Examining the Democratic Role of the South African Parliament

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Abstract

The South African Parliament in a democratic government has to focus on discussions and the promulgation of legislative frameworks that must resolve societal challenges from an economic and social point of view. These important tasks take into consideration the political landscape and ideological factors that influence how it functions. Parliament is very important in the whole architectural structure of the South African Government on the basis that its functionality determines the directives of the performance of the lower structures (provincial and municipal spheres, respectively). The extent to which it functions reflects the economic and social stability in the country and, therefore, the above premise provides a basis for looking into the historic functioning of the first house of this democratic government. The democratic South African Parliament, in 1994, had to change the state to an inclusive dispensation and this required cooperation from all of the political affiliations to facilitate it. This was followed by the second phase of this important transition in 1999, which focused on defeating the colonial past, given the history of colonial Africa.

These two phases required a parliament of a special type, in approach and calibre, to deliver the work of nation- and continent-building. The nature of the functioning of this important institution must be robust in the interests of the purpose of its existence, and this article, therefore, seeks to highlight the nature of the institution, given the shift in South African economic and social needs and realities. The article will make reference to whether Parliament is a hands-on institution or an institution that reacts to pressures in adherence to its mandatory operations. The article will also provide governance theories and practices that will develop and grow the institution, or make it merely a talk show of government.

Introduction

South Africa attained its democracy in 1994 as a result of a long liberation struggle from the colonial system of apartheid. After the negotiations to end the exclusive system through the CODESA processes, the emergence of democracy created the sub-national legislative system consisting of: National Parliament, provincial legislatures

and local councils. This sub-national legislative system is designed to facilitate the transition from colonial apartheid to a democratic dispensation.

Parliament, in a democratic system, must function to provide appropriate legislative frameworks for agreed policies and objectives in conformity with the national constitution. This requires public participation in order to ensure the credibility in deepening democracy through governance practices, while the Constitution gives Parliament three main functions, which include the passing of laws, oversight of the executives, and providing a platform for debate through the National Assembly and National Council of Provinces (Albaek, 2003). The question of the role of Parliament in government has become even more important to understand in the past decade, as more and more countries are making a transition to democratic government (Johnson, 2005). These countries are faced with a number of challenges, as well as opportunities. The political discourse and economic stability of the transition are the critical challenges of the transfer of power to the people. This article does not mean to profile any political party, but to critically look at the statutory role of Parliament and its effect on the South African democracy.

Johnson (2005) argues, in agreement with other scholars, that there are three common functions of a parliament in democracies: representation, law-making, and oversight of the performance and expenditure of the executive. This seems to be the model used by the South African Parliament and, therefore, the representation is drawn from the political parties, which often provide arguments based on the political mandate and ideologies, to advance the cause of democracy. The article will examine how these debates create that calibre of institution, with specific reference to the South African Parliament in the transitional phase of democracy and the paradigm shift in the recent parliamentary discourse.

METHODOLOGICAL ORIENTATION OF THE STUDY

The article does not draw strength from any particular theoretical context, but utilises the existing literature on good governance theories and practice, and provides empirical historic milestones to determine the calibre of the Parliament in the post-1994 era of democracy. The important yardsticks are integrity, a culture of debate, transformation, transparency, legislation and oversight. The article does not focus on any political party's ideological context in order to keep it as non-political as possible and ensure ethical consideration. The study assists in measuring the institutional memory with principles of democracy through contemporary parliamentary issues observed on a day-to-day basis, and the output as the impact of deepening democracy in South Africa.

SOUTH AFRICAN PARLIAMENT AND TRANSITIONAL PHASE OF DEMOCRACY

South Africa's first democratically elected parliament of 1994 was expected to play

a different role to that of the essentially undemocratic, unrepresentative and largely inactive parliament of the apartheid regime (Albaek, 2003). This marked the first phase of transition of the democratic government. The architecture of parliament reflects multi-partyism and accountability, and addresses the socio-political and economic inequalities of the past, while remaining within the context of governance and globalisation. Behn (2001) reflects that new forms of relationship and interaction between state and society, governments and citizens, and state and non-state institutions have emerged in the context of what is referred to as an arena of "unstructured complexity". While Strom, Muller and Bergman (2003) refer to this as "a differentiated polity". In essence, the reflections by both scholars reflect the parliamentary democracy of South Africa as a "representative democracy".

