SITUATION ANALYSIS
OF PUBLIC PARTICIPATION
IN THE SOUTH AFRICAN
LEGISLATIVE SECTOR
Situation analysis of public participation in the South African legislative sector

This situation analysis was conducted as part of a situation analysis for the project “Promoting broader and effective participation of South African civil society in environmental governance”, also known as “Action 24 – Active Citizens for Responsive Legislatures”.

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EXECUTIVE SUMMARY

As part of the Action 24 Project ‘Broader and effective participation of South African Civil Society in Environmental Governance’ implemented with co-funding from the European Union, a situation analysis was conducted on the Parliament of the Republic of South Africa and on the legislatures of four provinces: Gauteng, KwaZulu-Natal, Limpopo and the Western Cape. The aim was to explore the various mechanisms that exist for public participation in South Africa and to determine how well the public is able to engage in law-making and oversight processes.

The intention of public participation and involvement in democratic processes is primarily to influence decision-making processes so that these decisions ultimately reflect the will of the people. Despite a public participation framework being in place in South Africa to give structure and guidance on how to foster public involvement in the work of the legislative institutions in practice, it is evident that there are challenges with how public participation is being implemented in South Africa. The challenges to meaningful public participation include limited resources on the Legislature side, lack of public interest or knowledge, poor communication by the Legislatures, inadequacy of some engagement platforms, an absence of feedback from the Legislatures, and a disconnect between participation and the publics’ contributions actually influencing policy decisions.

When considering the role that public participation plays in improving environmental governance, it is acknowledged that the processes may not be sufficient to tackle environmental challenges successfully without the provision of adequate and accurate information, coupled with the necessary budgetary support (Aylett, 2010). As such, the report finds that educating and informing the public on sustainability issues and engagement opportunities is essential to empower them with the information that enables them to participate meaningfully.

Despite the limitations of this situational analysis, particularly the small sample size, a number of best practices in public participation in the legislatures were identified using an Appreciative Inquiry approach. These include:

- The Gauteng, KwaZulu-Natal, and Western Cape Provincial Legislatures have developed and customised their own public participation frameworks and strategies to guide the involvement of the public in policy processes. Similarly, National Parliament has drafted a public participation model which aims to outline and mainstream norms and standards for public participation in parliamentary processes and procedures so as to achieve meaningful involvement of the public in law-making and oversight.

- Parliament and the Gauteng Provincial Legislature have embarked on a number of evaluations and benchmarking activities and have conducted research on the gaps in their public participation mechanisms. These are designed to allow continuous improvement in public participation.
• The Gauteng, KwaZulu-Natal, Western Cape Provincial Legislatures and Parliament have begun leveraging new technology for communication such as Facebook, Twitter and Instagram.

• The Gauteng, KwaZulu-Natal, Limpopo and Western Cape Provincial Legislatures have specific budget line items for public participation. It is commendable that specific budget allocations are made for public participation. Expenditure reports are produced by each of these provinces to account for the use of public funds, including the funds spent on public participation.

• The Gauteng and KwaZulu-Natal Provincial Legislatures have invested in language services to translate communication materials in an effort to address the language barrier in public participation.

• The Western Cape Provincial Parliament (WCPP) has a comprehensive website with information on public participation processes including a calendar of events, contact information for WCPP staff and forms that can be completed to request any additional information that is not available on the website.

• WCPP has a monitoring mechanism for tracking on indicators specific to public participation year on year.

• The KwaZulu-Natal and Limpopo Provincial Legislatures publish some of their activities on Facebook, including their weekly programmes.

• The Limpopo Legislature broadcast the proceedings of its 2018 Youth Parliament on 10 community radio stations, thus allowing a broad audience to hear the discussions on youth issues. A progress report on the resolutions of the previous Youth Parliament was delivered during the event, which is a good example of providing feedback.

Based on the findings of this study, a series of recommendations to achieve meaningful participation are presented. It is however recommended that further research be conducted to analyse which public participation mechanisms are not effective and why; and to thoroughly review the adequacy of provincial budgets in fulfilling their public participation mandates.

- **Avoid ‘catch-all’ public participation meetings**: In some cases, public participation meetings are arranged to deal with a range of wider issues in a way that some issues are not accorded the attention they merit. It is important to convene more focused meetings.

- **Conduct periodic research on shifting modalities and patterns of community engagements and associational life**: It is important to ensure that tools of public participation are adapted to shifting trends in terms of ways in which communities interact and associate. For example, it might be important to know how the youth engage with each other as a way to get them involved in public participation.

- **Stakeholders should be engaged on an equitable basis**: It is important that all stakeholders participate on an equal footing. Civil society organisations should be involved since they represent the broader community interest and they will equalise power between the political elites and the broader communities.
Innovate and harness technology to facilitate access to information: Access to information remains a huge issue in South Africa. The use of social media and new ways of engaging with communities in languages that they can understand needs to be considered in facilitating public participation. This will also reduce the high costs of convening lots of meetings in different locations. The information needs to be simple and non-technical in order for the general public to understand. Avail information about the work of the legislatures including their work programmes and staff contact details. This information should be easily available, and timeous in order for the public to engage proactively.

Encourage formations of community-based organisations on issues: Formation of community-based organisations increase the capacity of communities to bargain better and engage with institutions in pursuit of their goals. This ultimately improves on the quality of public participation and democracy in general. This is essential for environmental policy making processes especially as it is clear that the general public is not well equipped to participate meaningfully on the issues at hand. Leverage civil society and community-based organisations in mobilising the public around specific issues and empowering citizens with skills to participate effectively. For example, public speaking skills, reading and writing responses to policies and policy analysis. Empower the public to proactively participate by taking the initiative to approach legislatures and parliament with their concerns without waiting for an invitation.

Collaboration among all stakeholders: It is essential for all stakeholders involved i.e. Civil society, Parliament, provincial legislatures, academia, community-based organisations and community leaders to work together to address issues regarding public participation. There has to be a ‘mind-set shift’ in order to define what meaningful public participation should look like in South Africa as well as institutionalising public participation best practice.

Strengthen feedback mechanisms: Weak follow up of issues raised by the public and lack of feedback mechanisms in particular undermine public participation

Consider reforming the electoral system: Currently SA citizens elect representatives though a ‘closed list’ proportional representation system PR system. While this system has its merits for example it encourages fairness and gender diversity, it has shortcomings because voters elect a party rather than an individual, they may not know who their MP is and it is difficult to establish a strong relationship. In a constituency-based system, committees vote for a representative in a particular geographical area and the candidate with most votes is elected to represent them. In the PR system, political parties assign geographical areas to their members after election, but constituencies are not well defined and links between communities and representatives are weak. As a result of these short comings a reform of the SA electoral system is recommended to ensure that political representatives truly represent the communities they serve.
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ABBREVIATIONS AND ACRONYMS USED IN THIS REPORT

AI  Appreciative inquiry
CBO  Community Based Organisation
CSO  Civil society organisation
EPRE  Estimates of Provincial Revenue and Expenditure
GPL  Gauteng Provincial Legislature
GCIS  Government Communication and Information System
IAP2  International Association of Public Participation
KZN  KwaZulu-Natal
LGBTI  Lesbian, Gay, Bisexual, Transgender and Intersex
LPL  Limpopo Provincial Legislature
MEC  Member of the Executive Council
MP  Member of Parliament
MPL  Member of Provincial Legislature
NA  National Assembly
NCOP  National Council of Provinces
NGO  Non-governmental organisation
NPO  Non-profit organisation
PCOS  Parliamentary Constituency Offices
PDO  Parliamentary Democracy Offices
PMG  Parliamentary Monitoring Group
PP  Public participation
PPU  Public Participation Unit
SALS  South African Legislative Sector
TPTP  Taking Parliament to the People
WC  Western Cape
WCPP  Western Cape Provincial Parliament
WC  Ward Committee

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DEFINITIONS

Appreciative inquiry (AI) approach
“A form of transformational inquiry that selectively seeks to locate, highlight, and illuminate the life-giving forces of an organisation’s existence. It is based on the belief that human systems are made and imagined by those who live and work within them. AI leads these systems to move toward the creative images that reside in the positive core of an organisation. These principles call people to work toward a common vision and a higher purpose.” (David L. Cooperrider, Diana Whitney, & Jacqueline M. Stavros, 2008, p. XI).

Civil Society
“Includes a wide array of non-governmental and non-profit organisations; community groups, charitable organisations, labour unions, indigenous groups, faith-based organisations, professional associations and foundations. These have a presence in public life; expressing the interests and values of their members or others based on ethical, cultural, political, scientific, religious or philanthropic considerations.” (South African Legislative Sector, 2013, p. 8).

Climate change
A change in the state of the climate that can be identified by changes in the average weather patterns, and that persists for an extended period, typically decades or longer. Changes in climate conditions may be due to natural variability or a result of human activity. (Intergovernmental Panel on Climate Change, 2014)

Constitutional Democracy
“A form of government where a constitution is supreme and guarantees basic personal and political rights; fair and free elections; and an independent judiciary” (South African Legislative Sector, 2013).

Democracy
“Involves the government of the population by an elected body, which guarantees the liberty, equality and involvement of all people, ensuring their interests are secured. This emphasises people or public as crucial elements of governance; consequently underscoring the importance of public participation in government activities” (Khanyile, 2015, p. 13).

Legislature
“It includes the Parliament of the Republic of South Africa (National Assembly and National Council of Provinces) and the nine provincial legislatures. They are institutions constitutionally charged with the responsibilities of making laws; conducting oversight over the Executive; facilitating public participation and co-operative governance.” (South African Legislative Sector, 2013, p.9).
Organs of State
“Any department of state or administration in the national, provincial or local sphere of government, or any other functionary or institution exercising a power of performing a function in terms of the Constitution of the Republic of South Africa or a provincial constitution, or exercising a public power or performing a public function in terms of any legislation (...)” (Ibid, 2013, p. 9).

Oversight
“This is the proactive interaction initiated by a Legislature with the executive and administrative organs that encourages compliance with the constitutional obligation of the Executive and administration to ensure delivery on agreed-to objectives for the achievement of government priorities.” (Ibid, 2013, p. 9).

Parliamentary constituency offices (PCOs)
Provincial offices where members of the public can approach elected representatives and ask for help. Representatives are meant to get updates from their constituency office, listen to the concerns of residents in the area, and assist them to solve problems.

Public
“Includes citizens in their personal capacity, civil society organisations, interest groups, private sector/business companies, trade unions and academic institutions – in summary, all-encompassing of those outside of the government sector” (Ibid, 2013, p. 8).

Public participation
“The process by which Parliament and provincial legislatures consult with the people and interested or affected individuals, organisations and government entities before making a decision. Public participation is a two-way communication and collaborative problem-solving mechanism with the goal of achieving representative and more acceptable decisions. Furthermore, in a diverse society such as South Africa, there is also a need to acknowledge that the term public is inclusive and diverse by its very nature. In this context, there should be a focus on those who are confronted with poverty and lack access to resources, including children, women, people with disabilities and the youth”. (South African Legislative Sector, 2013, p. 7).

Participatory Democracy
“In a participatory democracy, the public is actively involved in the decision-making processes of the government. Within this system, two forms of key public ‘actors’ exist: the citizenry, as represented by parties, and interest groups or stakeholders. In this model, public participation involves a meaningful exchange between the public actors and government” (South African Legislative Sector, 2013, p. 8).

It is also described as “an environment in which citizens may participate and voice, share and discuss matters of common interest” (Fischer, 2003 in Khoza, 2010).

Representative democracy
“Representative democracy suggests that the people or citizens are represented by the elected representatives…Representatives are authorised with powers to speak or vote on behalf of their constituencies.” (Khanyile, 2015, p. 19).
Stakeholders
"These are people who have a specific and clearly definable interest in what is undertaken and have an interest in the institutional outcome. Stakeholders are referred to as partners in the design and implementation of better solutions and outcomes." (South African Legislative Sector, 2013, p. 8).

Sustainable development
Development that meets the needs of the present, without compromising the ability of future generations to meet their own needs (World Commission on Environment and Development, 1987). It refers to achieving economic and social development in ways that do not exhaust the planet’s natural resources and does not cause excessive and irreversible harm to the environment. The underlying principle is that we must strive to – and can – achieve the rights and well-being of all people on the planet without damaging the environment nor depleting the natural resources which we rely on. In essence, this means striking a stable relationship between human activities and the natural world, which does not diminish the prospects for future generations to enjoy a quality of life at least as good as our own. Participatory democracy, undominated by vested interests, is a prerequisite for achieving sustainable development (Mintzer, 1992).
INTRODUCTION

Public participation is critical in any democratic country’s governance structures. South Africa, a country with a tumultuous history of over 150 years of oppression, has been transitioning from the legacy of apartheid since 1994. The nature of public participation changed with the drafting of the new South African Constitution in 1996. The new Constitution asserts that South Africa is a constitutional democracy, a country that upholds both representative and participatory democracy (Khanyile, 2015). In a representative context, the Members of Parliament (MPs) represent the views of the electorate whilst in a participatory democracy the public is actively involved in decision-making processes such as law-making and oversight.

