Role of Public Accounts Committees in Enhancing Oversight and Accountability by the State-Owned Enterprises in South Africa

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Abstract
The National Assembly and Legislatures in South Africa are constitutionally mandated to establish mechanisms for conducting oversight over the executives and holding them accountable for using public resources. As a result, the committees such as the Public Accounts Committees (PACs) were established by the National Assembly and Legislatures in order to conduct oversight in the public sector, including state-owned entities. These Committees play a critical role in ensuring that public funds are spent effectively, efficiently and economically for the benefit of the public. The effectiveness of the PACs is thus critical in ensuring that quality service is delivered to the public. However, the effectiveness of the PACs is hindered by various challenges requiring urgent interventions as proposed in this paper.

Keywords: State-owned enterprises, public account committees, accountability, transparency, public funds, oversight
Introduction

In line with the objectives of the Southern African Development Community Organisation of Public Accounts Committees (SADCOPAC), as outlined in its Constitution, SADCOPAC members are required to “share best practices and innovation, and where appropriate and possible, harmonise and standardise the work of Public Accounts Committees (PACs) in the SADC region, and work with governments and other relevant role players in meeting the people’s expectations of sound and accountable governance” (Constitution of the SADCOPAC, 2005). This paper therefore aims to share information, knowledge and best practices on oversight, accountability and transparency, primarily focusing on the state-owned enterprises (SOEs). The paper outlined the role of the Public Accounts Committees (PACs) in enhancing oversight over the SOEs in South Africa. The idea is to ensure that the SOEs are transparent and accountable when spending public funds transferred to them by the shareholders.

According to sections 55(2) and 114(2) of the Constitution of the Republic of South Africa (1996), the National Assembly and Provincial Legislatures, respectively, have powers to conduct oversight and hold the executive accountable on how public resources are being utilised. As a result, the National Assembly and Provincial Legislatures in South Africa have established Standing and Portfolio Committees, in-line with their Standing Rules and Orders, in order to execute their Constitutional mandate. Actually, as also argued by Ngozwana (2009), the majority of PACs in the SADC region are established in-line with the Standing Rules and Orders of Parliament. But, in certain countries such as Australia, the majority of PACs are instituted via an act of Parliament (KPMG, 2006).

Therefore, the Public Accounts Committees (PACs) also known as the Standing Committee on Public Accounts (SCOPA) at provincial and national level, and Municipal Public Accounts Committees (MPACs) at local level, are established in order to conduct oversight and hold the executive accountable for their action when spending public funds. This implies that the PACs have critical role to play in overseeing the financial and non-financial performance of government departments and state-owned entities. The intentions for the PAC, when executing its function, is to ensure that there is effective, efficient and economical use of public funds; promote transparency and accountability in the use of public resources; ensure that public funds are spent in order to benefit the public; and to ensure that quality service is delivered to the public.

This paper reflects the views and experiences gathered during the APAC and SADCOPAC conferences from 2012-2015. It therefore provides an in-depth perspective on the role of PACs in enhancing oversight, accountability and transparency in the state-owned enterprises (SOEs) in South Africa. The challenges encountered by the PACs in overseeing the performance of the SOEs were identified, and recommendations to address those challenges were proposed.

Conceptualisation of Oversight, Transparency and Accountability

Oversight plays an essential role in enhancing transparency and accountability over State Owned Enterprises (SOEs). Transparency and accountability are therefore central in improving the
corporate governance within the SOEs. It entails complex challenges, but it is an efficient entry point to further the SOE governance reforms (OECD, 2008).

**Oversight**

Political science literature has generally agreed on the fact that parliaments or legislatures perform at least three basic tasks (Pasquino and Pelizzo, 2006):

1) **Public participation**: they perform a representative function as they give voice to the citizens and represent their view;
2) **Law making**: they perform a legislative function not only because they have the power to introduce legislative proposals but also and more importantly because no legislative proposal, no bill (regardless of whether it was introduced by the parliament or by the government), can be enacted and become a law without the consent of the parliament; and
3) **Oversight**: they perform an oversight function, as they are mandated to monitor the implementation of policies and keep government accountable.

