominant party is viewed in a positive light in enhancing oversight and strengthening the role of the legislature. For example, during the 2014 elections, the ANC was reduced to 40 representatives in the GPL. It had to nominate the Premier and 10 MECs among its members in the legislature.  As a result, it remains with 29 members versus 33 from opposition parties to take care of the day to day business of the legislature. The day to day work of the legislature includes the work of committees, particularly Portfolio Committees who are the main contention of the study. Portfolio Committees play a major role in the oversight mandate of the legislature to oversee and monitor the performance of the executive. The reduction in representation implies that the ANC is now overstretched when it comes to allocating representatives to committees who are responsible for overseeing the Gauteng Provincial Government (GPG) Departments (Gauteng Online, 2017). This entails that the ANC no longer enjoys being the majority in committees in the GPL. In addition, committees are multi-party, which means every political party that won a seat or more during elections has to allocate representatives to committees responsible for overseeing the GPG departments. For the purpose of this analysis, the following are the (GPG) departments:

- Gauteng Department of Education
- Gauteng Department of Economic Development
- Gauteng Department of Health
- Gauteng Department of Human Settlements
- Gauteng Department of Infrastructure Development
- Gauteng Department of Social Development
- Gauteng Department of Roads and Transport
- Gauteng Department of Agriculture and Rural Development
- Gauteng Department of Sports, Arts, Culture and Recreation
- Gauteng Department of Community Safety
- Gauteng Department of e-government
- Gauteng Department of Co-operative Governance and Traditional Affairs
- Gauteng Department of Finance

It is important to note that some of the departments have been informally merged. As observed, the decrease in the majority party's representation is the main reason for informally merging some of the departments to be under one MEC or for a portfolio committee to oversee two departments. For example, there is one MEC responsible for the Gauteng Department of Economic Development and the Gauteng Department of Agriculture and Rural Development, and in turn one portfolio committee is overseeing both. In addition, there are other similar merged portfolios. It is also crucial to note that some of the departments have agencies and entities that report to them and it becomes the responsibilities of the Portfolio Committees to oversee them.

### 6.3.2 Oversight and effectiveness of the legislature: 2009 to 2019

The oversight role of legislatures has been one of the aspects that received more attention in the fourth term of governance (2009-2014), and continues in the fifth term of governance (2014-2019). This has witnessed an improvement in most aspects of oversight in an attempt to increase oversight activities and effectiveness in the legislature. Rapoo (2005) looks at oversight in the South African provincial legislatures between 1994 and 2004 (first and second terms of governance). The author stresses that oversight in the GPL is an aspect that has witnessed great amount of progress over the years. Yet, there was a need for more emphasis to build institutional capacity

in order to oversee and monitor the activities of the executive, in particular the GPG departments headed by MECs and other organs of state, including agencies and entities. The building of institutional capacity and effectiveness remains key elements of initiatives advocated by the WBI, among others, in order to strengthen the oversight role of legislatures globally. This is particularly to acknowledge that impediments exist impeding the work of legislatures and their committees. The issues affecting the effectiveness of legislatures and committees have been discussed in chapter 2 and 3 of the study, and are mostly related to systemic and practical issues. Rapoo (2005) has categorised such issues in two: the micro-level, including internal management, resources and skills, and macro-level, including the party system, electoral system and parliamentary system espoused.

Interviews conducted with MPLs and Support staff stress that some of the foregoing challenges affecting legislatures and committees exist. This is in reference to the GPL where questions were asked about oversight effectiveness between 2009-2014 and 2014-2019. Most of the respondents are of the view that the systemic issues affect the effectiveness of the oversight role of the GPL. The emphasis is on the Westminster parliamentary system as an impediment to the effectiveness of oversight. This system, as discussed in chapter 2 and 3 of the study, creates a dominant executive over the legislature. The dominance is in terms of powers and resources, noting, among others, the limited role played by the legislature with respect to the budget as a planning and policy instrument. In addition, the reason that there is no clear separation of powers in the parliamentary system between the executive and the legislature contributes to the problems relating to the promotion of effectiveness in oversight. In the system, the executive is established from the majority in the legislature. Mostly MPLs who are deployed to the executive are senior and prominent party members in the ruling party. In this instance, the ANC in Gauteng had the majority since the advent of democracy (see section 6.3.1). This has a tendency of producing protective relationships between the executive and the legislature.

On the one hand, the foregoing explains the type of party system that existed, which is a dominant party system, although a multiparty system is adopted in the country since 1994. This dominance is believed to have contributed to the problems affecting oversight effectiveness. On the other hand, it alludes to the electoral system, which is the PR closed system, where a party is voted to the legislature not MPLs. These

systems have problems of creating accountability challenges related to who MPLs account to – the electorate versus their political parties. Interviews conducted with MPLs emphasise that systemic impediments outlined entrench party loyalty, strong party unity and discipline among the MPLS, contributing to weaknesses in promoting oversight effectiveness to ensure executive transparency and accountability. Party discipline and unity are important as parties are elected to the legislature. However, it has inherent challenges when the majority party instils strong discipline and unity to shield the executive from accountability as an attempt to protect it from attack by the opposition.

However, the legislature is expected to act as a body that legitimises the executive and in turn exercises its constitutional mandate to hold the executive to account. The roles are well defined through the doctrine of separation of powers, which is entrenched in the constitution and the PA theory in an attempt to comprehend the relation between the executive and the legislature. Interviews conducted with both MPLs and Support staff indicate that the GPL fulfils its mandate, in particular as a body that gives the executive legitimacy. In addition, although there are still areas that require attention, there has been a great increase in the oversight activities of the GPL. This relates to practical issues such as internal management, skills and resources. In terms of the interviews conducted, the GPL has built institutional capacity to address some of the practical issues; however, it still does not match the institutional capacity, in particular the expertise, skills and resources in the hands of the executive. For instance, a Portfolio Committee consisting of six MPLs on average and few support staff has to oversee a GPG department and its agencies. A GPG department and its agencies has the necessary expertise, time and budget to implement plans, policies and programmes, and has the luxury to out-source and contract-out the implementation of projects to contractors. This underlines the level of capacity that the executive has to implement policies and programmes versus the capacity of the legislature; however, this is expected, taking into consideration the mandate of both branches of government (See Chapter 4).

Some of the interviewees stressed that the GPL has built institutional capacity to promote oversight effectiveness over the years. The GPL has built administrative and management capacity to deal with the day to day work of committees and the legislature, in particular the house. This entails the capacity to ensure the legislature

has its own plans, and executes its programmes efficiently and effectively to hold the executive accountable. Such programmes include holding quarterly meetings where the executive i.e. the GPG departments account on a quarterly basis and whenever they are required to. This can be done through units built in the GPL, which directly provide professional support to committees in the legislature, including the Committee Support Unit (CSU) and the Research Unit. The CSU includes committee administrators and coordinators who ensure that the work of committees is well administered and coordinated to realise the day to day oversight work of the legislature (see sub-section 6.3.3.2). In addition, the research unit has been capacitated to ensure that committees of the GPL are supported in terms of their research needs relating to analysing the performance of the executive.

Some of the respondents highlight that there were instances before the fourth term of governance (2009-2014) where one researcher was expected to support two or more committees, which underlined the resource paucity that existed within the GPL. Currently, there are on average eight support staff who directly support the work of committees emanating from the research, CSU, Information, Public participation, and Document and services units, among others (see sub-section 6.3.3.2). There is additional indirect support to oversight provided by units such as communications, transport and finance. This has bolstered the legislature's capacity and ability to conduct effective oversight. The respondents put emphasis on the capacity and ability of researchers to provide committees with proper research to analyse and consider the performance reports of the GPG departments and agencies.

There are skilled and knowledgeable researchers who can assist the legislature in holding the executive to account for its actions in the implementation of policies and programmes. It is however noted that there are still gaps in other units of the GPL. This pertains to capacitating the public participation unit and skills in some of the support staff in the CSU. The latter is a result of some of the support staff who were recruited during the infant period of the legislature between 1994 and 1999, where there was urgency to establish the GPL. In addition, the recruitment requirements were lower in some positions for a long period. This suggests that underqualified and incompetent staff were recruited, and to some extent, this remains a challenge. Regardless, the support provided to committees by support staff is regarded as important to ensure that the GPL carry out its oversight mandate effectively. In

addition, there are skills and knowledge among the MPLs, in particular, those that are serving the legislature more than one term of governance. In terms of new MPLs, they are provided with workshops and training to ensure that they comprehend the oversight role and the mandate of specific portfolios that they are expected to oversee. This is because based on systemic issues, the legislature as an institution and the electorate have no authority to decide on who is deployed by a particular party after elections, and in some instances, parties deploy new MPLs, and new parties emerge.