The intention of public participation and involvement in democratic processes is primarily to influence decision-making processes so that these decisions ultimately reflect the will of the people. Despite a public participation framework being in place to give structure and guidance on how to foster public involvement in the work of the legislative institutions in practice, it is evident that there are challenges with how public participation is being implemented in South Africa.

This situation analysis sought to explore the various mechanisms that exist for public participation and to determine how well the public is able to engage in law-making and oversight processes. Particular focus was placed on the Parliament of the Republic of South Africa and on the legislatures of four provinces: Gauteng, KwaZulu-Natal, Limpopo and the Western Cape, in which the Action 24 Project ‘Broader and effective participation of South African Civil Society in Environmental Governance’ is being implemented (2018-2020) with co-funding from the European Union.

A literature review was conducted to understand public participation in South Africa, especially to understand how effective public participation is in informing legislation that impacts the environment. Using the appreciative inquiry approach, in-depth interviews were conducted with key stakeholders to complement the literature review.

This report provides an analysis of current public participation mechanisms and processes of the Parliament of South Africa and the four Provincial Legislatures targeted in the project. It includes an analysis of existing public participation frameworks and mechanisms in place at each Legislature, specifically considering their effectiveness with respect to meaningful engagement. The report highlights good practices from both National and Provincial Legislatures in South Africa and opportunities for improvements.
1. RESEARCH METHODOLOGY

This research project drew on desk-top research conducted on public participation in the legislative sector in South Africa. In addition to the secondary research, primary research was carried out through structured and semi-structured interviews with employees from the legislative sector, civil society and academia. Following from the findings, recommendations and areas for improvement were identified.

1.1. Secondary research – Literature Review
The situation analysis started with a literature review, using published literature, conference reports, online articles, websites, books and information pamphlets dealing with public participation in the Legislative Sector in South Africa. Key themes of interest were identified, according to which the literature was analysed. It must be noted that recent literature that specifically addressed public participation and environmental governance was limited, even more so when it comes to public participation of women and the youth.

1.2. Primary research - Interviews
Primary research was conducted using semi-structured interviews. Twelve in-depth interviews were held. This number was lower than the list of respondents initially identified, due to lack of response or unavailability. As seen in the table below, respondents were from provincial and national level and included employees in the sector, academia and civil society organisations. To ensure anonymity, the names and details of respondents have been withheld.

Table 1: Research respondents

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Interviews were conducted using the appreciative inquiry (AI) method. AI is a way of asking questions that encourages trust, reduces defensiveness and suspicion by focusing on best practice and encouraging what works well. The questioning of Parliamentarians and Legislatures is often a sensitive task as they are inherently cautious with their responses. In all the interviews, particularly with the Legislatures, the interviewer began the interview with appreciating and applauding the institutions on the work that they are doing and acknowledging the complexity of the issues of meaningful public participation amidst other constraints that are not directly in their control.

An effort was made to not just highlight the issues, but to also suggest possible causes and solutions to the problems as described in the AI approach. See Figure 1 which illustrates the “5D” AI approach components and their interlinked relationships (Coaching Leaders, 2012).
Interviews were conducted telephonically, apart from an interview with the Gauteng provincial legislature that was done in person. Where possible, and with the consent of the participant, interviews were recorded using a voice recorder. Where it was not possible to record the interview, detailed notes were taken.

**Data Analysis**

Qualitative data from the in-depth interview transcripts of the voice recordings and interview notes was analysed using thematic analysis. Themes were documented using the principles from the appreciative inquiry approach, listing three main themes;

- What is working well, appreciating the best of what is, what could be better;
- Envisioning what could work better in future and solutions and;
- How can the ideal/dream be achieved? Planning for the future.
2. KEY FINDINGS FROM THE LITERATURE REVIEW

South Africa’s Constitution, Act 108 of 1996 (Constitution of the Republic of South Africa, 1996) provides that the National Assembly must “facilitate public involvement in the legislative and other processes of the assembly and its committees…” (Section 59, 1(a)). Public participation in processes and decisions that concern the people is the cornerstone of the democratic dispensation in South Africa.

The Legislatures have a constitutional obligation to facilitate such engagements and some effort has been made in this regard. As such, National Parliament, and the Provincial Legislatures of Gauteng, Limpopo, Western Cape and KwaZulu-Natal have established structures for public participation. Citizens are free to voice their opinions on any matter that concerns them.

The literature review focused on four key aspects: understanding public participation in South Africa; public participation mechanisms; barriers or challenges to public participation; and budgetary support for public participation.

2.1. Understanding public participation in South Africa

The South African Constitution is rooted in the principles of openness, involvement, responsiveness and accessibility to policy making processes (Khanyile, 2015). The South African Government made commitments to foster public participation in a post-apartheid South Africa. These commitments were embedded in the Constitution of South Africa (Act 108: 1996) to promote a culture of transparency and openness.

South Africa can be assessed in terms of the quality of public involvement in key decision-making processes. Public participation in a representative democracy like South Africa does not mean that people have to be involved in every decision made by government. That would overburden decision-making and delay the process of governing and implementing policies. It does mean, however, that people should be consulted on and have the ability to influence decisions regarding issues that directly affect them, and have the right to scrutinize government action and hold duty-bearers to account.

The constitutional provision applies to all spheres of government namely local government, provincial government, and national government. It has both a substantive value and a procedural significance. Its substantive value speaks to the fact that it seeks to canvass the views of the people on matters affecting them. Public participation also has procedural significance in that the validity of decisions may be challenged in the absence of meaningful and reasonable participation of the people.

The Constitution clearly states that the onus of ensuring public participation is on the Legislature. Sections 59(1), 72(1) and 118(1) oblige both the Parliament (National Assembly and National Council of Provinces) and the Provincial Legislatures to “facilitate public involvement” in processing and making laws, as well as exercising oversight over the Executive. Yet it does not prescribe how public participation ought to be organised and structured. As such, the Constitution allows for democratic practices to appreciate local
cultures and to evolve over time, building on the historical practices of participation in South Africa.

The literature reviewed indicates that public participation has largely followed a non-prescriptive approach: it means that it is very difficult to appreciate whether public participation is conducted in such a way that it achieves its objectives. Despite the complexity of implementing effective public participation in South Africa, the Legislative Sector has made significant progress since 1994 in developing mechanisms to implement its public participation obligations with the adoption of a Public Participation Framework in 2013. It establishes “benchmarks” for “shared understanding, alignment and minimum requirements and guidelines” for how each legislative institution should foster public participation. The Public Participation Framework (2013) promotes a “best fit” approach and various mechanisms particular to South Africa. These include the programme “Taking Parliament to the People”, sectoral parliaments, the establishment of Parliamentary Constituency Offices (PCOs), petitions, education, outreach and information dissemination as well as pre-hearings, hearings and post-hearings (South African Legislative Sector, 2013).

2.2. Public Participation Mechanisms

Current public participation mechanisms identified and listed in Tables 2 and 3 review the public participation mechanisms; provide commentary on each of them; and summarise how Parliament and the Provincial Legislature in the four province reportedly implement them (South African Legislative Sector, 2013)
Table 2: Review of public participation mechanisms in the South African Legislature

<table>
<thead>
<tr>
<th>MECHANISM</th>
<th>PARTIES INVOLVED</th>
<th>PURPOSE</th>
<th>FREQUENCY</th>
<th>TARGET GROUP &amp; ATTENDEES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taking Parliament to The People (TPTP)</td>
<td>NCOP or a provincial legislature</td>
<td>To address issues raised by the community; To make Legislatures more accessible to marginalised groups; Encourages cooperation between the different spheres of Government(^1)</td>
<td>initiated in 2002</td>
<td>Rural or semi-urban areas across South Africa. MPs, MPLs, MECs and local councillors</td>
</tr>
<tr>
<td>Sectoral parliaments</td>
<td>National Assembly NCOP Legislatures Committees Parliamentary Constituency Offices (PCOs) Parliamentary Democracy Offices (PDOs)</td>
<td>Dedicated to engaging exclusively with a marginalised group with specific needs (e.g. young people, women, workers, and the disabled) and the challenges it faces to enhance the diversity of voices in decision-making processes and address power imbalances in our society(^1)</td>
<td>Annually(^2)</td>
<td>People’s Assembly, Women, Youth, Workers, Senior Citizens, People with Disabilities</td>
</tr>
<tr>
<td>Petitions</td>
<td>National Assembly NCOP Legislatures Committees Parliamentary Constituency Offices (PCOs) Parliamentary Democracy Offices (PDOs)</td>
<td>To enable the handling of a complaint or request or representation or submission addressed to the Legislature by an individual or group after having exhausted other avenues(^2)</td>
<td>May be submitted anytime(^2)</td>
<td>General public</td>
</tr>
<tr>
<td>Pre-Hearings, Hearings &amp; Post Hearings</td>
<td>National Assembly NCOP Legislatures Committees Parliamentary Constituency Offices (PCOs) Parliamentary Democracy Offices (PDOs)</td>
<td>These are done when there is a need to acquire input, opinions and perceptions on a government programme or proposed legislation or any legislation which the public will have an interest in or which has a direct impact on the public. Usually convened when Parliament or provincial legislatures seek to engage with the general public on a particular issue or a specific segment of the society which might be greatly affected by the proposed legislation</td>
<td>As necessary</td>
<td></td>
</tr>
<tr>
<td>Education, Outreach &amp; Information Dissemination</td>
<td>National Assembly NCOP Legislatures Committees Parliamentary Constituency Offices (PCOs) Parliamentary Democracy Offices (PDOs)</td>
<td>Educational workshops, tours of Parliament, school education and information programmes, focused media strategies including the use of community radio stations, websites, the Government Communication and Information System (GCIS) and municipalities</td>
<td>As per necessary</td>
<td></td>
</tr>
<tr>
<td>Parliamentary constituency offices (PCOs)</td>
<td>Elected representatives</td>
<td>Offices around the country where members of the public can approach elected representatives and ask for help. Representatives are meant to get updates from their constituency office, listen to the concerns of residents in the area, and assist them to solve problems.</td>
<td>One day a week when legislatures are in session</td>
<td></td>
</tr>
</tbody>
</table>

Table 3: Public participation mechanisms as implemented by the Legislatures, 2013 - 2017

<table>
<thead>
<tr>
<th>MECHANISM</th>
<th>NATIONAL PARLIAMENT</th>
<th>GAUTENG Legislature</th>
<th>KZN Legislature</th>
<th>LIMPOPO Legislature</th>
<th>WESTERN CAPE Parliament</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taking Parliament To the People</td>
<td>National Parliament convenes these at least 1-2 times a year. In 2013/14, 2 visits</td>
<td>Gauteng Legislature held TPTP in 2015/16, 2016/17</td>
<td>One TPTP was held in 2014/15, 2015/16 and 2016/17 respectively</td>
<td>Limpopo Legislature conducts TPTP events, however inconsistently. In 2014/15 no TPTP event was reported.</td>
<td>The National Council of Provinces (NCOP) in partnership with the Western Cape Legislature held the TPTP programme in Oudshoorn, Western Cape, in April 2015.</td>
</tr>
<tr>
<td>(TPTP)</td>
<td>were done. None were done in 2014/15. 1 was done in 2015/16</td>
<td></td>
<td></td>
<td>In 2015/16 and 2016/17 the Limpopo legislature with the National Assembly and National council of Provinces embarked on oversight visits to various projects such as infrastructure and roads as part of ‘Taking Parliament to the people’ initiative, according to their financial reports</td>
<td>The programme consisted of, among others, public meetings and hearings, and oversight visits.</td>
</tr>
<tr>
<td></td>
<td>In 2017 Parliament launched a Taking Parliament back to the People where they go</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>back to the public to give feedback on progress made</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 Parliament of the Republic of South Africa website  
https://www.parliament.gov.za