As part of advocacy and government's role in a transitional phase, Behn (2001) argues that parliament should provide a link between government and the people by educating the public about the democratic dispensation, which finds expression in the context of public participation.

The reflection was made by the majority of authors that parliament, as part of its purpose, has to transform society through legislative responsibilities and tasks. The first parliament passed a total of 494 bills, inclusive of the historic *Constitution of the Republic of South Africa* of 1996, and 313 bills from 1999 to 2003 (Nijzink and Piombo, 2004) in the second phase of the transition to democracy. The decrease does not suggest that Parliament was inactive, but allowed a space for policy implementation in order to process the impact of the legislation on the South African democracy. In the second phase of democracy, Parliament focused on strict oversight over the executive authority and government affairs to ensure accountable government with an effort to deepen democracy. The era saw the establishment of Portfolio Committees, Standing Committee on Public Accounts (SCOPA) and Parliament Ethics Committee, among others to assist in Parliament's oversight work of strengthening democracy.

In the second phase of transition to democratic government in the period 1999 to 2004, Parliament started playing an important role in strengthening the continental network through initiatives such as New Partnerships for African Development (NEPAD), which Amuwo (2002) argues was one of the initiatives by African heads of state and governments intended to reverse, for good, the beggarly, and highly embarrassing, image of the continent through sustained engagement with the developed world. Akokpari (2004), in agreement with Amuwo, reflects that NEPAD emphasises three dimensions of governance, namely economic and corporate governance, political governance, and peace and stability, and which form an integral part of entrenching democracy in Africa. Nelson Mandela (1993) cited the *Foreign Affairs Journal* in visualising South Africa's future foreign policy and stated, "South Africa cannot escape from its African identity", which creates a South

African Government, led by Parliament, with a role to play in African development. The initiative that was campaigned by the South African Parliament, through the head of state, reflected the radical movement of transforming Africa, as a continent, from its previous colonised state.

Nijzink and Piombo (2004) argues that the first phase of Parliament in South Africa had more legislative work to perform than in the second phase, and this creates a scary picture of Parliament failing to uphold its central role, in referring to a parliamentary movement from "legislative to oversight". It may, however, be argued, as Amuwo (2002) and Akokpari (2004) did on the establishment of NEPAD, that the South African Parliament debated and supported this important campaign as part of its foreign policy on the continent and, therefore, the shift from the domestic legislation to the continental counts as an important indicator of the strength of the South African democracy. The two phases referred to require a parliament of think tanks in order to craft the new dispensation, which reflects a constructive institution of nation- and continent-building that described and defended what the liberation from apartheid was all about.

PUBLIC PARTICIPATION IN PARLIAMENTARY FUNCTIONS

The parliament in a democratic society requires creating linkages with the society it serves to restore trust in government, which Paul Slovic, of Decision Research, referred to as a "fragile or delicate commodity". These links can be achieved through Parliament and society, utilising public participation to strengthen democracy. Participatory democracy should be seen as something more than casting one's vote in elections, and the right to be a political candidate, (Muntingh, 2012) and this was then extended to the right to participate in public affairs as dictated by the Constitution, and it is, therefore, a democratic principle to ensure that it is a parliament of the people.

A major democratic issue involved in the development of governance through networks and other informal mechanisms is simply whether democracy is actually advanced through mechanisms that are purportedly more democratic, which, in essence, is to ensure that it becomes the "government of the people" that translates to the wishes of the public through substantive evidence of public involvement (Behn, 2001). The above reflection is imperative in accordance with what Ginwala (2003) indicates when she says, "voters have a tough time delegating effectively". The notion of public participation starts with the electoral system to establish Parliament and, therefore, members of parliament must understand their role, as delegated, within the context of parliamentary democracies. The above view on delegation of members of Parliament creates space for critical analysis of how democratic the South African Parliament is. This is also because Chirwa and Nijzink (2012) ask whether the practice of "floor crossing" enhances or undermines the accountability of MPs, and the role of the party electoral mandate, which reduces decision-making by

mandating voters and leaving democracy in the hands of individual politicians who have a monopoly on wisdom, which appears to then be in conflict with the delegation to Parliament. In an effort to examine Parliament's attempt to allow public participation, programmes are in place to increase participation of, and involvement of, citizens in the work of Parliament, and these include: "the taking Parliament to the people programme" and "the people's Parliament", in which face-to-face discussions take place between communities, MPs, government ministers and local councillors on issues of service delivery.