Furthermore, the GPL has, over the years introduced structures, tools and methods to strengthen the oversight role and promote oversight effectiveness. Some of the respondents argue that the GPL has been aligning committees over the years to ensure that committees cover the available portfolios in the executive to boost capacity and ability to conduct oversight. The GPL also introduced a number of oversight tools aimed at increasing oversight potential, and in turn increased oversight activity within the legislature. In alluding to the great improvement in the oversight role in the GPL, most of the respondents cite the increase in oversight activity based on the number of tools currently utilised. One of the respondents pointed to the committee inquiry, which was introduced in the 2009-2014 term of governance to promote oversight effectiveness. It is however cautioned that the effectiveness of the tools depends on various aspects such capacity and how these tools are utilised. In addition, there is a mention of the role played by oversight models and guidelines introduced in the GPL such as the Performance Evaluation and Budget Analysis (PEBA, 2004) and the SOM (2012). These are important to guide the legislature on how best to conduct oversight and ensure effectiveness.

### 6.3.2.1    Oversight effectiveness and oversight models/guidelines

The GPL has, over the years, acknowledged the importance of the oversight mandate, particularly in relation to the oversight work of committees in the legislature. As discussed in chapter 3 of the study, this also recognises the central role played by committees. The GPL, through the Speaker of the Legislature in the second term of governance, commissioned a research study aimed at evaluating the committee system of the legislature in order to enhance its effectiveness. The study acknowledged challenges faced by committees such as capacity shortages. The

research study, which was commissioned in the year 2000, gave birth to the PEBA in 2004 based on the recommendations of the study. PEBA was introduced as a framework to improve oversight in the legislature. Rapoo (2005:162) asserts that "it was developed to enable committees to improve oversight techniques, allowing them to undertake methodical and detailed analysis of departmental programmes and plans based on their underlying policies and budget expenditure plans". Since 2004, the framework has been implemented in all committees in the GPL, and it has been instrumental in improving oversight, through *inter alia,* defining roles of various players to increase capacity and to guide the work of committees.

Committees have been utilising PEBA as a guideline *equating it to the bible* as reference when conducting oversight. The respondents highlight that, to some extent, oversight effectiveness is owed to the implementation of the oversight framework, which is hailed as a unique guideline and framework in South African legislatures. The oversight framework was followed by the introduction of the Sector Oversight Model in 2012, which was aimed at ensuring that there is a unified framework and common approach to oversight in the South African Legislative Sector. The formulation of the model was spearheaded by the Speakers' forum and was commissioned by the South African Legislatures Secretaries Association (SALSA), taking into account the existing frameworks in different legislatures in South Africa. In this regard, all committees in the GPL are implementing SOM as a guide for effective oversight. This has not been difficult as it has much commonalities with PEBA. SOM assists committees in conducting oversight, although the respondents indicate that it is not fully implemented, calling for continuous training and workshops.

From the foregoing discussion, the former Speaker of the GPL, Ms Lindiwe Maseko (2012) stated that "in pursuit of a more effective and result driven oversight environment, the legislature has adopted a Committee Oversight and Accountability Framework (COVAC) whose primary objective is to guide the full implementation of oversight methodology of PEBA". COVAC for executive accountability was adopted in 2012 to provide guidelines on areas of attention when committees in the legislature consider performance reports of the GPG departments in order to respond to priority areas. This is implemented in all committees in the GPL to guide their work in holding the executive accountable. Furthermore, the discussion alludes to the fact that the frameworks and

guidelines are all aimed at promoting effectiveness in addressing challenges facing legislatures, and especially to assist committees in the legislature to conduct oversight.

### 6.3.3 Committees in the legislature and oversight effectiveness

As discussed in chapter 3 of the study, committees are central to the oversight role of the legislature. Most of the day to day work of the legislature takes place in committees. Accordingly, there exists various committees in the legislature and the GPL, such as Portfolio Committees and standing committees as well as *Ad Hoc* committees, established for special purposes. Committees perform different roles but similar mandate, which is the mandate of the legislature to hold the executive organ of the state to account. As discussed in chapter 5, there are 17 committees comprising of 11 Portfolio Committees and 6 standing committees in the GPL. Noteworthy, the Portfolio Committees deal directly with the GPG Departments. For example, the Portfolio Committee in Education oversees the Gauteng Department of Education. The role of the Portfolio Committee is to ensure that the department accounts for both its financial and non-financial performance against its APP and according to statutes such as PFMA and Treasury regulations on a regular basis.

In addition, standing committees such as the Standing Committee on Public Accounts (SCOPA) ensures public financial accountability. This is to ensure that the executive, in particular various departments spend money in accordance with the decisions of the budget in order to attain value for money for the taxpayers. Therefore, the role of the standing committees such a SCOPA is different from Portfolio Committees as it is not attached to a specific department. However, the mandate, which is enshrined in section 114(2)(b) of the Constitution is similar. Both the Portfolio and Standing Committees are faced with enormous amount of work on a daily basis.

### 6.3.3.1 Day to day work of committees

Committees in the GPL perform various activities within the budget cycle (SOM, 2012). These activities include but are not limited to the consideration of the budget, four quarterly reports, and annual reports as well as the Focused Intervention Study (FIS). As discussed in chapter 4, the executive has the obligation to report to the legislature

on its performance against its strategic and APPs. This is to enable the legislature as the representative body of the people and oversight body to track the performance of the executive i.e. outputs and outcomes against its plans, inputs and priorities of the people of the country (see chapter 4), particularly Gauteng in relation to the contention of the study. In relation to the argument of the study, which is centred on the relationship between the legislature and the executive as outlined through the PA theory, this is a constitutional mandate explicitly alluding to the separation of powers. In terms of the PA theory, the legislature as the principal should ensure that the executive as the agent delivers according to its preferences i.e. plans and priorities. This is a system aimed at promoting checks and balances to prevent arbitrary use or abuse of powers allocated to one branch of government, and in this instance, the executive, which is to manage public resources, and to deliver goods and services.

Through consideration of performance reports and undertaking oversight visits, the GPL aims to promote transparency and to hold the executive accountable. This is done in various ways such as questions and resolutions sent to the executive for response as well as conducting verifications of the performance and fieldwork research discussed in detail in the analysis. The respondents emphasise the importance of the role played by committees in the legislature, which are regarded as effective instruments in conducting oversight since they focus on specific portfolios and programmes. However, their effectiveness is dependent on various parameters as outlined in chapter 3 of this study, which include among others, sources of information, members in several committees and professional adversary staff serving the committee (Friedberg, 2013). Therefore, in the process of conducting oversight work to promote transparency and to hold the executive to account, there are various role players involved. These role players are key to ensure that committees deliver to their mandate. The role players are worth discussing in the next section to assist in the attainment of the study objectives as outlined in chapter 1.

6.3.3.2    Key role players

There are various role players involved in the day to day work of committees in the GPL. These role players are crucial in ensuring that committees attain their mandate, in particular the oversight role of the legislature, which is the contention of the study

as outlined in Chapter 1. It is noted that there are various role players in the GPL supporting oversight, however, not all are directly involved in the oversight role of committees. From the observation and analysis of documents an attempt is made to capture some of the main role players involved in the oversight role of committees in the GPL, and among the key role players are committee researchers and coordinators. The two role players are considered to be key in ensuring that committees in the legislature hold the executive accountable for its actions or inactions. Other than the two, there are also other role players, which include, among others, presiding officers, the committee chairperson, MPLs, public participation officers, information officers, legal advisers, communication officers, committee administrators, Hansard recorders and document officers as well as other operational units such as supply chain management, transport and finance. As indicated, the study will only discuss the key role players directly involved in the day to day oversight role of committees in the GPL.

- Presiding officers

Presiding officers are key role players in the GPL, and are appointed from the first sitting of the house after an election when the premier is appointed, as discussed in chapter 4 of this study. These presiding officers play a fundamental role as they are among the highest decision-making structures within legislatures. In the GPL, the presiding officers include the Speaker and Deputy Speaker, the Chairperson of Chairpersons and Deputy Chairperson of chairpersons. The presiding officers are expected to preside over the activities of the legislature and, in particular, of committees and the house. Among the crucial work of the presiding officers is to ensure that the GPL effectively executes its mandate of public participation, law-making, cooperative governance, and in a relation to the study, oversight role. As some of the highest decision-making body in the GPL, in conducting oversight, committees in the legislature are guided in the main by the presiding officers' priorities. The presiding officers hold meetings at the beginning of every term of governance and every financial year to prioritise issues that require the attention of the institution to be implemented by committees and their support staff. In the past, the priorities have mostly focused on approaches of enhancing oversight. For example, among the priorities set at the beginning of 2009-14 and 2014-19 terms of governance, the focus has been on the attempt for the GPL to circumvent the overreliance on in-house oversight activities, mostly categorised as reactive rather than proactive. The

emphasis has been on increasing oversight visits, fieldwork research and verification to enable the GPL to conduct effective oversight.