The concept of oversight has been extensively discussed in the literature (e.g. Pelizzo and Stapenhurst, 2012). Scholars have shown that parliaments can oversee a variety of policy areas (Pelizzo and Stapenhurst, 2013), through employing a wide range of oversight tools (Pelizzo and Stapenhurst, 2004; Yamamoto, 2007). According to Makhado et al. (2012), oversight tools include amongst others; quarterly and annual reports (including the Auditor-General report), investigation reports, strategic plan, annual performance plan and budget, and site visits (practical means to oversee performance). These tools are utilised to effectively assess, monitor and evaluate the performance of the executives with regard to the implementation of government policies and programmes (Pelizzo and Stapenhurst, 2013; 2014). Effective oversight has a beneficial impact on the quality of democracy and on a political system’s ability to curb corruption (Pelizzo and Stapenhurst, 2013). More recently, the literature has shown that there are several other ways in which legislative oversight may be beneficial for the proper functioning of political systems as it has been shown to increase the legitimacy of political institutions (Kinyondo et al., 2015).

Within the South African context, oversight is a constitutionally mandated function of legislative organs of state to scrutinise and oversee executive action and any organ of state. Oversight entails the informal and formal watchful, strategic and structured scrutiny exercised by legislatures in respect of the implementation of laws, the application of the budget, and the strict observance of statutes and the Constitution. In addition, and perhaps most importantly, it entails overseeing the effective management of public resources in pursuit of improved service delivery and better quality of life for all citizens (Oversight Model of the South African Legislative Sector, 2011). In order for the National Assembly and Legislatures to ensure that there is adequate transparency amongst departments and public entities on how public funds are spent, oversight and accountability should be strengthened at all times.

**Transparency and accountability**

While the literature has indicated that oversight is instrumental in securing transparency, accountability, good governance, democratic quality and legitimacy; it has also shown that there is considerable variation in the effectiveness with which parliaments and legislatures perform their oversight function. This variation can be detected regardless of the policy area subjected to
oversight. There is variation in the effectiveness with which, for example, legislatures oversee the military sector and there is also considerable variation on how effectively legislatures oversee the expenditure of public money and the implementation of the budget (Pelizzo, 2010; 2011). With regard to the budgetary oversight, the literature has generally agreed on the fact that legislatures that are modelled after the Westminster archetype are somewhat more effective than legislatures in Francophone countries in keeping governments accountable for the expenditure of public money. Yet, the literature has also shown that there is considerable variation among the legislatures of the Commonwealth in terms of oversight effectiveness. The variation in Westminster legislatures’ ability to oversee the implementation of the budget and the expenditure of public money has been explained (Pelizzo, 2010; Pelizzo, 2011) on various grounds such as:

- the way in which public accounts committees are institutionalized,
- the powers placed at their disposal,
- the partisan composition of such committees,
- the size of such committees, and
- the partisan affiliation of the committees’ Chairpersons.

While the literature on Public Accounts Committees has extensively explored the importance of structural, institutional and partisan features in securing/preventing the successful performance of Public Accounts Committees, considerably less attention has been paid to the importance of strengthening mechanisms for oversight, to promote transparency and accountability in the State Owned Enterprises (SOEs). The objectives, performances and practices of the SOEs need to be clearly understood by oversight bodies and committees in order to conduct effective oversight (OECD, 2008). The SOEs need to be transparent and accountable in order to ensure that public funds are used for the benefit of the public, and in accordance with the approved strategic plan, budget and annual performance plan.

**State-Owned Enterprises in South Africa**

State-Owned Enterprises (SOEs) or public entities contribute significantly to the economic growth and development of any country. As such, they are expected to play a leading role in the provision of modern infrastructure which could result in the provision of key support towards job creation, infrastructure development and economic growth (The Presidency, 2012). The SOEs are thus the major contributor to employment and country’s Gross Domestic Product (GDP). For instance, the Department of Public Enterprises (DPE) conducted an analysis of the financial performance of SOEs over the period of five years, from 2001 to 2005, and found that SOEs contributed positively to the economic growth of South Africa. The South African economy recorded an accelerated growth reaching 4.9% in 2005. Eskom as one of the SOEs succeeded in recording continuous improvement, electrifying an additional 222 314 households during 2004/05 financial year. The electrification programme is estimated to have improved the living standards of over 14 million South Africans since 1994 (DPE, 2001-2005).

The National Assembly and Legislatures, through the work of the PACs, exercises its oversight role by overseeing the financial performance of SOE’s through interrogating their reports and conducting site visit in order to verify on whether projects indicated in the report exists or not, and whether those projects benefited the public or not. The PACs therefore focuses mainly on financial matters, presented in the Auditor-General audit report, which is found within the annual report. However, the Portfolio Committees oversee the non-financial performance, meaning that,
they focus more on policy and service delivery matters. Regardless, of the separation of functions between PACs and Portfolio Committees, these Committees need to work together and share information in order to enhance effective oversight and accountability and ensures that quality service is delivered to the public.

