



Constituency service at provincial level in

South Africa¹:

what role for provincial legislatures?

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LIST OF ABBREVIATIONS

MP	Member of Parliament
MPLs	Members of Provincial Legislatures
PCOs	Parliamentary Constituency Offices
PFMA	Public Finance and Management Act
PPP	Public Participation and Petitions

Introduction

In an effort to make up for the lack of effective and direct accountability to the electorate by public representatives in the current electoral system, Parliamentary Constituency Offices (PCOs) were established throughout the nine provinces. While the National Assembly and the nine provincial legislatures provide the funding, the various political parties carry out the actual establishment of PCOs. At provincial level, the members of the different political parties represented in the nine legislatures receive allowances through their parties to open constituency offices and recruit administrative staff to operate them. Also, based on the interviews with PCO staff members in Mpumalanga and Gauteng, it appears that each of the Members of Provincial Legislatures (MPLs) receives constituency allowance to establish and run PCOs. In practice though, not all Members of Parliament (MPs) and MPLs run their own PCOs, as the funding is generally considered inadequate. This is especially the case with smaller political parties where, in the majority of cases, the constituency allowances of the parties' MPs and MPLs are pooled to establish a small number of PCOs that are functioning rather than a large number of non-functioning PCOs.

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The PCOs are funded through public funds and, officially, they are an integral part of the institutions of legislature, both the provincial legislatures and the National Assembly. In fact, many constituency administrators in Mpumalanga and Gauteng regarded PCOs "as extensions of legislatures". In practice though, the political parties have completely taken over the use of PCOs and virtually turned them into extensions of party structures. This paper is based on research work conducted in Gauteng and Mpumalanga during 2002 and 2003. This includes in-depth interviews with African National Congress (ANC) and Democratic Alliance (DA) constituency office administrators in the two provinces. At the time of writing this report, the ANC had about 31 constituency offices in Mpumalanga and about 42 in Gauteng while the DA had 4 in Mpumalanga and about 19 in Gauteng.¹

Exclusion of provincial legislatures

Despite the voluntary nature of constituency service in South Africa, large amounts of public funds are being provided and spent by members of the different political parties to set up and run these constituency offices.² For instance, in Mpumalanga, each MPL receives R7 000.00 per month in constituency allowance. The funds provided for the National Assembly range between R4 000.00 and R5 000.00 per month. It is therefore reasonable to expect that the provincial legislatures would play an important and meaningful role not only in the operation of these offices, but also in developing proper

policy guidelines and procedures for accountable and transparent practices to be followed by MPLs rendering constituency services to local communities.

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One of the findings of this research work is that the process of establishing constituency offices is uncoordinated at best.³ This is not entirely unexpected though. There appears to be a general lack of common national-level or province-specific policy guidelines to ensure a unity of purpose or co-ordinated approaches among the different political parties regarding the public services rendered to citizens through these PCOs. Moreover, both the National Assembly and the provincial legislatures appear to have no common position regarding the status and proper relationship between the PCOs and the political parties running them. There are no standard regulations or procedures applicable to all parties for governing several important aspects of constituency service in South Africa; namely how, where and when to establish these offices, management and governance structures, recruitment policies and practices for constituency office administrative staff, and the status of constituency offices in relation to political party structures. In addition, there appears to be no code of conduct or code of ethics applicable to members of political parties in their conduct of constituency service. Also, there are no common policy guidelines regarding how to integrate the work of PCOs into the work of provincial legislatures or governance practices at provincial level in general.

It appears that the only form of authoritative control exercised on the conduct of constituency service is through a set of guidelines issued by the National Assembly. It requires the members operating constituency offices to submit audited annual financial statements before allowances for the following year, are allocated. This requirement derives from a piece of legislation; namely 'The Public Funding of Represented Political Parties Act (1997)'. However, the emphasis of this regulatory policy is mainly on financial accountability and controls. Also, it appears that these financial accountability measures do not affect what PCOs are allowed or not allowed to spend their budgets on. In other words, it appears that PCOs can use their allowances for anything as long as proper accounts for the expenditures can be offered to auditors. Crucially, it was not clear whether or not PCOs are subject to the provisions of the Public Finance and Management Act (PFMA), as are other agencies in South Africa that receive public funds. Also, such common and formal financial accountability controls are not duplicated in terms of the administrative, political and operational matters of conduct, quality of services to citizens or good governance practices for PCOs.

However, in spite of this lack of clarity over the proper relations between constituency offices and political parties, the National Assembly's official position appears to be that these offices are public properties to be used for the benefit of the general public and to be kept separate from political parties. For

instance, the press has in the past quoted the Deputy Speaker of the National Assembly Baleka Mbete as saying that “it should be clear that these offices are constituency offices, run by separate funds and with a different administration to party offices”.⁴ In addition, the ANC’s official policy guidelines⁵ state, “these offices are not ANC offices but are paid for and monitored by the legislature and parliament...” Taken together, these statements clearly show that, formally, PCOs in South Africa are not to be treated as political party offices and are to be operated separately from party structures.