- Chairperson of committees and members of the legislature

Each committee of the GPL is led by a chairperson. The person of a chairperson is commonly appointed from the ruling party, and in the case of the GPL, the ANC. The committee chairperson has the responsible to ensure that meetings or engagements of the committee run smoothly. This is in accordance with the mandate of the legislature as enshrined in the Constitution of the Republic, 1996, and guided by the standing rules adopted by the GPL. The committee chairperson leads the proceedings of a committee to ensure that a specific committee successfully fulfils its day to day oversight role. As observed, the committee chairperson also facilitates and encourages the participation of MPLs in the activities aimed at holding the executive accountable. Such activities include, among others, committee meetings and oversight visits. In the process of facilitation and encouragement of MPLs to actively participate, the chairperson should ensure that MPLs' rights as defined by section 33 of the Standing rules of the GPL are observed. The rights include the right to examine any document tabled in the legislature, including any of its committees. In addition, MPLs are obliged to attend each meeting of the GPL or relevant committees in the legislature (Standing Rules of the GPL, 2010: 15). Other than the attendance of MPLs and their active participation, the rules further calls for a quorum of MPLs for a committee to adopt its reports. It is, however, important to note that the MPLs serve more than 1 committee in the legislature.

- Committee coordinators

Committee coordinators are key to the day to day work of committees in the GPL. Each committee of the legislature has a dedicated committee coordinator (with some committees having more than one coordinator or a senior coordinator). This signifies the importance of the role they play in committees. Committee coordinators are responsible for coordinating the work of committees to ensure that committee programmes are carried out. This entails taking a lead as project managers for the day to day work that committees should implement. As observed, this involve conducting oversight visits and considering performance reports and bills before the legislature. Committee coordinators have to arrange for project team meetings for planning and

checking the state of readiness from other role players involved in the oversight work of committees in the GPL. Committee coordinators have the responsibility to ensure that committees implement their programmes in accordance with their plans and budget. In addition, amongst the key responsibilities is to put together all oversight reports before committees (Committee Term Programme, 2017). Furthermore, as observed, committee coordinators in coordinate the work of committees directly with committee chairpersons.

- Committee researchers

Similar to committee coordinators, the role of committee researchers is central in committees, and each committee has at least a dedicated researcher (with some committees having more than one researcher). The role of research cannot be overemphasised in the oversight role of legislatures. As discussed in chapter 3 of the study, this relates to the capacity of the legislature to generate its independent information. The GPL, through its research agenda (2014), acknowledges the role of researchers as central to the oversight role of the legislature. This is because the researcher plays a role in knowledge generation, amongst others. In the day to day work of committees, committee researchers have the responsibility to produce objective, quality and independent analysis of the performance of the executive, in particular GPG departments. This is in relation with the consideration of performance reports from the GPG departments such as quarterly, budget and annual reports. The researchers are also expected to produce analysis of other documents before committees, including responses to resolutions and questions, public participation inputs, and bills as well as the Auditor General's reports (Researcher Agenda of the GPL, 2014). The analysis documents are utilised by committees to hold the executive accountable, with questions emanating from these documents sent to the executive for response. The documents contribute extensively to the oversight reports of committees produced by coordinator(s).

In addition, committee researchers have the responsibility to suggest Focused Intervention Study (FIS) topics and motivation for committees' consideration when undertaking their oversight visits in areas requiring intervention (SOM, 2012). In the process of analysing the performance reports and writing motivations for FIS, committee researchers are expected to conduct fieldwork research to verify the

performance of the executive as reported in performance reports. As observed, this is crucial in assisting the legislature to generate independent information for committees in order to bridge existing information asymmetries between the legislature and the executive. Furthermore, the research agenda (2014) suggests that researchers need to partner with institutions of higher learning and other research institutes, and to produce proactive papers in relation to the work of the legislature in order to assist committees in the GPL to carry their mandate, in particular oversight effectively.

- Public participation officers

Committees in the GPL receive support in the form of public participation officers in the day to day oversight work; however, in contrast to support received from committee coordinators and researchers, there is no dedicated public participation officer of a committee. This means that at most one public participation officer serves two or more committees in the GPL. This is one of the challenges mentioned by the respondents, which contribute to challenges faced by the GPL in the process of involving the public in the work of committees, discussed later in the analysis. Public participation officers have an important role in the oversight work of committees. This is to ensure that the public, in particular stakeholders, participate in the work of committees as enshrined in the Constitution and the Standing Rules of the GPL. This includes the identification and mobilisation of stakeholders to attend to committee engagements such as meetings, workshops and public hearings (Committee Term Programme, 2017). In addition, public participation officers have the responsibility to invite stakeholders to attend to committee meetings in the GPL. In the process, the officers are expected to conduct pre-workshops and workshops to profile the GPL, and to educate and prepare stakeholders to actively participate in oversight activities of committees from an informed position.

- Information officers

Information officers work similar to public participation officers as there are no dedicated information officers for each committee. This refers to one serving two or more committees. This however does not mean their roles are less important in committees. The work of information officers is required daily to ease the oversight work of committees. According to the SOM, the expectation from information officers is the same when committees consider performance reports and undertake FIS, which

is to "accumulate more detailed information, statistics, reading material, government documentation, etcetera, that MPLs and support staff can use in developing their ideas" (SOM, 2012:46). The example cited on the expectation refers precisely to FIS. However, this is more of the same when considering other reports tabled in the legislature. Information officers have the responsibility to provide information to committee work (Committee Term Programme, 2017). This information is provided regularly, because new information emerges in the mainstream media publications and other sources on a regular basis. In addition, information officers provide information in relation to individual requests and needs of MPLs and staff.

- Legal advisors

The work of legal advisers is available to committees when a need arises. This is contrary to the work of other role players or support staff, which is required on a continuous basis in the day to day oversight work of committees. As observed, legal advisors are mostly required when committees in the legislature consider bills tabled in or referred to the legislature. The role of legal advisers in this regard is to advise the committee on legal and technical aspects of all bills (Committee Term Programme, 2017). This is done by providing a legal opinion, which is used by committees to determine whether the legislation to be passed is not contrary to the Constitution and any other laws of the country. In addition, committees require legal advisers when they are facing difficulties in the interpretation of legislation and standing rules of the GPL. Legal advisors provide clarity with regard to the technicalities and ambiguities to ensure that committees take the right decisions. They contribute directly to the day to day oversight work of committees as they advise committees on what they can or cannot do. For example, the portfolio committee on economic development in the 2009-2014 term needed clarity regarding whether it is empowered to oversee the Gauteng Department of Economic Development's agencies and entities directly and not through the department. This is something that other committees such as the portfolio committee on transport were already doing, which enhances oversight. It enables committees to receive individual APPs and performance reports of agencies and entities. The example may sound like an easy request, yet due to the response that the GPL receives from the executive in some instances, and justified by the requirements of the PFMA, issues begin to become more complicated. Today, the committee still does not receive individual APPs and quarterly reports from agencies

and entities who account for over 60% of the budget and service delivery performance of the department. This hinders effective oversight.

### 6.3.4  Methods of oversight for oversight potential and effectiveness

In this section, tools and methods of oversight regarded as effective are outlined to determine their utilisation and the effect they have in promoting transparency and accountability as well as participation by the public.

### 6.3.4.1  Oversight effectiveness and Gauteng Provincial Government departmental performance reports

Performance reports submitted by the GPG departments to the GPL for consideration are regarded as some of the key yardsticks utilised to assess the performance of GPG departments. GPG departmental performance reports are outlined as some of the main elements in the PSOM and the BCM, among others (SOM, 2012). These are imperatives of the Programme Evaluation and Budget Analysis (PEBA) Model of the GPL, which was utilised before the introduction of the SOM in the South African Legislative Sector.  Based on the above and the elevated status of departmental performance reports, the GPL has to consider all performance reports submitted to the legislature, especially budget reports as planning documents, and quarterly and annual reports. The PSOM affords the legislature the opportunity to evaluate the efficiency of service delivery programmes and the appropriateness of financial resource allocations and management of the budget (SOM, 2012). This stresses the fact that priorities of the government, inputs made, and outputs achieved on a programme should realise the desirable outcome, which is the result of priorities, inputs made, and outputs attained (see chapter 4).

The respondents mentioned that the consideration of the GPG departmental performance reports is among the key day to day work of committees in the legislature. Committees play a fundamental role in ensuring that the GPG departments and other organs of state such as agencies and entities are held to account. The emphasis is that the GPL is among the legislatures which consider performance reports as well as the Auditor General's Report. In addition to this, committees have to conduct at least

two FISs and a Micro-prioritisation. The latter (Micro-prioritisation) is however not actioned within the GPL, which one of the respondents indicated as one of the main challenges. While SOM (2012) guides how committees in the legislature should go about considering plans, performance reports and FIS, there is a lack of clarity on micro-prioritisation.

The respondents acknowledge the importance of considering the GPG departmental performance reports. However, they indicated that there are related challenges. On the one hand, the performance reports assist committees to track the performance of the GPG departments from planning in alignment with priorities, the inputs made in terms of the budget, inputs and outputs in the quarterly performance and the outcomes attained in the annual performance reporting. This enables committees to evaluate programme performance and management of the budget, which is regarded as the consideration of both non-financial and financial performance of the GPG departments and other organs of state. The balance in the evaluation of service delivery programmes and budget allocations as well as its management is discussed as a crucial component that has improved over the years within the GPL. It is highlighted that prior 2009, focus was on service delivery information. The GPG departments were reporting to the GPL on service delivery information at the exclusion of financial information; emphasis was made to include financial performance. The main reason pertained to the AG's emphasis on operation 'clean audits' at the time where the GPG departments and their agencies were not running a clean administration. As a result, the respondents acknowledge the role of the GPL in running a clean administration with most if not all GPG departments and agencies doing well. Currently, GPL committees are putting efforts to find a balance between financial and non-financial performance of the GPG departments (COVAC for Executive Oversight, 2012).