2 Interview with the Division Manager: Core Business Support of the National Parliament

3 EPRE reports 2014/15, 2015/16 and 2016/17
| Sectoral parliaments | Parliament convenes sector parliaments for specific groups through the provincial legislatures⁴ | The following sector parliaments were held in 2015/16 and 2016/17: Senior citizens Parliament, the Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Parliament, Youth Parliament, Women’s Parliament, Commercial sex workers dialogue. In the 2016/17 financial year, a People with disabilities parliament was also held⁶ | In 2014/15, 6 sector parliaments were held by the KZN Legislature, including Workers, Youth, Women, Learners, Senior citizens and People with disabilities. The same events were held in 2015/16 and 2016/17 excluding the Learners Parliament which was merged with the youth parliament | In 2014/15, no sector parliaments were held or reported as being held. In 2015/16, 2 sector parliaments were held during the reporting period, namely the Youth and Women’s Parliaments. In 2016/17 the Limpopo legislature convened 3 sector parliaments which include the Youth Parliament, Women’s Parliament and Senior citizen participation to actively involve these groups in law making processes⁵ | No details available |

| Petitions | In 2016/17 there were 9 reports on referred petitions, no details of actual petitions submitted and processed⁶ | The Gauteng Legislature processes petitions and educates the public on how to file petitions. No detail on how many have been processed in the recent years⁷ | The KZN Legislature processes petitions. The number of petitions processed on a yearly basis could not be ascertained⁸ | Petitions were processed in 2014/15, but there was no mention of how many. No petitions reported on in 2015/16 and 2016/17⁹ | The 2016/2017 Annual Report noted two petitions received and fully processed, and two non-compliant submissions processed in line with the applicable petitions legislation. |

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⁴ Interview with the Division Manager: Core Business Support of the National Parliament
⁵ EPRE reports 2014/15, 2015/16 and 2016/17
⁷ Interview with Public Participation Officers at the Gauteng Provincial Legislature
⁸ Interview with Public Participation Manager at the KwaZulu-Natal Provincial Legislature
⁹ EPRE reports 2014/15, 2015/16 and 2016/17
| Pre-Hearings, Hearings & Post Hearings | In 2016/17 there were 2 Committee reports on public hearings on oversight activities\(^\text{10}\) | In 2015/16 the Gauteng Legislature launched the ‘20 years of democracy’ initiative, which included consultations with the public who gave input to the draft report. In 2016/17 the Legislature held public hearings on the Medicines and Related Substances Bill, and Disaster Management Amendment Bill\(^\text{11}\) Bua le Seshaba (Speak to the Nation) events were convened in 2016/17. | In 2015/16 a civil organisations’ symposium was held by the KZN Legislature. Public hearings on bills are conducted, no details available on the number per year\(^\text{12}\) | In 2014/15 public hearings were held, no mention of how many. In 2015/16, 19 public hearings were convened (including workshops regarding 6 bills facilitated by the Legislature). In the same year 11 public hearings were held in order to ensure that the public are involved and actively participate in law making processes\(^\text{11}\) In 2016/17, 8 workshops on bills were facilitated by committees, the public were given an opportunity to comment on the bills\(^\text{11}\). That same year, the Limpopo Legislature conducted 64 Committee oversight visits\(^\text{11}\) | The 2016/2017 Annual Report mentions 17 public hearings and petitions education workshops conducted. In 2016/2017, WCPP also hosted the public hearings of the High Level Panel Assessments on the impact of legislation; a reported 74 public hearings held; and a Public hearing event held on 5 and 6 December 2016: the PEO Section anchored a multi-disciplinary team to facilitate a province-wide public awareness and involvement in the work of the high-level panel tasked with assessing the impact of key legislation enacted since 1994. |

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\(^{10}\) Parliament of the Republic of South Africa website [https://www.parliament.gov.za](https://www.parliament.gov.za)

\(^{11}\) EPRE reports 2014/15, 2015/16 and 2016/17

\(^{12}\) Interview with Public Participation Manager at the KwaZulu-Natal Provincial Legislature
<p>| Education and Outreach activities, Institutional Tours, Community Education | No details available | A total of 80 public education workshops were conducted, of which 19 were related to stakeholder workshops in support of committees, 4 in support of citizens responsibility campaign on environmental issues. | No details available | During the 2014/15 financial year the Public Education and Outreach section facilitated workshops and educational activities at 48 different institutions as per their annual programme. This section produced a range of education material and reviewed existing educational material. The 2016/17 Annual Report noted that the Public Education and Outreach Section worked closely with the Committees Section and other support functions to support the standing committees by conducting education workshops targeted at the budget process, the annual reports process, and to support the petitions process. |</p>
<table>
<thead>
<tr>
<th>Information Disseminated via various Channels(^{13})</th>
<th>In 2016/17 there were 2656 visitors to Parliament; 17 media briefings; Social media – Website visitors, YouTube channel views; Increase in Facebook likes, Twitter followers and Parliamentary TV broadcast programmes(^{14})</th>
<th>Use of radio and television broadcasts, advertorials, publications, newsletters(^{15})</th>
<th>Community radio stations, Facebook and Instagram are used for communicating on public participation issues(^{15})</th>
<th>No details available</th>
<th>No details available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Committee specific public participation(^{16})</td>
<td>In 2016/17 there were 11 written submission lists on advertised bills(^{17})</td>
<td>In 2015/16, 5 sector committees conducted public participation site visits. In 2016/17 4 sector committees conducted site visits(^{15})</td>
<td>No reports on committee meetings could be found</td>
<td>In 2016/17 4 site visits were undertaken by the committees of the Legislature(^{15})</td>
<td>No details available</td>
</tr>
<tr>
<td>The People’s Assembly</td>
<td>No details available</td>
<td>No details available</td>
<td>One People’s Assembly event was convened in 2014/15(^{15})</td>
<td>No details available</td>
<td>No details available</td>
</tr>
</tbody>
</table>

\(^{13}\) Note from the authors: the legislatures don’t provide further detail as to the reach of their communications through conventional and social media.


\(^{15}\) EPRE reports 2014/15, 2015/16 and 2016/17

\(^{16}\) Note from the authors: the legislatures don’t provide qualitative information on public participation in their respective committee’s work, such as public attendance to committee meetings; information about committee activities made available to the public; etc.
2.3. Challenges to meaningful public participation

Over the years, the Legislative Sector and civil society have sought practical ways to foster “meaningful” public engagement in the sector, including through “invented” spaces. The Constitutional Court and the Constitution have stated that to achieve meaningful participation:
- the National Assembly, the National Council of the Provinces (NCOP), and the provincial legislatures must facilitate public involvement in their decision-making processes;
- the legislatures must ensure that the participation opportunities they provide are ‘meaningful’ which means:
  - Government has a duty to consult people before a final decision has been made
  - Representatives must listen to people’s opinions with an open mind.
  - The legislatures must ensure that people can participate effectively in those opportunities. To achieve this, the legislatures must consider whether:
    o They have provided information about the location and time of the consultation
    o They have provided information on the impact the decisions will have on people’s lives
    o They have given people enough time to prepare for consultation
- The legislatures have a special duty to consult a section of the population that may be affected by the decisions under consideration (Ben-Zeev, 2012).

Despite the progress made by the 5th Democratic Parliament (2014-2019) in fostering meaningful public participation, public involvement remains unsatisfactory – either in terms of processes or outcomes, or both. Multiple reasons are identified: limited resources on the Legislature side, lack of public interest or knowledge, poor communication by the Legislatures, inadequacy of some engagement platforms, selection of the public vs open platforms, “talk shop” phenomenon, absence of feedback, uncertainty as to the public’s ability to influence outcomes as there seems to be a disconnect between participation and the public’s contributions actually influencing policy decisions, etc (Scott, 2009; Ben-Zeev, 2012; Kleynhans, 2017; Parliamentary Monitoring Group, 2013).

Members of civil society also highlight instances where public participation is confused with visibility and criticisms have been made that they have been used largely as compliance tools and less as a means to allow for a real impact on legislation, oversight, and decision making in general (Ben-Zeev, 2012).

Furthermore, the Parliamentary Monitoring Group (2013) notes that in many countries, including South Africa, parliaments and Members of Parliament (MPs) still maintain a degree of scepticism about the concept of public inquiry and probing. Ben-Zeev (2012) noted that there is a general lack of trust between civil society and MPs and MPLs who are afraid that

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What is meaningful participation?
To truly have a meaningful public participation process, there has to be a link between participation and directly influencing the decisions as a result of that engagement. The empowerment of citizens is felt when the public’s participation has a likely impact on decisions coupled with evident outcomes (Simrell et al., 2008).
the public and CSOs aim to embarrass the government in light of service delivery failures as opposed to working together towards solutions.

Furthermore, where the public is represented by CSOs, there are concerns about these groups being truly representative of the public and their wishes. These organisations are often ‘targeted’ or invited to participate on behalf of the public because of their existing relationships with the legislatures or elected representatives. In some instances, there is no clear process of engaging the public in a fair, transparent and inclusive manner. Participation in the legislative process should not exclude anyone – whether organised and powerful or marginalised and powerless (South African Legislative Sector, 2013).

When considering the role that public participation plays in improving environmental governance, it is acknowledged that the processes may not be sufficient to tackle environmental challenges successfully without the provision of adequate and accurate information, coupled with the necessary budgetary support (Aylett, 2010). Educating and informing the public on sustainability issues and engagement opportunities is essential to empower them with the information that enables them to participate meaningfully.

The table below summarises the challenges to meaningful public participation according to five themes namely, the constitutional mandate, governance, resources, public participation practices and monitoring and evaluation.
### Table 4: Challenges to public participation (PP) processes

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>CIVIL SOCIETY/ THE PUBLIC</th>
<th>LEGISLATURE/ POLICY MAKERS</th>
<th>POSITIVE ASPECTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Constitutional mandate</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I. Political, Administrative and Public Commitment</td>
<td>Growing apathy amongst citizens (Scott, 2009)</td>
<td>Administrative support in place however capacity issues may exist (Scott, 2009)</td>
<td>Administrative commitment to public participation exists and is exhibited through the Constitution and legislation, e.g. Sections 59, 72 and 118 of the Constitution, Petitions Act (Scott, 2009)</td>
</tr>
<tr>
<td>ii. Legislation and policy</td>
<td>Public unsure of what can be expected of them as far as PP is concerned as there is uneven application of PP policies across legislative spectrum (Scott, 2009)</td>
<td>Inconsistent application of PP policies and PP strategy and implementation within provinces preventing a uniform approach to PP in the country. Despite the legal commitment toward promoting public participation in governance, effective public participation remains problematic. On many occasions, those who have developmental interests have reduced public participation to a more technical exercise driven to ensure merely compliance with the minimum legal requirements. Limiting consultations in this way can allow illegal activities to flourish and may result in costly court challenges to stop them (Kleynhans, 2017)</td>
<td></td>
</tr>
</tbody>
</table>

Despite decentralisation and the local level wards and izimbizos (local
## Situation Analysis of Public Participation in the South African Legislative Sector

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### Issue 1: Civil Society/The Public

- **Positive Aspects**: Service delivery protests created, there exist few effective and open platforms for public participation in local political issues (Cilliers & Aucoin, 2016)

  - Local elected officials are seen to lack capacity, willingness or concern to engage with citizens, in part because they are often in their positions because of their political loyalty rather than their abilities to be responsive civil servants (Cilliers & Aucoin, 2016)

### 2. Governance

<table>
<thead>
<tr>
<th>Structure</th>
<th>Negative Aspects</th>
<th>Positive Aspects</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I. Structures</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NIL</td>
<td>Lack of consistency in the structure and role specifications within the public participation units (PPU’s) (Scott, 2009)</td>
<td>All 10 legislative institutions have public participation programmes in place linked to a budget (Scott, 2009)</td>
</tr>
<tr>
<td><strong>II. Systems and processes</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NIL</td>
<td>Individual political commitment lacking in some respects as some PP duties are viewed as ad hoc responsibilities and time management and workload put a strain on the fulfilment of PP commitment (Scott, 2009)</td>
<td>All 10 legislative institutions have administrative public participation units (PPU’s) in place to implement PP plans and provide support to committees (Scott, 2009)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>All institutions have communications processes in place for PP (Scott, 2009)</td>
</tr>
</tbody>
</table>
### 3. Resources

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>CIVIL SOCIETY/THE PUBLIC</th>
<th>LEGISLATURE/POLICY MAKERS</th>
<th>POSITIVE ASPECTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Lack of electronic database management systems to facilitate effective PP planning and project management (Scott, 2009)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>There is a perception that some organisations are not invited to participate because they will come with complaints, while others that are less critical of government are made welcome. ‘Handpicking’ the voices that will be heard undermines both the principle and purpose of participation (Ben-Zeev, 2012)</td>
<td></td>
</tr>
<tr>
<td>I.</td>
<td>Human resources</td>
<td>Lack of sufficient and well-trained staff complement for PP implementation. Lack of specific and specialized training in PP available in SA higher learning institutions; Further training is necessary to optimise staff performance (Scott, 2009)</td>
<td>NIL</td>
</tr>
<tr>
<td>ii.</td>
<td>Financial resources</td>
<td>Budget growth remains insufficient to cater for increasing population</td>
<td>Budget for PP exists and has shown steady increase. Budgets are further supplemented</td>
</tr>
<tr>
<td>ISSUE</td>
<td>CIVIL SOCIETY/THE PUBLIC</td>
<td>LEGISLATURE/POLICY MAKERS</td>
<td>POSITIVE ASPECTS</td>
</tr>
<tr>
<td>-------</td>
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<td>-----------------</td>
</tr>
<tr>
<td></td>
<td>significant problems experienced particularly by small organisations and individuals (Aylett, 2010a)</td>
<td>growth and to make a real impact (Scott, 2009)</td>
<td>through European Union (EU) donor funding (Scott, 2009)</td>
</tr>
<tr>
<td>iii.</td>
<td>Physical resources</td>
<td>Accessibility to PPU offices generally suitable however may prove difficult for people who live away from the main provincial cities where they are established (Scott, 2009)</td>
<td>Insufficient technology to facilitate PP implementation (Scott, 2009)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Geography: the legislatures are located in city centres. People in the rural areas and people in townships who don’t have money to travel cannot attend meetings. (Ben-Zeev, 2012)</td>
<td>Many people are not literate. even when they can read, draft laws are written in technical language that is not easy to understand without training (Ben-Zeev, 2012)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Provision of resources for the public to attend are made available. This covers transport and food costs to attend (Ben-Zeev, 2012)</td>
<td></td>
</tr>
</tbody>
</table>

4. Public participation practices

I. Public outreach

Information dissemination remains inadequate (South African Legislative Sector, 2013)

Some of the public may have little opportunity to participate and give inputs pertaining to the specific topic of the event

Lack of sufficient feedback mechanisms to communicate outcomes of event to public following PP events (Scott, 2009)

All legislative institutions have specific public participation outreach initiatives taking place in urban and rural communities. These activities vary in type and format.