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However, interviews with DA and ANC administrators in Mpumalanga and Gauteng indicate that the political parties, and not the legislative institutions, determine the nature and scope of the current system of constituency service in South Africa. An ANC MPL in the Gauteng legislature was asked whether or not this virtual exclusion of legislatures from the operation of the system was a deliberate omission.⁶ While the question was not answered directly, the response indicated that the question of what role legislatures could play and the potential benefits from the current system of constituency service have not yet been given serious consideration. Also, both the DA and ANC constituency administrators who were interviewed were asked to explain the benefits accruing to provincial legislatures from the existence of constituency offices. Most DA administrators indicated that their constituency offices maintained no direct relations with the legislatures, indicating that they only served their party members. Some of the ANC administrators indicated that constituency offices served as the “eyes and ears” of the legislatures on the ground. However it was clear that there were no standard or systematic processes to ensure that the provincial legislatures utilised these offices effectively and on an ongoing basis to promote their own institutional interests. It was also obvious that the system of constituency service, as it currently operates, is inherently party-oriented in nature.

Of course this does not suggest that there is no cooperation between the provincial legislatures and the constituency offices. Indeed, most of the administrators interviewed stressed the fact that when provincial legislatures conduct community outreach workshops or public hearings on draft bills, they are usually called upon to help in organising these activities. Also, when provincial legislatures have open days for public visits or youth and women’s parliaments, constituency offices are usually called upon to assist in facilitating these events. However, interviews with staff members from the Public Participation and Petitions (PPP) Units in the Mpumalanga and Gauteng legislatures suggest that these cooperative efforts are usually limited in scope and that constituency offices tend to participate more as political party agencies than “as extensions of legislatures” as they are meant to be. There also appears to be no formal rules of engagement between the legislatures’ PPP Units and the constituency offices. This means that the legislatures are, to a

large extent, dependant on the goodwill of individual constituency offices and their staffs for the help volunteered.

Moreover the different political parties appear to follow different approaches and diverging strategies relating to the running of these offices such as staff recruitment and training, management styles and governance practices, which would mean that the assistance that provincial legislatures usually receive from these offices varies significantly in terms of scope and quality. Therefore constituents located in different parts of the country and served by different political parties cannot be assured of receiving equal quality of service.

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A cursory examination of the standing rules of both the Gauteng and Mpumalanga provincial legislatures shows that these rules do not make any reference to constituency service. This is probably the case for the other provinces. This could mean two things: firstly, that constituency service is not considered important for the legislature as an institution; secondly, and more plausibly, that constituency service is seen essentially as a political party matter. Either way, it is a serious weakness to confine the involvement of provincial legislatures merely to providing the funds for constituency service, especially for developing sub-national legislatures that could gain significantly from a more effective and strategic use of these offices to promote their institutional interests. Also, no provision exists for a formal and systematic integration of feedback from constituency work by MPLs into the general processes and oversight activities of the legislatures. This failure to conceptualise a role for legislatures in the conduct of constituency service is surprising, given that all legislatures, including the national assembly, do make formal provision in their annual programming schedules for fairly significant periods of constituency service by MPLs and members of the National Assembly.

Draw-backs of current party dominated system

Political parties are in charge of virtually all aspects of the current system of constituency service. One of these is the right to determine the number of PCOs to be established and the geographic demarcations of constituencies, clearly based on an assessment of their own political interests. Also, the processes of establishing, running, supervising and monitoring these offices are determined separately and individually by the political parties without common approaches, co-operation or coordination. This has led to arbitrary and sometimes overlapping or crosscutting constituency boundaries. This lack of common approach and coordination by the major political parties is bound to create a measure of confusion among local constituents. Obviously, in the adversarial political system currently operating in South Africa, members of political parties would inevitably conduct constituency service in a way that maximises their particular political interests first and foremost rather than in a way that fosters

bipartisan co-operation. Nonetheless the uncoordinated but party oriented system of constituency service leads to a fragmented process that is primarily geared towards maximising the benefits for political parties and not provincial legislatures.