On the other hand, one of the challenges is to consider the APPs of the GPG departments and other organs of state where the APPs are mostly submitted to the legislature when the financial year has started. Therefore, any analysis or assessment conducted on the APPs to confirm whether the plans are aligned to the priorities of government and respond to the resolution passed in the House as required by SOM, the findings and recommendations, will not have influence or effect any changes on the APPs. This is similar to the consideration of the budget report where debates

continue on how best the GPL might influence the budget of the GPG, rather than being a mere rubber stamper or only to confirm the budget. The budget remains a contested terrain where the executive views the GPL's attempts to find approaches to influence the budget as an attempt to encroach on the part of the legislature. The executive views the budget and other planning instruments as their terrain, and any attempt by the legislature is viewed in a negative light.

The second challenge as mentioned by the respondents relates to the timing and the necessity to consider all the performance reports. The respondents allude to the fact that the reports, mainly quarterly reports, are submitted to the legislature a month after a quarter has ended, and annual report six months after the financial year has ended. This means that in most instances, committees assess the progress or performance which may have been overtaken by other events. This is evident from the responses to questions that committees ask the GPG departments where a department will indicate that the question has already been addressed. For example, when a committee considers the second quarter report submitted a month after the quarter had ended where, according to the committee programme, the process takes more than a month. By the time a committee report with recommendations is adopted in the house, it is already towards the end of the third quarter. It is however important to note that other than the concern on committee reports to be adopted, committee processes allow for other ways in which the executive can be held to account.

From the submission of the reports to the GPL, there are two crucial steps that are taken before a committee report is adopted in the house (Committee Term Programme, 2017; SOM, 2012). Firstly, committees consider a research analysis in their first meeting, which provides an objective assessment of the performance of the GPG departments. The purpose of the research analysis is to assist committees to effectively engage with the GPG departments when considering their performance reports. The analysis also proposes questions, which are sent to the GPG departments to respond on matters of service delivery and financial management. The respondents allude to this step as one of the effective ways in which committees hold the executive accountable. This is because a research analysis provides objective assessment based on independent information, and probes further for clarity and more information through questions emanating from the analysis of reports to ensure

transparency in order to hold departments to account. Secondly, the next step pertains to the GPG departments and other organs of state appearing before committees to present performance reports. It gives MPLs the opportunity to hold the executive to account equipped with a research analysis, among other useful documents. This has an advantage because MPLs are able to get immediate responses for questions that they raise. The respondents however mention that this is also dependent on the knowledge of the MPLs and their willingness. While, the emphasis has been more on the knowledge part, and committees are willing to strive for low partisanship.

In terms of the necessity to consider all four quarterly reports, the respondents point out that this increases the GPL's oversight potential as they enable committees to track the performance of the GPG departments regularly. The reports ensure that committees do not lose sight of the performance, and in turn, departments maintain consistent performance. Some of the respondents however highlight the fact that some of the reports are just adding to the time constraints facing the GPL's term programme as there is an average of four meetings every quarter, and in some terms, a performance report is considered alongside an FIS. In this instance, committees race against time and compromise quality/effectiveness in terms of reaching their own targets. One of the performance reports highlighted is the first quarter report focusing on the inputs made, which comes immediately after the budget. This is because the budget focuses on government priorities and inputs made, among others. Therefore, regarding the FIS, it is considered one of the effective tools of oversight in committees' programme. The respondents however stress that its effectiveness depends on how it is utilised, considering its planning and implementation stages, and the time available to conduct it. One respondent stressed that sometimes committees rush to complete an FIS to meet their quarterly targets instead of striving for effectiveness.

6.3.4.2    Oversight effectiveness and Focused Intervention Study

FIS is defined in the PEBA (2004:8) methodology as "the oversight visits that are programmed to respond to the service delivery progression through the budget cycle. It is informed by support staff briefings to focus the fact findings by MPLs. This is to ensure relevant and well-planned Committee Oversight visits and do away with a reactive or ad-hoc approach and presenting a more proactive approach". The BCM

prescribes at least two FISs per financial year. This takes place after the departmental vote (budget) and annual report (PEBA, 2004:33; SOM, 2012:20). The FIS should be indicative of actions that need to be taken by a committee so as to proactively address issues of the executive's effectiveness and efficiency in service delivery. Amongst the requirements of the PEBA and SOM is the role of various role players, including but not limited to stakeholders making inputs on FIS topics; researchers presenting on the consolidated suggested FIS topics and briefings; deliberations by MPLs and agreement on topics and plans to be pursued; oversight visit and subsequent FIS reports to be tabled in the house as well as passing resolutions. Noting the foregoing requirements, it is important to discuss some of the emerging FIS approaches utilised by various committees in the GPL (see Malapane, 2014).

***First Approach:***

- The Researcher identifies suggested topics emanating from either the budget or annual reports, and the committee will reach a consensus on which topic to pursue. The Researchers will draft a list of clarity-seeking questions in terms of the work being carried out by the executive relating to the FIS topic.
- Stakeholders are identified from the information/responses received from the executive. Stakeholders are selected from the information provided by executive.
- The Researchers conduct a pre-visit to the identified service delivery areas and stakeholders for environmental scanning and then brief the committee about the pre-findings.
- Then the committee goes on site visits to conduct semi-structured interviews with the identified stakeholders. Subsequently, an FIS report will be produced and recommendations for the executive to implement will be made.
- The Executive may be called to appear in the committee in order to respond to emerging pertinent issues.

***Second Approach:***

- The Researcher identifies suggested topics emanating from either the budget or annual reports, and the committee will reach a consensus on which topic to

pursue. The Researchers draft a list of clarity-seeking questions in terms of the work being carried out by the executive relating to the FIS topic.

- A visit by the committee to the executive's offices is arranged, in which committee members visit the various sections of the institution to interact with employees.

- During this visit, the executive presents to the committee information pertaining to the questions received. Stakeholders are identified from the information/responses, which will be received from the executive.

- Unannounced visits are scheduled to the identified stakeholders in order to assess and observe their behaviour/ efficacy.

- Then the committee goes on site visits to conduct semi-structured interviews with the identified stakeholders. Subsequently, an FIS report is produced, and recommendations for the executive to implement are made.

These two examples represent some of the emerging FIS approaches utilised over the previous years by the GPL in its endeavour to promote effective oversight. The foregoing assertion acknowledges that other approaches may exist apart from the listed approaches; however, the two emerging approaches employed in the analysis remain prevalent. The respondents highlight that FIS is important to bridge the gap between in-house oversight and field-based oversight. This is fundamental as in-house oversight mechanisms such as committee hearings and question time are regarded as reactive approaches, while the need for strengthening field-based oversight is supported. Oversight has been criticised for being in-house based, and it is not able to deal with the actual service delivery issues. Field-based oversight is regarded as a proactive approach to oversight, as alluded to by the respondents.

The respondents argue that FIS enables the legislature to be proactive in its attempt to scrutinise, monitor and review actions or inactions of the executive in order to promote transparency and accountability in managing public resources and conducting public affairs. As studied in chapter 3, the literature indicates that despite the precise purposes and objectives of oversight discussed in this study, there are challenges which are barriers to effective oversight. These challenges include but are not limited to lack of capacity (human and financial) and access to information, and these may also be regarded as conditions that oversight depends on. Lack of access

to information remains a key challenge when the legislature becomes more dependent on the executive. This subjects the legislature to the executive influence and compromises its independence (doctrine of separation of powers). Interviews conducted note that FIS empowers the legislature to initiate processes in order to conduct oversight visits to gather, amongst others, independent information from the executive programmes and supposed beneficiaries of such programmes.

Pelizzo *et al.* (2006) underscored that effective oversight is not only determined by the availability of oversight tools, but also by how the tools are utilised. In this case, FIS is a classic example of an oversight tool aimed at promoting effective oversight. It is, however, important to note that as in every practical situation, FIS has its own limitations, including the following:

- Public participation is limited as purporting that stakeholders do not make inputs on Focus Intervention Study topics and, in most cases, oversight visits only involve project managers, executive and beneficiaries.
- There are only two Focused Intervention Studies in a financial year emanating from the Budget vote and Annual report processes, and this is not enough for effective oversight. There are also time pressures when conducting FIS.
- The FIS process is mostly dependant on the briefing by staff members, in particular researchers, and this may point to capacity challenges among MPLs, and limitations in stakeholder involvement.