Legislatures take several steps to encourage participation from especially rural communities that are under-resourced and unorganised.
<table>
<thead>
<tr>
<th>ISSUE</th>
<th>CIVIL SOCIETY/THE PUBLIC</th>
<th>LEGISLATURE/POLICY MAKERS</th>
<th>POSITIVE ASPECTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>due to the mass-based nature of public participation events.</td>
<td></td>
<td>These include providing transport, accommodation, meals, assistance in petitioning, taking parliament to the communities, and workshops in rural areas (Scott, 2009)</td>
</tr>
<tr>
<td></td>
<td>Lack of interest to participate by some members of the public.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>There are challenges for disabled persons to participate in all outreach activities particularly in terms of physical access and communication, there are no efforts to ensure that they can also participate. (Scott, 2009)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>As with gender discrimination, sometimes people will not be heard equally because of the status they hold in society. In the case of the traditional Courts Bill, in some of the hearings, the chiefs were viewed as more important than others. In other cases, people may be heard or ignored because of their education or the work they do (Ben-Zeev, 2012)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Issue 2: Public Hearings

<table>
<thead>
<tr>
<th><strong>Civil Society/The Public</strong></th>
<th><strong>Legislature/Policy Makers</strong></th>
<th><strong>Positive Aspects</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Short notice periods given for hearings.</td>
<td>Inconsistent advertising of public hearings to the public.</td>
<td>The public hearing process has been well-developed and institutionalised post-1994.</td>
</tr>
<tr>
<td>Limited public education on issue being discussed.</td>
<td>Attracting the relevant citizenry to participate on an issue and ensuring that inputs are of suitable quality and useful to consider during decision-making.</td>
<td>Legislatures have developed categorised databases to target a specific audience depending on the topic at hand during a public hearing.</td>
</tr>
<tr>
<td>Lack of the availability of documents in relevant languages.</td>
<td>Further challenges include timeframes and scheduling, language use, content and relevance of discussions, resources, make-up of the target audience and communication in general. Apathy and poor attendance, lack of sufficient information, lack of educational material, poor quality submissions and the absence of a feedback mechanism (Scott, 2009)</td>
<td>General public notices are also published via the media inviting the general public to participate. (Scott, 2009)</td>
</tr>
<tr>
<td>Lack of pre-hearing workshops to inform and educate public participants. (Scott, 2009)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Issue 3: Petitions

<table>
<thead>
<tr>
<th><strong>Civil Society/The Public</strong></th>
<th><strong>Legislature/Policy Makers</strong></th>
<th><strong>Positive Aspects</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of public knowledge of petitions process, Scott, 2009)</td>
<td>Constraints faced in the petitions process include; - a lack of sufficient funds and staff capacity, - lack of interest from members of legislative institutions in the petitions process; - Petitions processes in the different legislative institutions vary from one</td>
<td>Has the highest potential of value to citizens (Corrigan, 2017)</td>
</tr>
<tr>
<td>The systems to ensure effective follow-up of petitions are uneven across legislatures²</td>
<td></td>
<td>The petitions processes are moderately well regulated as seven institutions have passed specific petitions legislation (the North West, Northern Cape and Parliament institutions) have not formalized their petitions process</td>
</tr>
<tr>
<td>ISSUE</td>
<td>CIVIL SOCIETY/THE PUBLIC</td>
<td>LEGISLATURE/POLICY MAKERS</td>
</tr>
<tr>
<td>-------</td>
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</tr>
<tr>
<td></td>
<td>Model holds limited potential for altering policy (Corrigan, 2017)</td>
<td>to the next - there is no standardised process or petitions format followed by all institutions. Specific challenges: - time constraints and programming challenges, - the nature of petition topics, - turn-around time for response to petitions, - communication with petitioners, - slow responses from departments, - delays in processing of petitions, - shortage of staff to conduct preliminary investigations into petitions, - lack of public knowledge of petitions process, - lack of proper tracking and feedback system for petitions, - cross- boundary issues and, - Politically sensitive petitions. (Scott, 2009)</td>
</tr>
</tbody>
</table>

iv. Public education

Lack of a uniform approach to public education. Limited resources to implement programmes. Specific challenges:

All ten legislative institutions have public education programmes in place and have developed educational material for use during public education activities (Scott, 2009)
<table>
<thead>
<tr>
<th>ISSUE</th>
<th>CIVIL SOCIETY/ THE PUBLIC</th>
<th>LEGISLATURE/ POLICY MAKERS</th>
<th>POSITIVE ASPECTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>- staff shortages,</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- programming and planning</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>challenges,</td>
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<td>- lack of financial resources,</td>
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<td>- poor participation by members,</td>
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<td>- development of educational</td>
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<td>material,</td>
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<td>- logistical and technical support difficulties,</td>
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<td>- the language barrier,</td>
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<td>- vast geographical areas to be covered,</td>
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<td>- reaching the target audience,</td>
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<td>- lack of material for visually impaired,</td>
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<td>- disinterested youth, illiteracy, etc.</td>
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<td>(Scott, 2009)</td>
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<td>(Scott, 2009)</td>
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<td>v.</td>
<td>Committee proceedings and house sittings</td>
<td>Information about the sessions is insufficient and irregular</td>
<td>Committee proceedings and house sittings are indeed open to the public for attendance and are publicised (mostly via the internet).</td>
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<td></td>
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<td>Constraints:</td>
<td>Community based organisations (CBOs), non-governmental organisations (NGOs), business, political parties, experts and ordinary citizens are invited to attend or make submissions at committee proceedings and institutions make use of a set list of invitees.</td>
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<td>- lack of resources (human and financial),</td>
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<td>- a disinterested public,</td>
<td>(Scott, 2009)</td>
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<td>- disinterested political leaders and members,</td>
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<td>- Lack of funds for advertising or no available media.</td>
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<td>(Scott, 2009)</td>
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<td>vi.</td>
<td>Taking Parliament to The People (TPTP)</td>
<td>programme has been criticised for being a ‘talk shop’; Feedback is weak (Ben-Zeev, 2012)</td>
<td>NIL</td>
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<td>vii.</td>
<td>Sectoral parliaments</td>
<td>Unsure that these events are taking place consistently every year Events are poorly advertised and not open to the public Information and recommendations from these events are often not channelled to relevant legislative committees. As a result, resolutions are often disregarded (Ben-Zeev, 2012)</td>
<td>NIL</td>
</tr>
<tr>
<td>viii.</td>
<td>The use of constituency offices</td>
<td>Members of Parliament (MP’s) do not make adequate use of their constituency offices to communicate effectively with communities to which they are assigned (Ben-Zeev, 2012)</td>
<td>Insufficient and uneven funding channelled to constituency offices, which are accountable to political parties instead of the legislature or communities.</td>
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### ISSUE

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<tr>
<td>Constituency offices do not interact adequately with community, local government and traditional leadership structures, and are therefore not effective in collecting and relaying community concerns to designated MPs.</td>
<td>There are inadequate controls or reporting systems in place to assess the effectiveness of offices or run an audit on finances. (Scott, 2009)</td>
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<td>The role of constituency offices is politicised because of their links with political parties, making them inaccessible to certain groups within communities. (Scott, 2009)</td>
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### 5. Monitoring and evaluation

| Monitoring | NIL | Flaws in the system relate to inexperienced and poor knowledge of monitoring and evaluation, loss of information, lack of feedback to the public, non-addressing of resolutions, and lack of a review process to ensure improvement. Absence of a standardised monitoring system in the legislative sector - there may be a lack of | Nine of ten Provinces indicated that their respective institutions compiled project plans with specific milestones and performance indicators, whilst six of ten legislatures (Eastern Cape, KwaZulu-Natal, Limpopo, North West, Parliament and Western Cape) indicated that there is a system in place for monitoring progress on public participation (Scott, 2009) |

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<table>
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<td>proper planning, project execution and tracking of implementation activities (Scott, 2009)</td>
<td>Six of ten institutions (Eastern Cape, Free State, Limpopo, Mpumalanga, North West and Western Cape) indicated that there is a system in place for tracking the extent of public participation (increases, decreases, trends) whilst nine of ten institutions (excluding KwaZulu-Natal) request feedback from participants at events. Public participation programmes are evaluated through quarterly and annual review meetings, use of a standard evaluation checklist, through attendance figures and quarterly reports, an evaluation questionnaire, post public hearing workshops, and annual performance plans. (Scott, 2009)</td>
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<td>ii.</td>
<td>Evaluation</td>
<td>Inadequate education on the role of the legislature. Inadequate supply of materials in participants’ language. Illiteracy is a hindrance to participation. (Scott, 2009)</td>
<td>Lack of dedicated staff and a formal consistently applied monitoring and evaluation system to assist with institutional performance. There is little to no external participation (civil society) in the assessment of legislature activities. (Scott, 2009)</td>
</tr>
</tbody>
</table>
2.4. Public participation budgets of the four Provincial Legislatures

The public participation budgets of the four legislatures assess how provinces are reporting on public participation implementation and is based on a review of key documents, including the Estimates of Provincial Revenue and Expenditure (EPREs). Each EPRE report accounts for the funds spent and budgeted for, as well as a description of the public participation activities that were conducted in each financial year and activities that are budgeted for in the following financial year. All data was sourced online from the Department of National Treasury website (National Treasury, 2018).

Despite all the challenges identified in the research, in terms of budgetary support, three of the four provinces' financial reports show a specific budget line item for public participation (National Treasury, 2018). Furthermore, there has been a steady increase in budgetary allocations for public participation in each province. However, financial constraints plague all provinces and present challenges in fulfilling the public participation functionmeaningfully (National Treasury, 2018).

KwaZulu-Natal (KZN) is the only province that has enjoyed a substantial budget for public participation over the last decade. Scott (2009) noted that KZN had the highest budget allocation of ZAR20 million in 2008, double the amount allocated in other provinces, until 2016/17 when Gauteng province exceeded the KZN budget for public participation.

The Gauteng Provincial Legislature (GPL) is the only one of the four provinces that does not have a specific budget line item for public participation. Costs for public participation are spread across leadership and governance, core business and service delivery. This makes it very difficult to determine the actual costs for public participation. The bulk of the public participation activities were identified under the line item ‘communications’ budget within the core business programme budget.

There are discrepancies between the budget share allocations of these four Provincial Legislatures. In 2017/2018, the budget share of the Gauteng Provincial Legislature for public participation was about double that of the Limpopo Provincial Legislature. The Limpopo Legislature allocated 3% of its total budget to public participation in the fiscal year 2017/2018; this compares to 5.3% for the KZN Provincial Legislature; 6.2% for the Western Cape Provincial Parliament; and close to 7% for the Gauteng Provincial Legislature.