On the other hand, the Executive Authority, as the shareholder of SOEs is concerned with appropriate returns on investments and ensuring financial viability of the SOEs. The relevant Executive Authority acts as shareholder, while the Minister and MEC of Finance are responsible for financial oversight of SOEs. In addition, government as policymaker is concerned with policy implementation and service delivery, and acts as regulator (National Treasury, 2006). The Executive Authority (Ministers and MECs) as the shareholders of SOEs has also the authority to conduct oversight over the SOEs. The Executive Authority has also the power to appoint and dismiss the Board of the SOEs. They also ensure that the appropriate mix of executive and non-executive directors are appointed, and that directors have the necessary skills, knowledge and experience to guide the SOE to its best performance.

Role of PACs in overseeing SOEs
The Public Account Committees (PACs) or better known as the SCOPA are established and institutionalised to assume their financial scrutiny authority over the national, provincial departments and SOEs. At local government, the above responsibility is executed by the Municipal Public Accounts Committees (MPACs). Generally, in South Africa, the mandate of PACs’ at all levels of government can be expressed narrowly by concentrating on financial probity and regularity, or can be expressed more widely in relation to performance or value for financial audits (Ngozwana, 2009). As a result, the PACs fulfil the responsibility of overseeing the financial performance of the SOEs using the financial audit report, which in most cases is prepared by the Auditor-General. Therefore, the PACs play an important and specialised role of being the “watchdog” and protector of public monies.

Notwithstanding the fact that section 55 of the Constitution of the Republic of South Africa enables the National Assembly to maintain oversight over all organs of state, and section 92 enables Parliament to hold the Cabinet accountable operationally, organs of state at national level and Ministers and their departments are generally held to account by Parliament. At national level, there is direct accountability to Parliament by national departments, national public entities and national bodies such as Commissions. The National Assembly does however have the right to call organs of state at Provincial and local level to account, but does not do so operationally unless there are issues of public importance, national interest and shared competencies. Accountability by organs of state at provincial and local level must be conducted through observance of the Intergovernmental Framework Relations Act and the principles of co-operative government (Oversight Model of the South African Legislative Sector, 2011). Therefore, government and public entities at all levels need to be held accountable for efficient and effective planning and budgeting, implementation of programmes, and oversight and corrective action (Luyt, 2008), as discussed as follows:

Planning and budgeting
The importance of drawing-up accurate and realistic strategic plans cannot be overestimated. In the absence of coherent plans, SOEs cannot properly quantify the needs of those requiring their
services or properly estimate costs, nor can they accurately track, control or report on expenditure (Luyt, 2008). Consequently, they cannot properly monitor the delivery of services.

**Implementation**

Poor planning and budgeting will clearly have a knock-on effect on implementation, but even coherent plans may be poorly implemented (Luyt, 2008). It is vital, therefore, that SOEs account for the implementation, including the financial management of their plans.

**Oversight and corrective action**

Accountability is the right to obtain justifications and explanations from public officials or private service providers responsible for the use of public resources. This places an obligation on officials to account for the use of public resources. It also places an obligation on oversight bodies to demand adequate explanations and justifications from government officials and, where these are not provided or are unsatisfactory, to instigate and recommend a corrective action (Luyt, 2008).

Oversight bodies are perfectly placed, because of their constitutional authority, to demand social accountability. They are responsible for ensuring that people’s socio-economic rights are met within available resources by holding those tasked with service delivery to account. However, accountability also requires that oversight leads to adequate corrective action when necessary, and this requires political will to take action against corrupt and/or underperforming officials (Luyt, 2008).

**Challenges Faced by PACS in Overseeing the SOEs**

According to Adèle (2012), political intervention in the operational running of the SOEs is apparent; however, government appears not to have fulfilled its oversight role of ensuring the sound governance of the SOEs according to best practices. On the other hand, the SOEs appear to comply with external governance demands, but compliance to internal and self-regulated governance appears to be lacking (Adèle, 2012). The institutions entrusted with oversight functions also encounter hindrance in conducting oversight work. For instance, the PACs in various jurisdictions in South Africa are faced with various challenges that hinder effective oversight over the SOEs. Those challenges, include amongst others, the following:

**Lack of implementation of resolutions**

Lack of implementation of resolutions by the SOEs presents a challenge for effective oversight, transparency and accountability. Most of resolutions taken by PACS are not implemented, and in most cases no action is being taken to address issues raised by the PACs. In such cases, the power of the PAC flows from its ability to raise issues, to make officials answer for their actions and to place concerns in the public domain rather than to directly impose and enforce sanctions. Lack of implementation of resolutions is also exacerbated by overlapping of oversight mandates as conducted by the shareholders and PACs.