### 6.3.4.3    Oversight effectiveness, independent verification and fieldwork research

The literature review has cited one of the main challenges contributing to the lack of oversight in general, and the weakness of oversight in particular as the inability of the legislature to generate its own information. The inability to generate own information means that the legislature has no capacity and mechanisms to generate own information independent from the executive in order to strengthen and promote oversight. As discussed in sub-section 6.2.1.2, this is especially because of one of the predicaments in the executive-legislative relationship in oversight since the legislature in general is over-relying on the executive. In other words, the legislature remains handicapped if the executive is unwilling to cooperate on matters of common interest

and instead, play its cards close to its chest. The complexity brought about by the information gap on the side of the legislature is well-defined through the PA theory as information asymmetry. This is a situation where the executive possesses an information advantage and uses the advantage to withhold crucial information that may assist the oversight role. Thus, for the executive to maintain its hegemony over the legislature, it is reluctant to share some of the important information.

The foregoing has been a common challenge among most legislatures, and undoubtedly, the GPL has also been on the receiving end. Interviews reveal that the GPL has, for some years, been faced with the challenge of over-relying on the information provided by the executive. This has always favoured the executive and compromised oversight. In most cases, the executive, intentional or unintentional, will withhold crucial information from the legislature (Madue, 2014). It happens intentionally knowing that such information may prove that the executive is failing in its mandate; hence, the executive keeps making promises, and in most instances, provide vague responses. This is because it is more empowered than the legislature, taking us back to the 'information asymmetry' where real power lies with the experts (see chapter 2) and, in this case, the executive.

On the other hand, the executive may withhold information unintentionally because similar to the legislature, it has no first-hand information on certain service delivery projects or programmes that have been contracted out or implemented through an implementation agency. This is more common in the GPL where the assumption maybe that the executive withholds vital information only to find out that this is not the case, and may only be due to the neglect of the executive's own oversight role on its contractors and implementing agencies.

In addition, the types and quality of reports that the GPL receives from the executive have been a cause of concern. The reports will, at most, contain limited financial and non-financial information on the programmes, the outputs and outcomes attained as well as non-attained. It should be acknowledged that it is a bit far-fetched to expect the performance reports to contain all information expected, yet it should be fairly adequate. While keeping this in mind, it is the role of the legislature to oversee the executive, meaning that it has the right to request for more information where such information is required, or request the executive to account on matters of concern on

the reports discussed in chapter 4 as accountability. However, in some cases, this takes the legislature back to the corner where the executive intentional or unintentional withhold some of the crucial information. It became a catch-22 over the years, which led to the GPL prioritising some approaches or ways of strengthening and promoting effective oversight, in particular to bridge the pending 'information asymmetry'. It is however important to recognise that the respondents emphasise that the nature and quality of the reports received from the executive have improved most recently. This owes to some of the approaches introduced by the GPL to bridge the information gap.

Independent verification, oversight visits and fieldwork research are some of the main approaches prioritised by the GPL to strengthen and promote effective oversight by addressing the 'information asymmetry'. These are alluded to be among the presiding officers' priorities as some of the highest decision-makers within the legislature (Presiding Officers' Priorities, 2014). This is not aimed only at strengthening the oversight role, but also at redefining how the GPL used to conduct its oversight. Endorsed from the high echelons, which is the political leadership of the legislature, it carries more weight and demonstrates political will. As discussed in chapter 3, political will is of course one of the contributing factors to effective oversight or lack thereof.

Some of the documents analysed show that there has been emphasis on independent verification and fieldwork research even before this was prioritised in 2014 (Committee Reports and Research Analyses). This is mainly for the purpose of avoiding regurgitating and taking the information and responses provided by the executive as presented in the legislature as truthful and reliable without testing its reliability and truthfulness. Effective oversight depends not only on the information provided but the truthfulness and reliability of the information received from the executive by the legislature. This stresses how the information can be useful as discussed in chapter 4 of the study. The shift from the prevalent over-dependence on the information provided by the executive, in particular the GPG departments and their agencies is applauded by the respondents as one of the changes that have strengthen the GPL's oversight role and in turn, promote oversight effectiveness.

In this regard, it is important to unpack what is meant by independent verification and fieldwork research. On the one hand, independent verification includes constant interaction with the executive, in particular departments, their agencies and

stakeholders involved on matters that require clarity and more information. The latter includes, among others, contractors, programmes and project managers, beneficiaries and the public as well as implementing agencies. This is a way of generating primary data or first-hand information based on the experiences of those involved. The GPL is able to generate independent information from the one provided by the executive. Moreover, independent verification encompasses not only stakeholders, but the consultation of different sources of information such as the AG's reports and reports from Statistics South Africa, among others. This assists the legislature with independent secondary information to append on the primary information generated by the legislature to base its decisions.

On the other hand, fieldwork research dictates that the legislature is required to use fieldwork research as a method of generating primary data. This is a situation where committees in the legislature undertake planned visits to the service delivery projects of the departments and their agencies to verify what is reported in the performance reports submitted to the GPL (Presiding Officers' priorities, 2014). This includes verifying both the attained and non-attained targets to test the truthfulness and reliability of the information provided as a way of strengthening and promoting effective oversight. The respondents are of the view that fieldwork research encourages committees in the legislature to regularly visit the projects intended, delivered and non-delivered to generate first-hand and independent information on the projects. The information generated through independent verification and fieldwork becomes useful to hold the executive accountable when it appears before the legislature and through clarify seeking questions sent to departments and agencies by committees.

There have been some positive examples highlighting that independent verifications and fieldwork research approaches strengthen and promote effective oversight. For the purposes of the study, two examples will be highlighted among many of those that have been provided by the respondents and observed during the data collection in the GPL. The following are examples of oversight effectiveness through independent verification, oversight visits and fieldwork research:

Example 1: Portfolio Committee on Education Overseeing the Gauteng Department of Education on School Infrastructure.

*The example on School Infrastructure pertains to the construction of 2 boarding schools in the Gauteng Province. These boarding schools are Fotchiville and Magaliesberg boarding schools. The schools were constructed by the Gauteng Department of Infrastructure Development (GDID), which has the mandate to deliver on major infrastructure within the province. It is, however, important to note that schools remain the mandate of the Gauteng Department of Education (GDE). The GDE has the responsibility to ensure that people have access to basic education. From the foregoing, the Committee of Education, a committee of the GPL, has the mandate to oversee the GDE. This refers to overseeing and monitoring its performance on both outputs and outcomes attained or non-attained against its Annual Performance Plan (APP) set targets, inputs made and more importantly, provincial priorities. The building of the schools was amongst the priorities for the 2013/14 financial year and targets were set for each stage of the projects.*

*In the Annual Reports, both the GDE & GDID 2013/14 reported that 'The construction of the Fochville Secondary School and Magaliesburg Secondary School were almost completed. The boarding school facility at Magaliesburg Secondary School was supposed to be completed in 2014, whilst the boarding school facility at Fochville Secondary School was supposed to be completed in 2015' (GDID Annual Report 2013/14:15). The portfolio committee of Education performed a fieldwork and independent verification as part of its oversight to verify the reported achievement or progress. It discovered that there were anomalies regarding the outputs reported.  On the one hand, construction at Magalisberg was progressing as reported, and on the other, there was no activity at Forchivile. The Community was asked, and it was also surprised that there was a report of such nature as construction has not started. When the GDE appeared before the Committee, it was held to account for the anomalies and the GDE insisted that their report was accurate. The committee instructed the GDE to go and verify and report back. After the verification, the GDE accepted its failure and promised that by January 2015 construction would have started. The Committee went back to verify in January and there was significant progress.*

Example 2: Portfolio Committee of Economic Development on Economic projects.

*Example 2: The Distribution of 140 Kiosks and the creation of 200 Jobs. The project was reported as an employment and job creation project financially supported by the Job funds. Its intention was to "create entrepreneurial opportunities for unemployed youth within Gauteng initially and the country in the broader plan. Clinics and Hospitals in Gauteng have been identified as the entry points into communities across Gauteng due to their location and the important role these play in the lives of South Africans" (GDED, 2016). As reported in the 2015/16 Annual report, the project achieved 140 kiosks distributed in two regions, with 200 jobs created.*

*Fieldwork was initiated. However, during the planning, the Department provided a contrary report to what is reported above: "there is a current legal dispute between the service provider and the manufacturer of the machines as a result only 2 (two) kiosks were distributed creating 4 jobs, however the kiosks are not operational due to the court interdict done by the manufacturer of the machines. The challenges were presented at the political IGR". Then the questions raised were: why was the project reported as a success, why was this reason not provided to the Committee during the Annual report questions? In general, why was the report different from what is reported from the Annual report 2015/16. The Department acknowledged that the report was misleading, and it is currently instating corrective measure to ensure the disputes are speedily resolved. The committee is waiting for the report back to resolve the disputes and progress on the project.*

These examples highlighted how effective fieldwork research and independent verification are as tools utilised by the GPL to bridge the 'information asymmetry' in order to strengthen and promote effective oversight. These examples also point out to some of the complexities around the relationship between the legislature and the executive with regard to 'information asymmetry' as outlined through the PA theory discussed in chapter 2. The supposition of the theory is that the executive has an information advantage over the legislature and, as a result, it may choose to withhold such information, which is an intentional act. It is demonstrated through example 2 where the executive misled the legislature intentionally by hiding its failure to do the

expected delivery. This locates the hegemony that the executive enjoys through the PA theory over the legislature, which is supposed to be the other way around.