Figures 2 and 3 illustrate the budgets as reported by each province for 2012 - 2020. There were no figures included for 2012/13 for Gauteng as these could not be disaggregated from the costs for leadership and governance.
2.4.1. Gauteng Provincial Legislature

Gauteng’s budget for public participation, although not clearly delineated (see remarks above), seems to have increased significantly from 2008. Scott (2009), reported a figure of just over ZAR5 million in 2008 for Gauteng’s public participation budget. The 2017/18 Estimates of Provincial Revenue and Expenditure of the Gauteng Provincial Legislature showed an increase to just under ZAR47 million in the communication budget (estimated to represent the bulk of the public participation budget) for the financial year 2017/18 (see Figure 3), i.e. an increase of approximately ZAR42 million.
The core budget increased to include public participation initiatives, core business and corporate support services accounted for the most substantial proportion of the budget: 84% of the total expenditure between 2011/12 and 2013/14 financial years. Over the Medium-Term Expenditure Framework (MTEF), the estimated allocation increased from ZAR521.8 million in 2014/15 to ZAR600.5 million in 2015/16 and ZAR673.8 million in the outer year. The increase is attributed to inflationary adjustments on salaries, allocation to political parties as well as increased public participation programmes. In 2015/16 there was reprioritisation of funds from corporate support services to core business which supports public participation. On the downside in 2017/18 budget there is a budget reduction of ZAR3.8 million for core business, funding was reduced for conferences and benchmarking activities.

Figure 4: Budget allocations for Public Participation in Gauteng, 2012-2020

Figure 4 shows the budget allocations for Gauteng. The 2015/16, 2016/17 and 2017/18 EPRE’s for Gauteng Provincial legislature, from the report titled ‘Gauteng Provincial legislature vote 2’, state that the Gauteng Provincial Legislature (GPL) is committed to engaging in public participation, and they view this as a core function of the legislature.

2.4.2. Limpopo Provincial Legislature

The Limpopo EPRE’s are limited in the budget narratives for public participation. It seems most of the allocation for public participation is spent on human resources, there is not much clarity on the actual figures for public participation activities. Public participation budgets for Limpopo have been consistently low over the last decade as compared with Gauteng and KwaZulu-Natal.

See Figure 5 which indicates the trend of budget allocations between 2012 and 2020.
Financial constraints were highlighted as a limiting factor for meaningful public participation. The 2015/16 EPRE states that ‘The legislature will continue to provide support for the legislature’s participation in NCOP and sectoral parliaments as part of Taking Parliament to the People. Oversight visits, public hearings and sectoral parliaments have financial implications which need to be taken into account when the budget is allocated. The amount allocated has far reaching implications on the effectiveness and efficiency of the legislature. Inadequate funding implies that members of the legislature have to reduce the number of meetings, oversight visits, public hearings and sectoral parliaments which is unjust to the people of Limpopo. Additional funds will be needed for the legislature to effectively execute the constitutional mandate.’

2.4.3. Western Cape Provincial Parliament

EPRE’s 2014/15, 2015/16 and 2016/17 Western Cape Provincial legislature, in reports titled Western Cape Provincial Legislature Vote 2, allocated budgets for public participation. However, the Provincial Legislature’s financial reports do not give any information on activities carried out or planned for public participation. The WCP is the only province that acknowledged receiving funding from the European Union (EU), although there were no figures reported in the financial reports. In 2012/13 the WCP saw a massive reduction in its public participation budget, yet there is no information in the reports to explain this reduction in funding.

Funding for public participation in the WCP remains low when compared with the other three provinces. See Figure 6 which indicates the trend of budget allocations for Western Cape between 2012 and 2020.
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2.4.4. KwaZulu-Natal Provincial Parliament

The KZN Legislature aspires to be a legislature that is ‘people-centred’ according to the EPRE reports titled KZN Provincial Legislature Vote 2 for the years 2015-2018. The reports mention the importance of public participation and that the KZN Legislature perceives it as an important function of the legislature much like the other provinces. In the 2017/18 EPRE, further cut backs and cost-containment measures in public participation were announced, particularly for public participation event costs such as catering and transport. The public participation budget for KZN combines both staff and sectoral public participation costs.

See Figure 7 which indicates the trend of budget allocations between 2012 and 2020.

Figure 6: Western Cape public participation budget, 2012-2020

Figure 7: KwaZulu-Natal Provincial budget for public participation, 2012-2020
3. FINDINGS FROM THE INTERVIEWS ON NATIONAL PARLIAMENT

Interviews regarding public participation at National Parliament level were framed using the Appreciative Inquiry approach and three main themes were identified:

- What is working well, appreciating the best of what is, what could be better;
- Envisioning what could work better in future and solutions and;
- How can the ideal/dream be achieved? Planning for the future.

3.1. What is working well in public participation through Parliament?

The feedback from the interviews suggests that National Parliament has improved its mechanisms of public engagement over the past decade. There are noticeable changes in that public participation has become more inclusive and meaningful. Respondent A, who works in an administrative capacity at the National Parliament, described all the mechanisms that Parliament has in place to engage with the public which mirror the mechanisms described in Table 2 above. The respondent showcased Taking Parliament to the People (TPTP) — where the National Council of Provinces (NCOP) visits various districts to listen to communities — as an example of success, suggesting that Parliament had made positive strides in this area.

Respondent A was quoted as saying: ‘Then there are events/structures for engaging the public and communities to consult with them on specific issues, be it health, or education or other issues of concern. An example is the TPTP, where a lot of planning happens; before the event there is a pre-assessment conducted and after the event a report is drafted. The TPTP events also serve as mechanisms for educating the public about Parliament and how they can get involved. Members of Parliament go out to the communities, and if issues are raised, they go through a formal submissions process. There are follow-up events that take place e.g. a visit to Eastern Cape was conducted last year as a follow-up session to address issues that had been raised previously; Ministers from relevant departments were also in attendance’.

Respondent A stated that TPTP is no longer just a once-off activity [as it used to be in the past], as Parliament is aware of the importance of giving feedback to the communities that have participated. This was supported by another remark: “They [the policymakers] are not visible outside of election time which is why Parliament has started a Taking Parliament back to the People’ initiative to try and address this issue”.

Respondents B and C, from a civil society organisation that monitors parliamentary proceedings, made this statement about public participation, specifically of those groups that are marginalised in society: “Parliament does make an effort through Taking Parliament to the People. This is one avenue where Parliament has improved. It's no longer a one-day event where Parliament representatives just fly in and fly out, now it's a well-planned thought-out process, and they have report back sessions where they check on progress and report back on what happened”.

Parliament thus seems to be making a concerted effort to engage the public in areas of the country where citizens would otherwise not have an opportunity to access Parliament directly to voice issues that concern them in their communities. When asked about their views on
public participation in parliament over time, Respondent C observed: “Parliament has improved, especially in this 5th parliament, public participation has been on the forefront of the agenda… I think legislation is less criticized because of lack of public participation than it was 10 years ago”.

Parliament has shown a continued commitment to public participation by developing a public participation model and a communications strategy (to be completed fully by 2019). The model describes in detail how parliament intends to conduct meaningful public participation (South African Legislative Sector, 2013) and aims to mainstream norms and standards for such processes and procedures so as to achieve meaningful involvement of the public in the legislative and other processes of Parliament. Respondent B confirmed: “Institutionally there is a commitment, there is a model that will aid conduct of public participation and Parliament’s plans going forward, this is a conversation that Parliament is having at present”.

In a concluding statement, Respondent A conceded that although there are positive strides in public participation engagements through Parliament, there is still room for improvement highlighting that: “Yes, there is progress in public participation over the past years, we have seen how citizens are demanding accountability, this would have never happened in the apartheid regime. However, we still need to do more”.

3.2. What could be done better in public participation through Parliament?

While parliament has made efforts to strengthen public participation and demonstrate institutional commitment to public participation, there are some areas within the current mechanisms of public engagement that are not performing optimally. There is general apathy from the public in participating through parliament mechanisms. Respondent A indicated that a survey that Parliament conducted through IPSOS, a global market research and consulting firm, showed that there is a slow increase in public awareness of these parliamentary processes. The respondent is quoted as saying: “The results of that survey show that there is increased knowledge of parliament processes by the public, although the increase is at a very slow rate”.

When asked why the public are not participating as they should, the same respondent noted “Policy makers don’t have a feedback mechanism and quite often they consult with the public when a decision has already been made” and reiterated: “They [the policy makers] are not visible outside of election time”.

The public perceptions are that their input has no value as it is not taken into account; nor are there mechanisms for them to know the outcome of their contributions. Respondent A said: “We need to eliminate apathy, by making sure the public understands the issues, the government listens and gives feedback and that the citizenry is more active as set out in the National Development Plan goals to be achieved by 2030”.

17 Note: Food & Trees for Africa asked the Office of the Secretary of Parliament for access to the survey report, but the request was declined. The Office of the Secretary argued that the data was purchased from IPSOS by Parliament, therefore it cannot disclose them nor the findings free of charge. The Office of the Secretary also argued that the findings were “not specific enough to be interesting” to third party users, and that they were solely used for strategic planning purposes.
When asked about existing mechanisms of feedback, Respondent B highlighted the inconsistencies: “It’s a mixed picture - some committees are effective. In other committees it’s either not done or it is not made known to the actual participants. This is an area where Parliament can improve. Parliament does document all the input and they also indicate whether the comments have been taken on board or not, but that information is not necessarily sent out to the public, it is an internal document. At the end of the process of the bill, the document will indicate how the public’s input was used”.

When asked how meaningful the participatory process is, Respondent B said; “There are mixed thoughts here. Where some say that it [public participation] is just window-dressing where the public is invited to give input when decision have been predetermined. On the other hand, we have seen some good examples of where public inputs have been considered. Parliament adopted the political party funding bill where the role of public participation was extremely important. For the policy on finance on sugar tax, public participation was very critical. These are some examples of where this has worked well. Depends on the issues, Parliament will concede on some grounds, sometimes public input is not considered”. This statement suggests that while there are pockets of good practice, there are still areas where Parliament could improve, making sure that their views and concerns are considered.

With regards to access to information on public participation opportunities, there seems to be a perception that only those who are knowledgeable and have the experience of navigating the communication channels are likely to have access to information, because the information is not easily accessible to those who are not privy to how it is disseminated.

When asked about access to information on public participation by the general public, Respondent B said: ‘I think for the most part, those who are interested and are tuned to what happens will be able to access the information, but if you are a random ordinary person, then it would be difficult.’ In another statement the same respondent said: ‘They advertise in the Sunday Times, the Mail and Guardian. Most people in poor communities do not read the Sunday Times and the Mail & Guardian”.

The respondent added: ‘The public needs to know that parliamentary committee meetings are open to the public. Anyone can attend them, they just need to bring their identity documents (ID) or passports. People don’t know that they have access, they think that Parliament happens through the plenary sessions that they see on television (TV).’ This respondent felt that “Parliament needs to do more work to educate the public so that they are able to proactively reach out to Parliament without waiting for an invitation. They need to claim their participation: “People often wait to get an invitation, but they need to be proactive and reach out to Parliament”.

The rural-urban divide seems to have a bearing on access to information. When asked about how information on public participation to the general public is made available, Respondent A said: “This depends, there is an urban and rural divide. It depends also on the level of education on how to access information e.g. access to the internet or cell phones and radios. Some rural communities have limited access to internet”.

There is also a difference in how the poor members of the community access public participation platforms compared with the well-resourced members of the public as suggested.
by Respondent B: “This [TPTP] is how the poor communities can participate. Petitions are another way in which those who are not powerful or poor public can participate. The well-resourced public participate through the formal channels where organisations/individuals are invited to give oral submissions. Organisations can fly in their representatives to Cape Town to attend meetings. This is not possible for under-resourced organisations or members of the public”.

The underprivileged seem to have the least chances of gaining access to the formal public participation platforms such as oral submissions in Parliament, unless they are represented by CSOs, and this comes with its own issues. These platforms are very formal, with an over computation of the English language which can be a barrier to the ordinary citizen’s participation.

Moreover, Parliament still has an upper hand on who participates and under what conditions. With regards to oral submissions in Parliament, Respondent C suggested that “The Public should have more say in what happens and how the processes are carried out. At the moment decisions are made by Parliament in terms of who comes and how long they will speak for”.

These limitations of current parliamentary public participation mechanisms do not bode well with the requirements of meaningful public participation as stipulated in the public participation framework of 2013 (South African Legislative Sector, 2013). It appears that in numerous instances, public participation opportunities fall short of being effectively open, broad-based and inclusive of a diversity of social groups.

3.3. Planning for effective public participation in Parliament

According to Respondent B, Parliament has a communications unit that is responsible for media and all communication related activities including website maintenance. There are opportunities that enhance access to information on public participation and support the participation of those in other parts of the country who are not able to be in Cape Town to participate in oral submissions. There are innovative participation activities that Parliament is already exploring that could be scaled up.

According to Respondent A, “In Cape Town, we have explored the use of telematics classes in schools, this is where a lecture is broadcast and students from various geographies can attend the lesson virtually and send in questions to the lecturer remotely. This is an innovative way of reaching a wider audience without spending a lot of money on travel, accommodation costs. This could be applied to public participation”.

There seems to be a business case for using technology such as telematics to reduce the costs of hosting gatherings in several geographies. The use of social media, particularly targeting young people, could be explored, for instance, the use of Instagram, Facebook and Twitter.