**Varying audit reports**
The level of scrutiny that the PACs can deliver depends on the quality of audit reports. In South Africa, some of the SOEs are still audited by private firms, while others are audited by the Auditor-General. The challenge is that the reporting structure between the Auditor-General and private audit firms differs making it difficult to conduct effective oversight and holding the Executive accountable. In addition, private audit firms did not in all instances highlight all issues affecting the performance of SOEs, which thus compromise on effective oversight and accountability.

**Lack of effective monitoring and transparency**

The roles and responsibilities of the SOEs in South Africa are increasing, making it more difficult for both the shareholders and PACs to effectively oversee the performance of the SOEs. There is currently lack of continuous monitoring of the SOEs, and in most instances, the submission of SOEs annual reports to the Parliament is deliberately or unintentionally delayed. As a result of those delays, it further negatively impact on effective scrutiny of the report, resulting in those report being accepted for the sake of compliance. In addition, some of the SOEs lack transparency due to the fact that some of the public representative seat in the boards of these institutions. Once public representative are board members of SOEs they became subjective, and some of the information turned to be restricted from public access.

**Capacity constrains**

The effectiveness and efficiency of the PACs in overseeing the performance of the SOEs is determined by the technical support they receive from the committee support staff. Most of the PACs at provincial levels are served by two support staff, which is not enough, considering the high volume of work that need to be processed. But the situation is worse at local level because most of the MPACs don’t have support staff. There is also lack of skills that can cover all aspects required to conduct effective oversight. In addition, there is lack of continuity of Members of PACs, as Members are redeployed mainly due to political reasons, and most of the Members serving at PACs are not retained after elections.

**Budget constrains**

Most PACs operate within a limited budget, which implies that even if there is training for Members and support staff, not all Members or support staff will have an opportunity to attend such training. Lack of adequate budget implies that few Members and support staff will be nominated to attend the training. Budget constrains further determine the number of oversight visits and public hearings which can be conducted, which thus hinders on the effectiveness of the PACs in overseeing the performance of SOEs.

**Conclusion and Recommendations**

The PACs in their various jurisdictions in South Africa need to find innovative responses to different challenges they face in order to retain their status and usefulness in safeguarding the public funds. This implies that all PACs and Portfolio Committees should work together in addressing challenges they face when executing their Constitutional mandate. There is also a need for these committees to be capacitated, share information and best practices which can enhance oversight and accountability within their jurisdictions. Due to various challenges
hindering effective functioning of the PACs in overseeing SOEs, the following recommendations are proposed:

1. **Strengthen the implementation of resolutions**: the Executives as the shareholder in the SOEs must assist by ensuring that the PACs resolutions are fully implemented. The PACs must also develop mechanisms to track the implementation of resolutions. There is also a need to strengthen political will to implement the resolutions. Effective coordination and collaboration of all oversight bodies is needed in order to avoid overlapping of responsibilities. Furthermore, there is a need for legislation that will give the PACs powers to take action against those failing to comply with rules and regulations governing proper financial management.

2. **Auditing of SOEs**: the Auditor General must be responsible for auditing all the SOEs. In cases where the private audit firms are appointed to audit SOEs, the Auditor General need to control or oversee the whole processes before the report is submitted to the Parliament or Legislature. There is also a need to restructure and transform public entities, and entities having similar functions and responsibilities need to be integrated in order to avoid overlapping of responsibility and waste of public funds.

3. **Effective monitoring and transparency of SOEs**: there is a need for PACs to develop mechanisms to effectively monitor the performance of the SOEs. It is critical that SOEs reports are tabled in the Parliament and Legislatures within the specified time, and that all SOEs abide themselves within the principles of transparency. The reports produced need to be available for public scrutiny. It is also critical that board members of SOEs are appointed based on merits rather than on partisanship. It is further proposed that public representative should not seat in the boards of the SOEs in order to avoid conflict of interest. The board of the SOEs should account directly to the PACs in the presence of the shareholders in order to enhance accountability. It is also vital that the Portfolio Committees Chairpersons seats during the PACs meetings and public hearings so that they can assists during the deliberation of issues, and also with continuous monitoring of the implementation of resolutions.

4. **Capacity building**: the National Treasury, Auditor General, Association of Public Accounts Committees (APAC) and other stakeholders should continuously capacitate the PACs Members and support staff on effective oversight, accountability and transparency issues. The PACs must also cooperate with other oversight institutions in order to strengthen their capacity. The new Members and support staff appointed to serve at the PAC need to be sufficiently capacitated so that they can effectively execute their responsibilities.

5. **Budget constrains**: PACs need to be allocated with enough funds in order to enable the committee to effectively execute its functions.
References


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