However, the first case puts emphasis on one other reason why the GPL introduced the mechanisms, which is to avert unintentional withholding or providing misleading information to the legislature. Therefore, the mechanisms provide the legislature with information advantage in addressing the information asymmetry as alluded to by the PA theory as a contributory factor to weaknesses in oversight. This indicates that even if it was the intention of the executive to mislead the legislature, it has failed. Overall, the performance verification and fieldwork demonstrate the effects of oversight in promoting transparency and accountability in managing public resources and affairs. They empower committees with access to first-hand information (timely and reliable) relating to the performance of various projects, which is utilised to scrutinise the performance reports of the executive and to ensure that the executive accounts effectively for the performance of such projects.

## 6.4 CONCLUSION

This chapter has outlined the analysis of the data collected in the Gauteng Legislature on the oversight role of democratic legislatures in promoting good governance, in particular transparency, accountability and public involvement. The data analysis was outlined through common thematic areas derived from the data collection process and relevant to the study for ease of reference in order to attain the purpose and objectives of the study as discussed in chapter 1 of the study. The data collected was analysed with reference to previous chapters to establish areas of convergence and to develop new insights based on the available scholarship studied, views and experiences of the respondents. The analysis is comprehensive to cover areas of success, improvement, challenges and failures covering the study objectives and purpose. Therefore, the next chapter, chapter 7, which is the last chapter of the study, outlines the main findings or summary of findings based on the objectives and conclusions made in responding to the research problem and new insights developed as well as suggested recommendations emanating from the findings and conclusions.

# CHAPTER 7

# SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSIONS

## 7.1 INTRODUCTION

This study provides the theoretical and practical exposition of the oversight role of legislatures in promoting good governance in South Africa. The quest of this study was to broaden understanding of oversight in order to contribute to the existing scholarship and to provide practical solutions to the challenges faced by legislatures in exercising the oversight mandate. Oversight is entrenched in the Constitution as an obligation to the legislature as the representative body of the people. The legislature is empowered to hold the executive to account for its management of public resources and how it conducts public affairs. This is to ensure good governance. In this study, good governance was studied, focusing on transparency and accountability as well as public involvement. As discussed in section 4.4 of chapter 4 of this study, transparency, accountability and public involvement are dominant attributes.

The oversight role of the legislature is central to the day to day work of various committees, particularly Portfolio Committees. Although it is important to recognise the importance of other mandates such as law-making, public participation and cooperative governance, oversight is considered the most dominant. As a result, the findings of the study indicated that there has been an increase in oversight activities of committees in the GPL. Committees utilise various approaches to hold the executive, in particular departments and agencies accountable by emphasising the departure from traditional in-house to field-based oversight mechanisms and methods, which is a new paradigm. However, this does not suggest a total abandonment of in-house mechanisms and methods. The GPL prides itself as one of a few South African legislatures that consider all performance reports of departments comprising annual, four quarterlies and the budget report. The increase in oversight activities is important as it underlines oversight potential of the legislature. However, this was not the only or rather main aim of this study. The main research problem as outlined in chapter 1

(section 1.2) was: *What effects does the oversight role of the Gauteng legislature have on promoting good governance, in particular executive transparency and accountability as well as public involvement?*

This chapter outlines the summary of the findings of this study. It basically provides the discussions on the realisation of the objectives of the study (see chapter 1, section 1.3). In addition, recommendations are drawn from the discussions of the findings in an attempt to provide practical solutions to some of the main oversight challenges identified in the study. The chapter also looks at the conclusions of the study, and suggests areas for further research. The latter is to acknowledge that despite an attempt to realise the study objectives, more studies could still be conducted to generate more knowledge on the oversight role of legislatures.

## 7.2 SUMMARY OF FINDINGS

This section outlines the key empirical findings of the study based on the analysis discussed in chapter 6. The key findings are aligned with the four study objectives as listed in chapter 1 of this study.

### Objective 1: Examine the relationship between the legislature and the executive on oversight in the Gauteng Legislature focusing on power relations

The first objective of the study was to examine the relationship between the executive and the legislature with specific reference to the Gauteng Legislature. The relationship has been underscored in chapter 2 of this study looking at the systems of governance, and theoretical foundations. These systems including, among others, party-political systems, electoral systems and forms of government, play an important role in outlining the relationship and the influence on the oversight role. The theoretical foundations encompass the separation of powers, politics-administration dichotomy and PA theory, which are central in the definition of power relations. The study has found that the relationship between the executive and the legislature on the oversight role is complex, yet there are positive effects that can be drawn in promoting executive transparency and accountability. As emphasised through the separation of powers and

the politics-administration dichotomy, the relationship is based on shared responsibility and interaction. The respondents stressed that the relationship between the executive and the legislature is mutual, and that this improved over the years. It is mutual because at most the GPG departments and agencies are responsive to requests to appear before committees, and to respond to questions and resolutions. This enables the GPL to regularly and effectively exercise its oversight role.

The improved responsiveness of the executive has aided in contributing positively to both financial and service delivery performance in responding to government priorities, yet at times this was characterised by delays. There are other challenges in the nature of the relationship, where party politics takes into account the electoral system, particularly the PR closed system. Dominant party and parliamentary forms of government were found to be influential factors. The systematic factors have the potential to obstruct the legislature's quest to be independent from the executive's influence. On the one hand, the study has found that this has a potential to result into (and has already resulted into) cosy relations between committee chairpersons and MECs, resulting in the obstruction of oversight. On the other hand, the findings have recognised the shift from the dominant party system to the consolidation of a multi-party system in the GPL as a positive facet towards the strengthening of oversight. This suggests that as the ruling party gradually loses its majority in the legislature, oversight work has been reprioritised. To add to the discourse, the foregoing situation might have signalled the loss of confidence by the electorate, and possible loss of government, which led to the change of course.

### Objective 2: Assess the legislature's ability and capacity to promote transparency and hold the executive accountability

The second objective endeavoured to assess the legislature's ability and capacity to promote transparency and to hold the executive accountability, with particular focus on the GPL. The study argues that the GPL has ability and capacity to promote transparency and to hold the executive to account for its actions. It was found that the GPL has built capacity over the years in terms of the support provided to committees. The study revealed that there are various support units directly and indirectly supporting Portfolio Committees such as research, CSU, PPP and Information

Services, among others. The units provide committees with expert and objective support to ensure that the oversight role is carried-out effectively. The availability of skilled, knowledgeable and professional support staff enables committees to actively engage with the GPG departments and to raise pertinent issues and questions. As discussed in the study, transparency and accountability requires more than the available information and reporting; there is a need to interrogate such information or reports. Hence, the staff, particularly researchers, have been cited in the findings of the study as instrumental in ensuring that committees effectively exercise oversight.

The study also found that there is sufficient oversight knowledge and skills with regard to most of the MPLs. However, regular training is required in particular for new MPLs who are serving their first term of governance. Yet, training cannot be isolated as the willingness of the MPLs driven by systematic factors is central in the oversight role. In addition, the GPL has the ability and capacity to oversee the executive, in terms of the methods and mechanisms available and utilised by Portfolio Committees, and have yielded positive effects when properly used. The respondents stressed that the methods and mechanisms are used effectively, except for the committee inquiry which is fairly new. The respondents further highlighted that field-based approaches are more useful than in-house as they empower committees to generate their own independent information in order to verify the executive's performance. Field-based approaches are said to be effective in circumstances where there are intentional or unintentional misleading performance information or reports and the GPG departments accounts, and they are compelled to take corrective action. This gives the GPL information advantage to bridge the gap relating to information asymmetry in terms of the PA theory, where the executive as the expert is dominant.

Therefore, the executive has to verify and ensure that performance information and reports submitted to the GPL committees are accurate and transparent. This has positive effects to attaining transparency and accountability and to foster improved performance information over the years.

**Objective 3: Determine the extent to which the public participates in the activities of the legislature to monitor the performance of the executive and in turn promote transparency and accountability**

The aim of the third objective was to determine the extent to which the public participate in the activities of the legislature to monitor the performance of the executive in the GPL. The study found that there is no active or meaningful participation by the public in the oversight activities of the GPL. It further found that there is emphasis on stakeholder involvement in the GPL committees expected to take place in quarterly meetings and engagements, yet the practice suggests otherwise. In some instances, the stakeholders are invited to committee meetings and engagements. However, there is little room for them to actively participate in the oversight activities to monitor the executive performance. On the one hand, the invitations take place occasionally, and on the other, there are no meaningful inputs, contributions and comments made by the public. This has negative effects on the performance reports produced and no positive effects on the performance of the executive. This is a missed opportunity for the legislature as it is expected to be an interface between the government and the electorate. The respondents view the stakeholder involvement exercise to be equal to ticking the box, at most, done for compliance purposes by Portfolio Committees.