Respondent A noted that: “the [IPSOS] survey also showed that there is a difference in the age and participation, young people being the ones who are not engaging fully in public
participation due to a lack of access to information and a knowledge gap. More needs to be done to educate young people on the importance of public participation. Parliament can do more. The use of TV is an option and other forms of media that young people can relate to”.

Respondent B suggested an expansion of communication channels to reach a broader audience: “Parliament is not taking advantage of the technology that exists. However, there’s is a big improvement compared to how it [communication] used to be in the past. More work needs to be done. At present it’s difficult to reach people who do not have access to the internet”.

4. FINDINGS FROM THE INTERVIEWS: PUBLIC PARTICIPATION ACTIVITIES WITHIN THE PROVINCIAL LEGISLATURES OF GAUTENG, LIMPOPO, WESTERN CAPE AND KWAZULU-NATAL

Similarly to the interviews regarding National Parliament, interviews regarding the Provincial Legislatures were framed using the Appreciative Inquiry approach and three main themes were identified:

- What is working well, appreciating the best of what is, what could be better;
- Envisioning what could work better in future and solutions and;
- How can the ideal/ dream be achieved? Planning for the future.

4.1. Gauteng Province

4.1.1. What is working well in the Gauteng Provincial Legislature

Gauteng is one of three provinces out of the four analysed, that has drafted its own Public Participation Strategy as recommended by the Public Participation Framework (South African Legislative Sector, 2013). See Table 3 for existing public participation mechanisms in Gauteng Province.

The Gauteng Provincial Legislature has conducted a number of public participation benchmarking activities and a research study to identify gaps in public engagement, although the results of these studies are not available in the public domain. The findings have informed the Legislature’s public participation re-engineering initiative that is aimed at improving public participation with a focus on the gaps and weaknesses identified. According to Respondent D, who works in an administrative capacity for the Gauteng Legislature, “The Gauteng Legislature is seen as a leader in public participation. We have a public participation strategy for the province, other provinces and other African countries learn public participation from us, we have for example other countries, i.e. Nigeria, Ekiti state representatives, who came to visit and find out from us how we conduct public participation as a way of them learning and benchmarking their own systems in Nigeria”.

This statement suggests that the Gauteng Provincial Legislature is seen by other provinces as one that has done well and from which best practices can be learnt by others. It has a public participation unit, the mandate of which is to ensure that there is meaningful involvement of the public. The Legislature has prioritised education of the local citizens on policy processes and the role of the Legislature. Effort is made to simplify the technical language of legal documents. Respondent D said the following: “We simplify the bills/laws into simple language that they [public] can understand”. “We also conduct pre-hearing meetings to make sure that the public understand the issues that will be discussed”. “We print educational materials that we leave to the public after we have spoken to them, so that they have the information. They can read it in their own time and then contact us if they wish to”.

One of the signature public participation events in Gauteng is the Bua Le Seshaba (‘Speak to the Nation’) campaign. This initiative is described by the Legislature as an innovative way of reaching out to the public on matters that concern them. This initiative happens at least once
a year over three days and it can be on any topic that the public feels strongly about. The relevant committees will lead the initiative and the discussions with the public depending on the theme, e.g. the Health Committee if the theme is health. Respondent E, also from the Gauteng Provincial Legislature, stated that Bua Le Shechaba is “(...) a focus(ed) intervention for good governance, transparency and accountability because consultation is very important in democracy”.

The Provincial Legislature leverages modern communication channels to communicate with the public, such as “(...) social media, WhatsApp, Facebook, Twitter and Instagram, which is expensive”.

According to Respondent E, the province has invested significantly in making sure that the public is enabled to participate meaningfully. “We invite the public to debate the issues, we take the issues to Parliament e.g. Senior Citizens Parliament conducted with representatives from the Department of Social Development. Through the sector parliaments we identify issues that we take to Parliament to be addressed. We [also] process petitions. We want to build that confidence and trust with the public. We want people to understand who we are and to know about policies. Public participation is very expensive. We have to consider a lot of things, e.g. where are you going to convene these people [venues]? People with disabilities need special transport and access to buildings, what will need to be in place – services such as braille and sign language. LGBTI meetings for example must take place in a safe and secluded venue because LGBTI have not been accepted in some communities, they are fearful of being victimized. Commercial sex workers, also have different demands. Public participation is a mandate, we must involve the public, some may object to the policy if they are not included”.

Other ways in which the Gauteng Provincial Legislature has attempted to improve public participation is working on weekends to accommodate those who are unable to participate during the week because of work commitments. However, Respondent D highlighted that “most of the public participation events that we [the Gauteng Provincial Legislature] convene are during the week”. In addition, the Legislature provides transport, meals and at times may provide stipends to specific groups to enable them to participate.

The budget allocations for public participation in Gauteng reflect the commitment that the Provincial Legislature has made to ensure that public participation takes place in a meaningful way.

4.1.2. What could be done better in Gauteng?

One area that was highlighted as an area that is not working well in the Gauteng Provincial Legislature is giving feedback to the public after public has participated. Respondent E described the challenges that the province faces in this regard: “Feedback is important, it’s expensive and a difficult process. People have expectations, [they] expect that they will see change. People are not patient, if you don’t give feedback they lose trust. We have a challenge when it comes to giving feedback although, we have made some improvements. It is really about willingness; the willingness is not there. Legislatures are not responsible for giving
feedback, we facilitate the public participation process between politicians and the public, and it’s just a case of the Members of the Provincial Legislature’s willingness to respond in time. Lack of feedback is important: MECs are not available, and they send administrators who are not able to resolve issues. The communities end up burning our cars because they are angry. It’s not about human capacity, we need to change the mindset. Last week we had a meeting because of back logs of petitions. We prepared all the work and the communities were excited and hopeful and then the departments came unprepared, we had to go back again with piles of petitions, the departments said they did not have enough time to prepare. In public participation feedback is important, whether it favours your planned policy or not. This is why we see the protests because people feel like they are not being listened to”.

This statement suggests that feedback mechanisms are weak in Gauteng, there needs to be more effort put in to establishing processes and accountability mechanisms for ensuring that the public is given feedback in terms of the contributions that they have made and issues that they have raised for the Provincial Legislature and Government to address. This is one way in which protests could be mitigated, as suggested by Respondent E. Lack of feedback is part of the reason why communities feel like they are not listened to. As a result, they lose trust in the authorities to make decisions which reflect the public’s best interests.

Conversely, some people will attend public participation meetings and then not engage meaningfully in the process. Respondent D mentioned instances where providing incentives for the public to participate had the opposite effect: "Some people come to the public hearings because they are unemployed, and they get free transport and a meal. We sometimes give them a stipend. You will see them walking out during the sessions and coming back with plastic bags from Pick and Pay, just in time for lunch, then they go home".

Respondent D also indicated that Members of the Provincial Legislature lacking understanding of the issues raised by the public is a barrier to the feedback process at times. For instance, there are issues raised by young people through the Youth Sector Parliament that the older generation politicians do not understand, and it becomes difficult for them to provide feedback. Furthermore, the lack of understanding of how to use different social media platforms by politicians of the older generation is something that was raised as a weakness in public participation processes in Gauteng. The respondent noted that "people who are leading in the Legislature are not understanding the issues themselves, and they are not able to interact on social media and to respond to issues, if they can do this, it can help with some of the feedback to the public issues”.

The budget of the Gauteng Provincial Legislature has increased over the last decade, however public participation budgets seem to be inadequate to fulfil the requirements of meaningful participation and cannot be correlated to improvements in public participation. Relating to this Respondent E said: “The money is affected by other issues such as the VAT tax, e.g. transport, catering and materials that we will print out will become more expensive. It is a worrying factor. It is a lot of money that is required for public participation, but when we submit the budget, we are asked to cut it. We also have no way of assessing the impact that we see as a result of the limited funding that we have. In public participation we have to go out, claim on our mileage etc…. we need to see whether the money spent results in improvements in public participation”.
4.1.3. **Planning for effective public participation in Gauteng**

When describing the solutions to the lack of feedback to the public, Respondent E said “The solutions need to come from within the structures. The issues of hierarchy are an impediment. Allow administration to do their work and take the Chair people to deal with the issues and set time frames to resolve the issues. We are running this [feedback process] very haphazardly. Changes in politicians are another issue, e.g. reshuffling of ministers, new officials are not interested in taking on issues from previous administration. The law-making feedback is much better than sector parliaments”.

Respondent D, also from the Gauteng Provincial Legislature, suggested using other cost-effective ways to reduce the costs of public participation such as partnering with municipalities and including information materials of the legislatures within the utility bills that municipalities send out to local residents. Using internet-based mechanisms for commenting on bills was also suggested instead of convening meetings.

4.2. **KwaZulu-Natal Province**

4.2.1. **What is working well in KwaZulu-Natal (KZN) Provincial Legislature?**

The KZN Provincial Legislature claims to have a robust public participation mechanism, as illustrated in Table 3. The Legislature has customised the Public Participation Framework of 2013, specifically for use within the local context. There is a public participation unit that is tasked with outreach to the community on matters that concern them.

Considerable efforts are being made to conduct meaningful participation. The Provincial Legislature has a Taking the Legislature To the People (TLTP) programme, an initiative designed to educate citizens on the role of the legislature and also on opportunities that exist for public participation on a range of matters.

The Legislature has had a high budget allocation for public participation over the years in comparison to the other three provinces studied in this research. It was only recently exceeded by the Gauteng Legislature’s budget. Much like Gauteng, KZN has put in place enablers for public participation such as providing transport and meals to community members in order to facilitate participation. Respondent F from the KZN Provincial Legislature, responded to the adequacy of resources for public participation in the province by saying: “Resources are there, we are doing what we can with what we have. The KZN legislature has recognised the need for a Language Services Unit in order to overcome the language barrier in public participation. It provides translation services from English to Zulu, provides accredited sign language and braille practitioners to translate for those who are deaf and blind. A Communications desk is also available to facilitate all communications related activities including community radio and newspaper adverts”.

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When asked about communication channels for public participation the respondent said the following: “We have a Facebook and Instagram account; our Facebook page is very active” 18.

KZN legislature have an innovative way of maintaining contact with public participants. After each public participation event, names and cell phone numbers are documented, fed into a database which is then used to send mass SMS’s messages informing the public of future engagements. This is specifically intended to increase the reach of messages to marginalised communities.

4.2.2. What could be done better in KZN Legislature?

Public participation has been a priority for the Provincial Legislature, and large investments have been put towards public participation activities (National Treasury, 2018). However, there are concerns about how meaningful the current mechanisms are.

One of the main concerns is about how the public is consulted. When questioned as to how meaningful public participation is in KZN, Respondent G from the Democratic Development Program (DPP), a civil society organisation based in the province, said: "For meaningful public participation, you need the right people in the room, people are not there to be used".

This respondent noted that often, people are asked to participate or contribute to policies when decisions have already been made. It is clear that the public is dissatisfied with how they are treated at times. The respondent also said: “Public participation is seen [by the public] as a means of compliance, people are used to endorse decisions that have already been made”. The respondent referred to the Matatiele case 19 as an example of how public participation had not been done correctly. Respondent G supported the sentiment of Gauteng Legislature’s Respondent F: “The way public participation is done in KZN is humiliating, it’s a very humiliating experience. People are used to endorse decisions that have already been made. There is an assumption that rural people are stupid. They are not, they are actually very intelligent, and they have learnt to manipulate the system. They go there using free transport and give no input, have a free lunch and go home, after all their input will not be considered. Having the right people in the room is so important, otherwise it presents a huge risk for the government to proceed with policies where the public has not participated fully or where they have received information which does not represent the views of the public e.g. the Matatiele case”.

Respondent G expressed concerns about access to public participation information to the general public: "Information for the public to participate is available, but the problem is how to

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18 Note of Food & Trees for Africa: The KZN Provincial Legislature’s main Facebook page had 3,897 followers at the time of the report; the Twitter account had 1,871 followers. The KZN Legislature also had a Facebook page dedicated to press releases, and another one dedicated to the publication of the weekly schedules, both with a following of no more than a few hundred.

19 In 2006, the Constitutional Court of South Africa handed down a decision in the case of Matatiele Municipality and Others v President of the Republic of South Africa and Others, ruling that the transfer of Matatiele Local Municipality from KwaZulu-Natal province to the Eastern Cape Province had not been validly enacted because the KwaZulu-Natal Legislature had not allowed for public participation, as required by the Constitution, before approving the amendment of the Constitution.
get to it. Even the people in charge don’t know how to get to it. The concern is that the marginalised groups in our communities are the ones that have the least access to this information” and concluded that even officials can see that what is being done is not meaningful participation.