GROWTH OF OPPOSITION IN PARLIAMENT AND ACCOUNTABILITY

The African National Congress (ANC) continues to head the democratic Parliament, or to be the dominant party, and Booysen (2014) proclaims that, because of its continued dominant role, opposition politics gains ground through forming coalitions. These party alliances and coalitions take place at the time of elections and that tells a story of a piecemeal and gradually emerging change in party politics in South Africa, which Durant and Durant (2013) refer to as a coming together of two or more political parties to mix votes and work together in Parliament. The piecemeal arrangements of these coalitions often produce what political scientists and sociologists refer to as "elite theory", which pays much attention to "elites" and their role in democratic transitions and breakdowns, revolutions, political regimes

of all kinds, mass movements, democratic politics, globalisation and many other political phenomena (Osborne, 2010). These, in turn, create cohesive platforms for democratic parliamentary discourse, especially from breakaway parties, a phenomenon that is empirically evident in the fifth democratic Parliament.

In accordance with other approaches, the interactive governance perspective proceeds from the assumption that societies are governed by a combination of governing efforts (Ginwala, 2003). These governing mixes are answers to ever-growing societal diversity, dynamics and complexity, and responses to major societal issues such as poverty and climate change. From the above reflection, it can be argued that societal needs remain the same, but the more they are not addressed, the more dynamic and complex they become, and they often affect voter confidence and, ultimately, provide an alternative voice through opposition parties, of which more have grown than before 1994. The aspects of growth in opposition may, to a large extent, provide an "accountable government", as Nee and Matthews (1996) proclaim that accountability requires public authorities to act in a manner that responds adequately to the needs and expectations of the public. The other important element that strengthens opposition is evident, as reflected by Strom (2003), in the aspect of accountability that entails the imposition of some form of sanction if the power holder fails to answer for the exercise of his or her power, or if he or she is unresponsive in the manner described. Recent parliamentary

discourse calls for the application of such sanctions for unaccountability, which include dismissal, criminal prosecution, civil remedies in a court of law, disqualification from public office, electoral censures through the ballot and public opprobrium.

Osborne (2010) observes that "accountability represents an unexplored concept whose internal meaning remains evasive". Schedler's own definition (in Butler, 2011:1) is as follows: "A is accountable to B when A is obliged to inform B about A's (past or future) actions and decisions, to justify them, and to suffer punishment in the case of eventual misconduct". This definition foregrounds three key aspects of political accountability: answerability, justification and enforcement, which could be defined as an overall demand for public and political discourse of accountability. The coalition of opposition parties has called for this, particularly, in the fifth parliamentary discourse in South Africa. Ginwala (2003) further states that citizens criticise politicians for violating moral principles, and politicians criticise each other and defend themselves by appealing to the same principles. The criticisms may often be self-righteous, and the defense self-serving. But, whatever its motives, moral talk makes a difference in politics.

The claims above characterise the paradigm shift of the political conflict of what opposition parties, as "coalition" within parliamentary current affairs, are calling for in the current administration. These parties threaten constructive debates in Parliament, as Strom (2003) argues that conflict may be caused by "greed" rather than "grievance", which has to be measured against what Nee and Matthews (1996) cite as being instrumentalised by ethnic entrepreneurs to gain access to political and economic resources; hence, this conflict is a result of the growth in opposition in Parliament, where there is a call for accountability and a radical policy shift, as it is suggested that apartheid has not been fully eradicated.

TRANSFORMATION AND POLITICAL IDEOLOGY

The production of ideological discourse involves complex communicative strategies (Visagie & Pretorius, 1993), in which the hyper-norm of a specific ideology will usually operate in the vicinity of other hyper-norms with which it has variously structured relations, the most interesting for current purposes being those of mutual support. It is, therefore, that the South African Parliament of democracy operates within what is referred to as "ideological clustering", by virtue of democratic multi-partyism in the political landscape rather than that of "minority right ideological discourse". An argument can be made on the transformation of the parliamentary landscape and discourse since pre-1994 as reflecting what was earlier referred to as the "minority right ideological discourse", while Combrink (2004) proclaims that it was based on the "ideological divide" of cultural elitism.