**Objective 4: Draw conclusions and make recommendations that could assist to improve executive transparency and accountability through the oversight role of the legislature, and in turn promote good governance**

The aim of the fourth objective was to draw conclusions and to make recommendations that could assist the GPL to improve ways in which it exercises its oversight role in order to promote good governance. The essence of this objective was to respond to the research problem outlined in chapter 1 (section 1.3), i.e. to examine the effects of the oversight role of the GPL in the promotion of good governance, in particular transparency, accountability and public involvement. In relation to objectives 1, 2 and 3, the study found that the oversight role of the GPL has positive effects in promoting transparency and accountability; however, not much in public involvement. This implies that the oversight role of the GPL has positive effects in promoting good

governance as transparency and accountability are studied as main attributes of this study. These effects include, among others, generating own information to eradicate intentional and unintentional misleading reports; mutual relations and interaction between the executive and the legislature; regular performance reporting by the executive to the legislature; and improved performance information reporting and performance by the executive. The latter is stressed through operation clean audits where most of the GPG departments and agencies are doing well. In addition, low partisanship in committees is an added advantage as MPLs spend less time on issues of political differences and competition, which shows the willingness on their part.

Regardless of the conclusions, there are two crucial points: firstly, for the legislature to take pride, particularly on oversight, it should be an interface between government and the public. In turn, oversight should be guided by the needs and expectations of the public. Secondly, it is argued that in a situation where a request to account can be ignored in one way or another, accountability does not exist. This is similar to lack of consequences from the account provided or its lack thereof. The foregoing underscores some of the challenges that could still impede the oversight role, amongst others, lack of action taken by Portfolio Committees against the executive's reluctance, and more importantly, delays in responding to questions and resolutions. Furthermore, the committees in the GPL barely collaborate on matters of common interest to ensure executive transparency and accountability, and instead, function in isolation. As observed during the study, Portfolio Committees also do not collaborate with other oversight institutions, and in rare cases, not on a regular basis.

Given the challenges outlined in the summary of findings and in the entire study, recommendations can be made that could assist South African legislatures to improve their oversight role in order to promote good governance. This is to ensure that legislatures are able to deal with emerging challenges, emergencies and opportunities.

## 7.3 RECOMMENDATIONS

Recommendations are some of the aspects that form part of the objectives of the study. The study suggests practical recommendations that could assist legislatures, in particular, Portfolio Committees to address some of the challenges faced in promoting

good governance, in particular executive transparency, accountability and public involvement. Such recommendations include the following:

- Follow-up on oversight activities

There is a need for regular follow-ups by Portfolio Committees on the oversight activities such as questions, resolutions and projects. Oversight is a process; it should not begin when departments and agencies appear before committees and stop after the adoption of reports. Departments appear before Portfolio Committees during the consideration of performance reports in a particular quarter, and after the adoption of committee reports with recommendations by the house. There is no follow-up on responses to resolutions, and project implementation, and instead, it waits for next quarter. Therefore, there is a need for committees not to wait for the departments to appear before them to make follow-ups. The committees have to be proactive.

- Committee action for the executive's reluctance

One of the findings of this study was lack of action taken against the reluctance to provide timely information, and responses to questions and resolutions to committees. Portfolio Committees are empowered by legislation and statutes to oversee the executive's performance. It is therefore the responsibility of the committees in the legislature to take action against the executive's reluctance. Committees have powers to summon the departments to provide such information to ensure transparency, and in turn, hold the departments to account. Thus, committees must effectively exercise their powers to address the executive's reluctance to respond to its requests.

- Strengthening the role of research

Research has an important role to play in committees in the legislature, particularly in exercising the oversight mandate because it is instrumental in ensuring that committees are equipped with objective analysis and independent information to hold the executive to account. It should not be viewed as instrument, which is aimed only at exposing the rot by some stakeholders, and in turn, altered to represent a specific agenda. However, this role needs to be strengthened, in particular with regard to conducting more empirical research to inform the work of committees and

collaboration with other research institutions. This also stresses the need to utilise research institutes and academic institutions as resource centres.

- Regular Training and development

The MPLs and support staff should be involved in regular training and development initiatives to improve their knowledge and skills to effectively exercise their oversight role. The training initiatives should not only take place occasionally. MPLs and staff should be equipped with relevant knowledge to comprehend oversight and the mandate of departments that they oversee. Hence, the need for regular training on the application of tools, methods and models/guidelines of oversight among others.

- Regular Interactions between the executive and the legislature

There is a need for more regular interactions between committees and departments to ensure that the former is kept abreast with developments regarding service delivery. This is to ensure that committees' oversight activities are not overtaken by other events. In a situation where there are emergencies, committees cannot wait for departments to appear before them during the reporting periods as scheduled through the legislature's programme. However, they should be careful not to act in a way that suggests that they are interfering in the business of, or micro-managing, departments in the implementation of policies and programmes.

- Strengthening stakeholder relations

Committees should start building relationships with key stakeholders by being invited regularly in oversight meetings and engagements. This is to ensure that they receive relevant and well-informed stakeholders to contribute to the oversight role of promoting executive transparency and accountability. The building of stakeholder relations should include putting in practice rhetoric calls of establishing a database for each committee for utilisation when stakeholders are invited to committee oversight meetings. This is to ensure meaningful participation in these meetings.

- Departments should always be led by MECs when appearing before committees

There is a need for MECs as the executive authorities to always prioritise the work of committees, taking into account that they only appear once in a quarter to account before these committees. It cannot be seen as normal for MECs send apologies to

committees in consecutive meetings. There should be no excuses for MECs not to appear before committees during performance reporting meetings. There should be shared responsibilities between the committees and the MECs to ensure that the former exercise oversight, and in turn hold the executive to account.

- Utilisation of committee powers and functions

Portfolio Committees have powers and functions in the exercise of the mandate by the legislature, in particular oversight; however, such powers and functions are performed differently across committees. This suggests that committees utilise some of the powers and functions according to their discretion and not as mandated. For example, committees have the powers to summon any other person to appear before them to account, but rarely exercise such powers.

- Strengthen oversight on agencies and entities

Government agencies and entities are regarded as implementation agents of departments. However, not all GPG agencies and entities account individually to Portfolio Committees. This is because there is no legislation in place mandating them to account to committees individually, despite section 114(2)(a) of the Constitution, which provides that all provincial executive organs of state in the province should be accountable. In some committees such as roads and transport, agencies report individually and regularly while in committees such as economic development, they do not account individually. There is a need to ensure that there is consistency in conducting oversight over agencies and entities.

- Strengthen collaborations with other oversight institutions

There is a need to strengthen collaborations with other oversight institutions such as the office of the AG, the Public Service Commission, the Public Protector and other institutions supporting democracy. The collaborations could be established by building relationships and enabling regular interactions between Portfolio Committees and other oversight institutions. Portfolio Committees do not collaborate with such institutions, and where there is such collaboration, it is not on a regular basis. The latter refers to collaboration that takes place during the annual report process between the committees and AG's office. This highlights a missed opportunity for committees

in a year to ensure that GPG departments and agencies comply with the required legislation and other statues on the implementation of policies and programmes.

- Committee planning and pre-budget hearings

There is a need for committee hearings before the planning and consideration of GPG departments' budgets to ensure that such planning and budgets are informed by the needs and expectations of the communities of Gauteng. This could ensure that committees are actively involved in the planning and pre-budget process in order to inform the priorities of Portfolio Committees in the legislature.

- Strengthening and finding a balance between the utilisation of field-based oversight vis-à-vis in-house oversight

Portfolio Committees need to find a balance between the utilisation of field-based oversight vis-à-vis in-house oversight, with emphasis on strengthening field-based oversight by Portfolio Committees. This should not be to the neglect of the traditional in-house oversight. There should be a way of ensuring that the two complement each other. This is because when there is a need for committees to conduct field-based oversight such as FIS, and oversight visit is stressed, they still require the information reported by departments and agencies regularly.

## 7.4 LIMITATIONS OF THE STUDY

The study was restricted to examining the effects of the oversight role of legislatures in promoting good governance in South Africa with specific references to the Gauteng Legislature. This study focused on good governance as defined and operationalised, denoting to transparency and accountability as well as public involvement. Due to time constraints and other resource limitations, the study was conducted only at the GPL, focusing on committees, in particular Portfolio Committees, and did not include the executive i.e. GPG departments. The study focused on the period between 2009 and 2019, representing two terms of governance. In addition, the study acknowledged the limitations of the research methods used, particularly purposive sampling, relying on available and selected subjects. In addition, the selectivity and subjectivity of the participant observation data collection method was acknowledged (Creswell, 2009). Observation took place from the beginning of the study to ensure that different areas

are observed to avoid selectivity. In addition, it was also difficult to access MPL, due to time limitations and their busy schedules dealing with both work in the legislature and their party political work. This, however, did not affect the study as the targeted population was made of support staff, particularly researchers and coordinators. Furthermore, as the study solely focused on examining the effects of the oversight role of legislatures, there are suggested areas for further research in the next section.

## 7.5 AREAS FOR FURTHER RESEARCH

There are several areas for further research on the oversight role of legislatures. These are outlined as follows:

- Study the effectiveness of oversight tools utilised in the house plenary i.e. questions, debates and motions, and the impact of the resolutions passed by the house on the performance of departments and agencies.
- The legislature's role on the budget and planning process of the executive.
- The quality of both the questions asked and recommendations made by committees, and the executive's responses.
- International based practices and innovations on various approaches to assist legislatures to effectively involve stakeholders in oversight role.