4.2.3. Planning for effective public participation in KZN

Feedback to the public is an area where the KZN Provincial Legislature is not performing optimally. Respondent F conceded that there is a challenge with giving feedback to communities and that more needs to be done to foster a culture of reporting back within the legislature. The other respondent from KZN suggested that for public participation to be meaningful there have to be feedback mechanisms and a mind-set shift from all those who are in authority. They need to prioritise meaningful public participation. “Government doesn’t lack capacity to give feedback; the implicit message is that it does not really matter. There must be time and effort put into giving feedback, it’s about a mind-set shift”.

This respondent acknowledged that the Legislatures as well as the public have a role to play in ensuring meaningful participation. “There has to be intentionality of this [collaboration]. It has to involve traditional leaders, izinduna (chiefs) and start with a conversation [between] both sides [Legislatures and the public]. Get the people into a room and talk about the issues raised and they should understand public participation and how to engage each other and that’s the basis of public participation. They [public] also need to understand they not every idea will go forward, they may start as combatants and end up as collaborators”.

This statement suggests that solutions will come after dialogue with all parties concerned, and commitments should be made on how all stakeholders should honour their roles and be held accountable in order to facilitate meaningful public participation.

4.3. Limpopo Province

4.3.1. What is working well in the Limpopo Provincial Legislature?

Community outreach activities in Limpopo have improved over the last decade. When asked about what is working well in Limpopo, Respondent H from the University of Limpopo said: “My opinion is that they [Limpopo Legislature] are improving annually, I see the Legislature showing its visibility, and I see the municipality is doing its work, especially in Polokwane where I live”.

Respondent I, who works for the administrative arm of the Limpopo Provincial Legislature, talked about the public participation forums that are organised by the Provincial legislature. Various committees of the Legislature work together with a dedicated public participation unit set out to assist the Legislature. The Legislature is resourced with a research team responsible to assist in preparations for public participation meetings with communities. Members of the research team carry out research across communities to determine the stakeholders who need to be involved in planned meetings. The process also involves invitation of members of
political parties to attend the meetings. Members of different parties are ferried in the same transport as they attend meetings. The Provincial Legislature sees itself as representing the broader communities, instead of specific political parties. The approach followed by the legislature in preparing for public participation meetings also involves CSOs and community-based organisations (CBOs). Respondent I noted that “The Legislature ensures that key stakeholders are always informed and involved in organising meetings; hence the meetings have always been “90%” successful. The Legislature ensures inclusivity of stakeholders, which brings legitimacy to the processes”.

A sectoral approach is followed on specific issues and public participation meetings are organised along those lines. For environmental issues including climate, farmers’ organisations are targeted since they are a key stakeholder in the sector. For example, section 77 Bills (Bills that affect the province) would be channelled to the relevant stakeholders for processing and consultation.

According to the Limpopo Provincial Legislature respondent, communities have ‘absorbed’ public participation programmes implemented by the Provincial Legislature. In their eyes, the level of participation is quite high, and the quality is satisfactory.

Limpopo is one of the provinces with relatively lower levels of public protests in the country, however, the province remains one of the most adversely affected by poor delivery of services (Fakir et al 2014). It is distinct in the sense that it has a strong presence of traditional leadership authorities, which provides some form of co-governance alongside local government authority. Against this backdrop, the Provincial Legislature reports successful levels of public participation.

In the interview, Respondent I pointed out the preparation that goes into public participation meetings. The research team carries out research and surveys in areas where public participation meetings are scheduled. It provides an opportunity to assess and map key stakeholders in the community before meetings are held, to ensure meaningful participation. Knowing more about the communities’ position assists the Legislature to adopt better working approaches in facilitating public participation meetings. The case of Limpopo is instructive, and needs to be further reflected upon, although the format of the research and substantive issues that were researched were not verified. There are many factors that could be contributing to the positive experience regarding public participation in the Limpopo province. Further research is necessary with this regard.

4.3.2. What could be done better in Limpopo

Despite efforts to educate the public on public participation processes there seems to be a significant knowledge gap with regards to the processes of public participation due to a lack of access to information, and low literacy levels. Respondent H made these observations: “You have to understand that Limpopo province is mostly rural, the literacy levels in the communities are very low; access to information is an area that we have not effectively entered into, especially considering the literacy levels of the public. Most of the information that we currently use is not effective for the public to engage. I know that we have imbizo’s but the people who are speaking in these events are speaking in highly technical language. The
mechanisms are not in line with the target audience. Something is lacking in the way we conduct public participation. The people are not educated enough to understand the information as it is currently presented’.

The Limpopo Legislatures ‘targets' specific groups for public participation, which excludes other members of the public and potentially goes against the fundamental principles of open and meaningful public participation. The same respondent reflected on this issue in the context of Limpopo and suggested that for Limpopo this approach may be appropriate, stating: “I'm not sure, to me there are different levels of literacy especially in South Africa, and I know that is subject to criticism. e.g. You want input on climate change, you cannot have meaningful engagement if you haven't gone down to the level of people to make them understand what it is about. We need to capacitate them and let them contribute in the local language. Run community awareness campaigns to educate them on the subject matter before we engage them in public participation. Therefore, targeting a specific group because, you know they understand what the issues are and will respond in an informed manner, is not a bad thing’.

4.3.3. Planning for effective participation in Limpopo

The respondent from the University in Limpopo suggested that all stakeholders have a role to play in ensuring that public participation is meaningful. He emphasised that the most important task would be to educate the public on policy issues and their role in public participation. He further stated that most people do not know what their role is, even when they have access to information and opportunities, they do not know how to respond. Greater effort needs to be made to involve the middle class in public participation and remove the misconceptions that public participation is only for the poor people who have time to engage in policy making processes.

4.4. Western Cape Province

4.4.1. What is working well in the Western Cape Provincial Parliament?

Western Cape is the only province in South Africa with its own constitution, and its legislature is referred to as the Western Cape Provincial Parliament (WCPP). The WCPP has several public participation mechanisms in place as described in Table 3. This includes a public participation strategy for the province which was approved by the Executive Authority in February 2017 (Western Cape Parliament Annual report 2016/2017, 2017). The WCPP also enacted a petitions law which seeks to help enable the public to petition the Provincial Parliament with regards to matters concerning delivery and governance issues so that it may then engage the Provincial Government on these issues.

WCPP has a website with information about public participation mechanisms and processes as well as a calendar of public participation activities for a period of four weeks (one month) in advance. Considerable effort is made to make information available to the public including provisions for specific information that can be provided in print copy or electronic compact disc.
Public participation in WCPP is led and facilitated by the Public Education and Outreach team. WCPP is the only legislature out of the four that has published its public participation performance matrices in their annual reports. According to their annual report 2016/17, it is meeting its targets for public participation. The Legislature has a performance monitoring mechanism in place which tracks specific indicators for public participation such as number of new educational materials developed, number of workshops conducted and education curricula on the law making, oversight and public participation and petitions processes developed. WCPP is using social media and other new ways of communication such as Facebook, Twitter and Instagram. Table 3 shows the use of these media.

4.4.2. What could be done better in WCPP?

According to Respondent J, an environmental activist and leader of a non-profit environmental organisation (NPO) based in Cape Town, WCPP prioritises public participation on matters that drive the provincial legislature’s political agenda, rather than matters that are of concern to the public. This respondent says most of the public participation engagements especially on environment issues are left to the CSOs, with very little if any engagement with members of the WCPP especially in the informal settlements such as Khayelitsha and Nyanga. The same respondent said: “They sit in Parliament all day and speak about all sorts of unnecessary things! While there are organisations out there who are doing the job that they are supposed to be doing, only without the necessary funding”.

This respondent deplored that the people who are most affected, the poorest people in the informal settlements are not consulted or engaged in environmental policy issues. The people in these communities are now so used to their unhygienic environments that they find it ‘normal’ to live next to dump sites and dirty stagnant water because they don’t know any different. They continue to litter and dump waste in landfills because that is what they have done for years. More effort needs to be made to educate the community on the dangers of pollution of the environment. The WCPP seems to have turned a blind eye on this issue. For example, “When they go to Cape Town International Airport to attend their fancy Conferences, they pass Nyanga, the most underdeveloped township in the Province! Why does that not open their eyes? Because they do not do the work of visiting those areas to see how the black people there are living. (…) Is the area environmentally sound? Can children go outside and play? They do not care because they do not speak to the black people affected”.

4.4.3. Planning for effective public participation in Western Cape

Despite impressive performance matrices for public participation in WCPP, it seems that more needs to be done to increase visibility of elected officials, particularly in the informal settlements where there are concerns about environmental pollution near living areas. More effort is needed to empower poor communities to engage directly with the legislatures and not to be too dependent on NPO’s who are also limited by lack of funding. The WCPP website is
well resourced with information, however those who do not have access to internet will find it difficult to know about this information and to participate meaningfully.

4.5. Is current public engagement with the Provincial Legislatures meaningful?

Below are some key findings from the in-depth interviews.

4.5.1. Who participates?

From the results of the in-depth interviews it seems that although it is not ideal to ‘target’ specific groups for public participation as this excludes others and potentially lead to inviting only favourable stakeholders, in some cases it may be necessary in order to have a focused, meaningful public participation engagement. The people giving input should be concerned by and well informed about the subject matter, rather than inviting anyone who is available, otherwise the risk is that the input given will not be useful or relevant, and the event becomes a ‘talk shop’. However, it shouldn’t be left to the Legislature to decide the space and terms of engagement (Waterhouse S., 2015), nor to determine what makes for relevant input beforehand.

Furthermore, the public need to be capacitated on the issues for them to participate meaningfully. Broader and more effective information and education efforts should lead to a larger section of society being able to engage constructively on issues. This is not happening optimally, especially in environmental legislation as expressed by Respondent H in Limpopo: “There are different levels of literacy especially in South Africa (…). You want input on climate change, you cannot have meaningful engagement if you haven’t gone down to the level of people to make them understand what it is about. We need to capacitate them and let them contribute in the local language. Run community awareness campaigns to educate them on the subject matter before we engage them in public participation”.

It seems that some of the current public participation mechanisms target specific groups, e.g. TPTP targeting the poor in remote areas of the country, while the middle class are left out. Other mechanisms such as law-making processes favour those who are well resourced and understand highly technical and legal language sufficiently enough to make meaningful contributions in oral and written submissions. This highlights a gap in the public participation mechanisms which, in practice, are not inclusive in the South African context.

One of the recommendations from the People’s Power, People’s Parliament Conference that took place in 2012 is that legislatures should ensure that citizens are not excluded as a result of oppressive social systems, geographical locations and other barriers. It is noted however that some groups are not participating as they could be expected to, and that this is not necessarily due to socio-economic, linguistic or geographic barriers. One such example in Gauteng was given by Respondent D: “We have seen that in the more affluent areas in Gauteng, like Bryanston and Randburg, when we hold meetings there, only the gardeners and maids attend the meetings. They maybe stay in Alexander or Soweto and have no idea about issues concerning Bryanston community. We see that there is very little participation from the ethnic minorities, i.e. the Whites, Indians and Coloured”. Similarly, in Limpopo, Respondent H observed that the middle class are not participating in public participation meetings because they are regarded as meetings for the poor and unemployed people who have time. On this
issue, the Gauteng Provincial Legislature is the only one that reported efforts to accommodate those that are being left out, for instance by hosting public participation meetings during the weekends to ensure that those who are employed or are not able to attend during the week have an opportunity to participate. They also reported looking into various forms of media to attract groups that would otherwise not be interested in attending meetings, e.g. working class and young people.

4.5.2. How much information do people have about what is being discussed?

In 2006, the Constitutional Court ruled that Parliament’s “duty to facilitate participation also included making sure that people have the information they need to make their participation meaningful” (Ben-Zeev, 2012). Access to information remains a huge issue in South Africa. Respondent K, who works as an Advisor to Parliament, made this observation regards to access to information: “Before bills are introduced, they are firstly published in the Government Gazette. The challenge is that not everyone has access to it”. This was reinforced by Respondent B, from PMG, who observed that the choice of newspapers to publish Parliament’s advertisements leaves out most people in poor communities.

One of the recommendations from the People’s Power, People’s Parliament conference in 2012 was that in order for participation to be meaningful, citizens need to be well informed (Ben-Zeev, 2012). Public participation facilitators should ensure that the people understand the relevance of the policies or issues being discussed to them. According to Respondent G, “People are worried about their day to day lives, i.e. will they have jobs, will their children go to school etc. We must make them understand how the policies will affect them. If they don’t understand, they will not participate, and then others will talk on behalf of them; men will talk on behalf of women, those who are not disabled will talk on behalf of the disabled. Then the word public participation will be used but we have not consulted and have not done this meaningfully”.

The same respondent further emphasized: “Community radio is not used enough in KZN. Community radio stations have a mandate to air 50% local content, they are embedded in the community and they have a good reach. They can be used not just to inform people of public participation events, but also to educate them on key topics such as environmental issues that may affect them”.