The South African Parliament, in the era before 1994, was premised primarily on the relationship between capitalism and

apartheid and, to a lesser extent, on related subjects such as Afrikaner Nationalism, and the class, racial and ethnic character of the anti-apartheid movements (Du Toit, 1995). Therefore, the breakthrough of democracy created space for transforming the state utilising ideological reflections.

ETHICS AND POLITICAL CORRECTNESS

Parliament, as a constitutional and democratically elected institution, has to confine itself to "administrative orthodoxy" and finds its expression within the discipline of Public Administration. An important question is how elected officials, MPs, best align organisational, interorganisational and cross-sectoral strategies, structures and incentives to realise economy, efficiency and effectiveness, without sacrificing other values that are cherished in a democratic republic, as guided by the Constitution, especially since the institution accommodates different political ideological frameworks. The validity of institutional theory also needs to find expression, both ethically and politically, in what Combrink (2004) describes as the humanly devised constraints that structure human interaction, which consist of formal constraints (rules, laws and constitution) and informal constraints (norms of behaviour, conventions and a self-imposed code of conduct) and their enforcement characteristics.

The implications of ethics and political morality have to confine themselves within the context of which Butler (2011) reflects on as "accountability-holding business hits a snag",

on the basis that holding people accountable for performance, while also holding them accountable for finance and fairness, creates a dilemma. The above indication explains how the conduct of Parliament and its MPs can create a dilemma in public administration. The important question for this article remains, where is the South African Parliament since its inception, as other scholars (Anechiarico & Jacob, 1996) reflect in the book titled: *The Pursuit of Absolute Integrity: How Corruption Control Makes Government Ineffective.* These scholars highlight that "some politicians, anxious to appear morally pure, support dubious and cumbersome reforms regardless of the possible effect of those reforms on public administration".

Although a clear academic distinction can be drawn between morality and ethics, authors often use the two terms interchangeably. Van der Westhuizen (2001) further argues that when embarking on a discussion of morality and ethics, actions are often called ethical actions when they are regarded as morally correct, while reference is also made to codes of moral conduct as codes of ethics. Parliament requires personal ethics from MPs, while Beardwell and Holden (1995) reflect that personal ethics is a major determinant of ethical behaviour and the way in which actions will be taken and, therefore, personal ethics will also create a new argument, which Van der Westhuizen (2001) refers to as organisational ethics that influence and determine ethical behaviour, driven by ethical codes and disciplinary measures. The personal behaviour of MPs can be seen to influence organisational ethics, which, if argued politically, provides

what is politically correct and morally acceptable. One of the challenges of a democratic Parliament in a capitalist state is that there is a growing tendency to protect unethical actions, which undermines democratic principles, and these eventually build up to a point when corrupt activities are exposed by the political opposition.

CONCLUSION

The article provides historic milestones that reflect the calibre of the Parliament of the South African democracy from its inception in early 1994, utilising literature on good governance and parliamentary practical discourse. The important reflection that Parliament must hold its "centre of power" by legislating was more evident in the first decade of democracy, which the study referred to as a parliament of "think tanks". Its work was more relevant, given the transfer of the state from colonial apartheid to the democratic dispensation; therefore it can be concluded that the first decade of parliamentary discourse was characterised by innovation, and contractive and proactive nation- and continent-building. This is empirically supported by the high volume of legislative and African transformational work that was put in place.

The challenges of Parliament were, and still are, in the public discourse since the fourth administration, where extensive oversight gained more space, which the study shows as a movement from "legislation to oversight", and in which Nijzink and Piombo (2004) proclaim that Parliament was losing its "central role" of legislating. These challenges question the integrity of individual MPs, and create a strong voice of opposition in parliamentary discourse. The oversight growth provided space for the accountability dilemma, which implies the subordination of the policy process to reason and the creation of a culture of justification among policy-makers. This is still a challenge to the integrity of this institution. These challenges of justification and, to some extent, what the opposition has viewed as "theorising service delivery", created changes in the calibre of Parliament, in the second decade of democracy, to an institution that reacts to the pressures of the opposition, which gained growth in the fifth Parliament of democracy. The challenges of accountability, inclusive of non-radical service delivery, presented themselves as challenges for the current administration, and it is recommended by the article that there is a need to stabilise the political atmosphere, and to uphold public accountability to restore integrity against what opposition parties refer to as "constitutional deviations", so that the radical economic transformation through policy framework takes its course, as the concept enjoyed support from the majority of political parties in Parliament, including the ruling party.

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