## 7.6 CONCLUSION

The study is of theoretical and empirical value to the field of Public Administration and related fields such as Political Science and Development Studies. The study recognised that oversight role has experienced dearth of scholarship in the past, and more recently, it is attracting increasing interests from various scholars in varied fields of study. As the subject cuts across various fields, contributions made by these fields have been acknowledged in the broader discussions of this study. The study has made inputs and contributions to broaden understanding on the subject. It has also provided practical solutions that could assist in addressing some of the challenges faced by legislatures in exercising oversight over the executive and other organs of state.

The study has, among others, found that there is a common understanding of the significance of the oversight role, and that the legislature has capacity and ability to hold the executive accountable. As the legislature continues to build capacity to ensure that it is independent from the executive's dominance in performing its oversight role, the influence of systems such as the electoral and party systems espoused cannot be easily discarded. Furthermore, based on the findings of the study, while challenges exist, the general perceptions that legislatures of developing countries are generally weak, and lack institutional capacity can be contested.

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**Annexure A: Semi-structured Personal Interview Questions**

**PURPOSE OF THE INTERVIEW**

The purpose of this interview is to collect primary data for a doctoral qualification in the Public Administration field of study at the University of Limpopo. The results will be disseminated through a doctoral thesis; however, such results will be shared with institutions or colleagues who forward their individual requests.

**ETHICAL CONSIDERATION**

One of the main issues to take into account in ethics is confidentiality. The confidentiality of the persons involved and information provided will be respected, and this includes the opportunity for the respondents to validate the information provided, remain anonymous and the right to refuse to participate. In addition, your response will be used only for scholarly purpose.

**PROPOSED STRUCTURE**

Permission to conduct the study has been requested from the relevant authorities in the Gauteng Provincial Legislature, and permission was granted prior to the commencement of the study. However, permission from respondents will be requested 3 days prior to the interview through telephone or email. In addition, if the interview questions are requested by respondent(s), the questions will be sent *via* email.

**CONTACT DETAILS:**
**Mr Anthony Malapane (Masters' Degree: Public Management)**
**Registered for PhD: Public Administration at the University of Limpopo**
**Research Unit**
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**Johannesburg**
**2001**
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**TOPIC: THE EFFECTS OF THE OVERSIGHT ROLE OF LEGISLATURES IN PROMOTING GOOD GOVERNANCE IN SOUTH AFRICA WITH SPECIFIC REFERENCE TO THE GAUTENG LEGISLATURE**

## AIM OF THE STUDY

The aim of the study is to examine the effect of the oversight role of the legislature in promoting good governance, in particular transparency and accountability as well as stakeholder participation. The scope of the study is mainly the Committees in the legislature who have a responsibility to execute most of the oversight work of the legislature.

## QUESTION 1

Objective: *To understand the oversight role of legislatures, and the relationship between the legislature and the executive on oversight in Gauteng Legislature, focusing on power relations*

1.1 Generally, what is your view and understanding of the oversight role of the legislature? What do you think makes it a useful activity to carry-out?

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1.2 In your opinion and experience, how would you argue (or define) the relationship between the executive and the legislature (Department & Committee) on oversight?

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1.3 Do you think the executive is responsive to the requests (questions, detail information & resolutions) of the legislature, i.e. providing timeous, reliable, and accurate information? Motivate your answer.

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1.4 In your experience, are there actions taken for the executive's reluctance to cooperate and respond to requests of committees?

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1.5 Taking into account that the legislature is a political institution, do you think political meddling in general or partisanship in particular somehow influence the decisions of the legislature's Committees when conducting oversight? Can you motivate your answer?

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**QUESTION 2**

Objective: *To assess the legislature's capacity and ability to hold the executive accountable and promote transparency.*

2.1 What is your level of education and experience? Is it relevant to the work you do in committees or the support you provide to committees? How many committees do you serve or support?

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2.2 In general, how familiar do you think Members of the Provincial Legislature (MPLs) and Support Staff in the Gauteng Legislature are with the responsibility of the institution to conduct oversight? Motivate your answer.

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2.2.1 Do you think the levels of knowledge on the oversight role of the legislature among MPLs and Support Staff is adequate to attain effective oversight or yield the intended results? Motivate your answer.

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2.3 Do you think the staff complement to support the oversight role of the legislature, in particular Committees in the Legislature is sufficient? How is that sufficient?

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2.4 Do you think that it is beneficial to have many tools of conducting oversight, and what do you think is the effect of having such?

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2.5 In your opinion and experience, which oversight tools do you think are mostly effective/useful towards the attainment of the intended results (economy, efficiency and effectiveness)? Motivate your answer.

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2.5.1 How are the tools utilised to ensure that the executive is responsive, transparent and accountable? Motivate your answer.

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2.6 In your view, do you think Committees in the legislature have capacity to generate their own information, and how is such information useful?

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2.7 In your opinion and experience, what would you say contribute to the constraints, problems, obstacles and failures of the oversight role, particularly in Committees in the Gauteng legislature?

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2.7.1 Would you argue that the electoral system (proportional representation), government system (parliamentary) and party system (Multi-party) negatively influence oversight?

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## QUESTION 3

Objective: *To assess the extent to which stakeholders participate in the activities of the legislature to monitor the performance of the executive and in turn promote transparency and accountability.*

3.1 In your view, how do people, in particular stakeholders get involved in the oversight role of the Gauteng Legislature (Committees)?

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3.2 Are the stakeholders participating from an informed position, i.e. provided with timely, accessible and adequate information? Motivate your answer.

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3.3 How do the stakeholders effect (positively) the oversight role of the Gauteng Legislature in holding the executive accountable?

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3.4 Generally, do you think the approaches utilised to involve stakeholders in the oversight role of the legislature, in particular the work of committees are effective or yield the intended results? Motivate your answer.

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**GENERAL**

Do you think the oversight role of the legislature yields the intended results in holding the executive to account for its activities or lack thereof?

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Do you have any additional suggestions on any other matter that has been raised above (question 1-5)?

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**<span style="color:red">Your participation is highly valued and the time you took from your busy schedule is highly appreciated!!!</span>**

## Annexure B: University Ethical Clearance Letter

**University of Limpopo**
Department of Research Administration and Development
Private Bag X1106, Sovenga, 0727, South Africa
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> **TURFLOOP RESEARCH ETHICS**
> **COMMITTEE CLEARANCE CERTIFICATE**

**MEETING:**  02 November 2017

**PROJECT NUMBER:**  TREC/369/2017: PG

**PROJECT:**

| | |
|---|---|
| Title: | The effect of the oversight role of legislatures in promoting good governance in South Africa |
| Researcher: | AT Malapane |
| Supervisor: | Prof SM Madue |
| Co-Supervisor: | Prof MP Sebola |
| School: | School of Economics and Management |
| Degree: | PhD in Public Administration |

PROF TAB MASHEGO
CHAIRPERSON: TURFLOOP RESEARCH ETHICS COMMITTEE

The Turfloop Research Ethics Committee (TREC) is registered with the National Health Research Ethics Council, Registration Number: **REC-0310111-031**

> **Note:**
> i) Should any departure be contemplated from the research procedure as approved, the researcher(s) must re-submit the protocol to the committee.
> ii) The budget for the research will be considered separately from the protocol.
> PLEASE QUOTE THE PROTOCOL NUMBER IN ALL ENQUIRIES.

*Finding solutions for Africa*

**Annexure C: Editing Certificate**



**University of Limpopo**
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22 July 2018

Dear Sir/Madam

**SUBJECT: EDITING OF PHD THESIS**

This is to certify that the doctoral thesis entitled 'The effects of the oversight role of legislatures in promoting good governance in South Africa with specific reference to the Gauteng Legislature' by Anthony Tshwarelo Malapane (201649640) has been edited, and that unless further tampered with, I am content that all editorial issues have been eliminated.

Kind Regards

Dr SJ Kubayi (DLitt et Phil - Unisa)
Senior Lecturer (Department of Translation Studies and Linguistics – UL)
SATI Membership No. 1002606

Finding solutions for Africa

**Annexure D: Letter of Permission to conduct research**

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To whom it may concern

Permission to Conduct Research in the Gauteng Provincial Legislature

This serves to give Anthony Tshwarelo Malapane permission to conduct research in the Gauteng Provincial Legislature (GPL). Anthony is a Researcher at the GPL, currently studying his doctorate with focus on Legislatures. This research is conducted in order to comply with the requirement for Doctor of Philosophy (PhD) in Public Management and Governance, enrolled in the year 2014.

The study is conducted with the preliminary topic: "The effect of the Oversight role of Legislatures in promoting Good Governance in South Africa"

The main aim of this study is to assess the effect of the Oversight role of Legislatures on promoting executive transparency and accountability, and also to suggest approaches to improve this fundamental role played by legislatures in South Africa.

Kindly provide him with the opportunity to interact with the GPL community, *inter alia*, Members of the legislature, Senior Management, Management and staff during his data collection period.

Yours sincerely,

Peter Skosana (Mr).
Secretary to the Legislature