Respondent B felt that public participation in environmental policy making processes remains inaccessible to those under resourced, marginalised communities as it seen as a very technical area that requires some level of education and knowledge of the issues before the public can engage meaningfully. This suggests that for the ordinary member of public to engage meaningfully, they need to have support from CSOs to engage or even represent them in these formal platforms where often oral submissions need to be made or written responses to legal documents that are written in highly technical language is required. This statement was further affirmed by a Respondent H from Limpopo: “Public participation in environmental issues - this is very critical in our country, and there are harsh penalties for non-compliance to policies that protect the environment. Yet the public don’t really understand the issues. For example, people in rural areas still deforest because they don’t understand why they shouldn’t. Currently this is not being handled very well”. The same respondent suggested
that a collaborative effort be made by all stakeholders to ensure that the public is educated about environmental issues and policies and how important it is for them to participate. The public should attend public participation meetings when they are well informed and prepared to give meaningful input.

The Legislatures are still falling short in making information about public participation available to citizens in a timely and efficient manner. When it is made public, information is published on websites, newspapers and gazettes that the public have limited access to. Community radio stations are not used enough, and information is not disseminated timeously for the public to participate meaningfully. In that regard, the recommendations from the People’s Power, People’s Parliament Conference 2012 have not been completely taken up by the Legislatures. Information about legislature’s schedules, their representative’s priorities, actions and decisions is still limited if not non-existent.

4.5.3. Does public participation influence decisions that are made?

Is public participation as it currently happens in South Africa meaningful? While the public are participating in policy processes to some extent, there are clear concerns over their contributions ultimately making an impact on decisions made. When asked if the public can influence policy, Respondent H made these remarks: “The government is playing with the public’s opinions. The government drives the policies and has the public rubber stamp them. It is a very top down approach. There are very few cases where the public has had influence in anyway”.

Respondent B observed: “There are mixed thoughts here, where some say that it [public participation] is just a window dressing where the public is invited to give input when decisions have been predetermined. On the other hand, we have seen some good examples of where public inputs have been considered. Parliament adopted the political party funding bill where the role of public participation was extremely important. For the policy on finance on sugar tax, public participation was very critical. These are some examples of where this has worked well. It depends on the issues. Parliament will concede on some grounds, [but] sometimes public input is not considered”.

Respondent H stated that it depends on the types of policies that are being discussed. “Currently in the Limpopo province, it depends on the kind of policy you are talking about. In Limpopo they [the Provincial Legislature] invite youth in tertiary education i.e. at Universities to give comments on matters related to policies that affect the youth and I have seen their inputs being considered by the Limpopo legislature. The problem is when the people in the rural areas, the old ladies at home, don’t even know what they are there [at the meetings] for; when you engage people that have no idea what you are talking about. The current mechanisms for public participation are not effective, I query their effectiveness. They are good, but they could be more effective. My issue is: how do we get the relevant contributors? The middle class is difficult to reach, public participation is seen as something for the lower class who are unemployed and have time to participate. The middle class are just not interested, how do we attract them? This is one of the weaknesses of the public participation system”.
The findings from the respondents suggest that for the input of the public to have an influence, there needs to be informed contributions that can be useful. This can only happen if the contributors are both relevant/concerned by the issues and knowledgeable about the theme or topic area being discussed.

4.6. Participation of women and the youth

There seems to be no significant difference in gender parity with regards to public participation of women and men. In some cases, women are represented more than men. According to a Respondent F from KZN, the reason for that is that: “most of them [women] are unemployed. We don't really count them, but their participation has not been an issue. We also have the Women’s Parliament where women attend to discuss issues concerning their lives”. Respondent B concurred with this statement saying: ‘There is not a noticeable difference, there is a fairly representative level of participation from women as well as men”.

Respondent A said: ‘Recently Parliament commissioned a survey through IPSOS, and the results of that survey showed that there is a difference in the age and participation, young people being the ones that are not engaging fully in public participation due to lack of access to information and a knowledge gap”. This finding is confirmed in reality: “Not a lot of young people participate, sometimes through the Youth Parliaments they may participate. However, there are not too many young people who participate”.

Another limiting factor is that most public participation meetings are held during the week during school hours. There is a need to make a concerted effort to encourage young people to engage in policy making processes by exploring other ways of communication that target this group, especially social media channels. The same respondent

Parliament has established Parliamentary Democracy Offices (PDO’s) in the provinces of Limpopo, North West and Northern Cape. These offices aim to increase public participation; however, their effectiveness has been questioned. The Parliament has also developed a “Public participation model and communications strategy”, due to be completed fully by 2019. 
5. BEST PRACTICES OF PUBLIC PARTICIPATION IN SOUTH AFRICA THAT COULD BE SCALED UP

South Africa’s democratic Legislatures established in 1994 make exemplary provisions for transparency, access and public participation. Few other parliaments in the world provide their citizens with as many avenues for involvement in decision-making. While in practice, these public participation mechanisms still fall short in many regards, some progress has been made over the years, especially in terms of outreach activities and building capacity through the establishment of research units. The development of oversight and public participation procedures and enactment of laws enabling the Legislatures to amend the budgets are a step in the right direction.

Below are some of the best practices in public participation in Parliament, Gauteng, Limpopo, Western Cape and KZN provincial legislatures that could be emulated by other legislatures in the country.

- The Gauteng, KZN, and Western Cape Provincial Legislatures have developed and customised their own public participation frameworks and strategies to guide the involvement of the public in policy processes. Similarly, National Parliament has drafted a public participation model which aims to outline and mainstream norms and standards for public participation in parliamentary processes and procedures so as to achieve meaningful involvement of the public in law-making and oversight.

- Parliament and the Gauteng Provincial Legislatures have embarked on a number of evaluations and benchmarking activities and have conducted research on the gaps in their public participation mechanisms. These are designed to allow continuous improvement in public participation. The Gauteng Legislature has been addressing some shortcomings through their ‘Re-engineering of Public Participation’ initiative. Parliament has started working with the Department of Education to develop a curriculum for educating young people on active citizenry. This is on the back of a survey conducted that showed that young people are not participating as much as they should due to a knowledge gap.

- The KZN, Gauteng, Western Cape Provincial Legislatures and Parliament have begun leveraging new technology for communication. The Legislatures use Facebook, Twitter and Instagram as platforms for communicating with different groups within communities.

- The Limpopo, Gauteng, KZN and Western Cape Provincial Legislatures have specific budget line items for public participation. It is commendable that specific budget allocations are made for public participation. Expenditure reports are produced by each of these provinces to account for the use of public funds, including the funds spent on public participation.

- The Gauteng and KZN Provincial Legislatures have invested in language services in an effort to address the language barrier in public participation. These Legislatures have communications units that translate communication materials for public participation and they also provide accredited braille and sign language service providers to ensure inclusivity of those with communication challenges.
• The Western Cape Provincial Parliament has a comprehensive website with information on public participation processes and forms that can be completed to request any additional information that is not available on the website although some of this may be at a cost. A calendar of events in the next four weeks (one month) in advance with date, times, venues and well as topics for discussion. Contact information of the WCPP staff members is available in their staff directory on the website, and regularly updated – although navigation could be improved by listing the staff by units/roles rather than in alphabetical order.

• The Western Cape Provincial Parliament has a monitoring mechanism for tracking on indicators specific to public participation year on year.

• The KZN and Limpopo Provincial Legislatures publish some of their activities on Facebook, including their weekly programmes. While the KZN Provincial Legislature’s choice to have multiple Facebook pages can be interrogated, this channel has the potential of reaching a large public should the Legislatures find ways to attract more people onto their platforms (respectively 3,897 for the KZN Legislature’s main page, 633 for its page dedicated to the schedule of meetings, and 2,165 for the Limpopo Provincial Legislature).

• The Limpopo Legislature broadcast the proceedings of its 2018 Youth Parliament on 10 community radio stations, thus allowing a broad audience to hear the discussions on youth issues. A progress report on the resolutions of the previous Youth Parliament was delivered during the event, which is a good example of providing feedback.
6. LIMITATIONS OF THE SITUATION ANALYSIS

- Limitations experienced by the researchers included the limited number of peer reviewed articles that could be sourced which specifically addressed the implementation and review of public participation from an environmental governance perspective in the South African context.
- There is limited literature that specifically addresses the implementation and review of public participation with a special interest towards marginalised groups such as women and the youth.
- It was not possible to understand the nuanced details of what happens during the public participation meetings, what are the demographics of those that attend, what are their literacy levels and what the outcomes of these public participation meetings is.
- It was not possible to determine the adequacy of public participation budgets and what the funding gaps are if any exist.
- The literature seems to highlight a lot of shortcomings, however not much about ‘what is going well’ is evident. There are a few success stories that are cited, however they are mostly the result of mass protests or following litigation proceedings. Therefore, the arguments seem biased towards what is ‘not going well’
- Unavailability of key interview participants within the assignment timelines was also significant limiting factor.
7. CONCLUSION AND RECOMMENDATIONS

This situation analysis sought to explore the various mechanisms that exist for public participation and to determine how well the public is able to engage in law-making and oversight processes. Particular focus was placed on the Parliament of the Republic of South Africa and on the legislatures of four provinces: Gauteng, KwaZulu-Natal, Limpopo and the Western Cape, in which the Action 24 Project ‘Broader and effective participation of South African Civil Society in Environmental Governance’ is being implemented (2018-2020) with co-funding from the European Union.

Since South Africa's independence in 1994, following which a clear mandate to develop a "people's government" through greater public participation was established, a number of challenges continue to hinder progress towards a truly inclusive and participatory government. Investigations reveal that in spite of progress being made to promote and implement public participation, major issues remain which include inadequate resources, inconsistent public participation policy and strategy implementation efforts as well as a limited ability for civil participation due to insufficient knowledge and information.

Based on the findings of this study, a series of recommendations to achieve meaningful participation are presented. It is however recommended that further research be conducted to analyse which public participation mechanisms are not effective and why; and to thoroughly review the adequacy of provincial budgets in fulfilling their public participation mandates.

- **Avoid ‘catch-all’ public participation meetings**: In some cases, public participation meetings are arranged to deal with a range of wider issues in a way that some issues are not accorded the attention they merit. It is important to convene more focused meetings.

- **Conduct periodic research on shifting modalities and patterns of community engagements and associational life**: It is important to ensure that tools of public participation are adapted to shifting trends in terms of ways in which communities interact and associate. For example, it might be important to know how the youth engage with each other as a way to get them involved in public participation.

- **Stakeholders should be engaged on an equitable basis**: It is important that all stakeholders participate on an equal footing. Civil society organisations should be involved since they represent the broader community interest and they will equalise power between the political elites and the broader communities.
**Innovate and harness technology to facilitate access to information:** Access to information remains a huge issue in South Africa. The use of social media and new ways of engaging with communities in languages that they can understand needs to be considered in facilitating public participation. This will also reduce the high costs of convening lots of meetings in different locations. The information needs to be simple and non-technical in order for the general public to understand. Avail information about the work of the legislatures including their work programmes and staff contact details. This information should be easily available, and timeous in order for the public to engage proactively.

**Encourage formations of community-based organisations on issues:** Formation of community-based organisations increase the capacity of communities to bargain better and engage with institutions in pursuit of their goals. This ultimately improves on the quality of public participation and democracy in general. This is essential for environmental policy making processes especially as it is clear that the general public is not well equipped to participate meaningfully on the issues at hand. Leverage civil society and community-based organisations in mobilising the public around specific issues and empowering citizens with skills to participate effectively. For example, public speaking skills, reading and writing responses to policies and policy analysis. Empower the public to proactively participate by taking the initiative to approach legislatures and parliament with their concerns without waiting for an invitation.

**Collaboration among all stakeholders:** It is essential for all stakeholders involved i.e. Civil society, Parliament, provincial legislatures, academia, community-based organisations and community leaders to work together to address issues regarding public participation. There has to be a ‘mind-set shift’ in order to define what meaningful public participation should look like in South Africa as well as institutionalising public participation best practice.

**Strengthen feedback mechanisms:** Weak follow up of issues raised by the public and lack of feedback mechanisms in particular undermine public participation

**Consider reforming the electoral system:** Currently SA citizens elect representatives through a ‘closed list’ proportional representation system PR system. While this system has its merits for example it encourages fairness and gender diversity, it has shortcomings because voters elect a party rather than an individual, they may not know who their MP is and it is difficult to establish a strong relationship. In a constituency-based system, committees vote for a representative in a particular geographical area and the candidate with most votes is elected to represent them. In the PR system, political parties assign geographical areas to their members after election, but constituencies are not well defined and links between communities and representatives are weak. As a result of these shortcomings a reform of the SA electoral system is recommended to ensure that political representatives truly represent the communities they serve.
REFERENCES