A case for greater involvement by provincial legislatures

A case could be made for a more active involvement of provincial legislatures in the conduct of constituency service. Firstly, provinces in South Africa are still attempting to carve a role for themselves as distinctive institutions with a critical role to play in the lives of their people. However, studies have shown that South Africans in general still do not understand the proper role of provinces, especially the legislatures.⁷ Also, in a survey⁸ of provincial MPLs referred to above, MPLs were asked to respond to this statement: "there is confusion about what role provinces should be playing". The responses showed a serious division among provincial MPLs over this statement, with 44.1% agreeing or agreeing strongly and 45% disagreeing or disagreeing strongly with the statement. 10.3% of the MPLs refused to express any views on this. Almost ten years after the inception of the current provincial system of government, such a divided opinion among the MPLs on the role of provincial legislatures does not augur well for these institutions. Secondly, the people of the provinces are still unable to differentiate between provincial legislatures and provincial governments. This has been acknowledged by a number of MPLs interviewed for this study in Mpumalanga and Gauteng. Thirdly, over the past three or four years provincial legislatures, especially in Gauteng and Mpumalanga, have attempted to redefine their roles and formulate new and more meaningful mission statements for themselves. In these statements there has been an increased emphasis on promoting public participation and accountability on the one hand, and enforcing oversight and monitoring of policy implementation as well as service delivery on the other.⁹

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This increased emphasis on public participation, accountability and oversight is not a coincidence. It occurs within a particular context of a general decline in the law-making functions and workload of provincial legislatures in South Africa. There has been a marked decrease in the number of acts formulated and passed by provincial legislatures.¹⁰ The general dominance of central government, due to its greater policy-making powers in a whole range of sectors, including macroeconomic policy and fiscal matters, has left little space for provinces to do much in these areas. Therefore, the provincial legislatures are increasingly focusing on the processes of implementing both provincial and national policies as well as overseeing and monitoring service delivery at a regional level. In particular, provincial legislatures have been strengthening their institutional

capacities to play a meaningful role in monitoring and overseeing policy implementation processes.

All the above suggest that the process of institution building at provincial level is still far from complete. The current practice of constituency service therefore has real potential to serve as one of the alternative avenues for provincial legislatures to serve their people not only as overseers of policy implementation and service delivery, but also as promoters of public accountability. Constituency offices could also enable legislatures to gauge the impacts and consequences of national or regional policies that are implemented through the provinces. The offices of deputy speakers could be best placed to enable provincial legislatures to play a meaningful role and systematically derive benefits from the practice of constituency service. These offices are some of the most under-utilised in the current provincial system of government in South Africa. Their role and functional scope appear fairly limited within the running of provincial legislatures, and the occupants of these positions serve mainly to deputise for the speakers or to chair some internal house management committees.¹¹ An active involvement of the Deputy Speakers in the coordination, monitoring and oversight of constituency work at provincial level could help focus constituency service on issues that raise the profile of provincial legislatures as valuable institutions of government in our democracy. Placing the system of constituency service at provincial level within the scope of the functions of the Deputy Speakers may help place the organisational interests of these legislatures at the heart of this practice while also minimising the more obvious and narrow party political orientation of this service.

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It may also help counteract the widespread lack of knowledge, including some of the negative public perceptions, about provincial legislatures. The current limited involvement of provincial legislatures in the conduct of constituency service in their areas of jurisdiction is detrimental to these institutions. It serves to further entrench the current dominance of political parties and an adversarial party system in our system of government. This undermines the emergence of a non-partisan institutional profile of provincial legislatures among their electorates. An active involvement of provincial legislatures through the offices of Deputy Speakers may contribute towards the emergence of a relatively non-partisan constituency service system that raises the profiles of these institutions as important democratic entities.

It needs to be noted though that the extent to which provincial legislatures can play a role in the system of constituency service may be hampered by problems of limited institutional capacity. Provincial legislatures have yet to develop effective processes through which the information obtained through constituency services could be systematically fed back into policy processes within government departments, portfolio committees and the legislative

chamber. Currently, many legislatures are still in the process of designing such internal systems to improve effectiveness in performing some of their critical functions. Therefore, an additional responsibility to oversee the conduct of constituency service by MPLs may stretch resources and even overwhelm these institutions. However, some legislatures such as the Gauteng legislature have been systematically building their internal capacity and systems for some time, which should enable them to sustain such a responsibility, even if limited in scope.

Endnotes

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- ¹ The information on the total number of constituency offices may be accurate only at the time of writing this report. More offices are being established regularly by the two parties while, occasionally, some existing ones are either being closed down or merged with neighbouring offices. The parties themselves supplied the information.
- ² The Sunday Times reported in 1999 that the country was spending about R 26 million per annum on the running and maintenance of constituency offices throughout the country (10 October 1999).
- ³ *Sunday Times* 10 October 1999; *Dispatch* 6 November 1999; *Mail & Guardian* 9 May 2003.
- ⁴ *Sunday Times* 1999.
- ⁵ African National Congress constituency administrators made references to the party's document called *Parliamentary Constituency Fund: Policy, procedures and manual for constituency offices 1999*.
- ⁶ Interview with ANC MPL, Gauteng Legislature, 1 August 2003.
- ⁷ See for example: Houston G. 'Public Participation in Provincial Legislative Processes in South Africa.' Provincial Government in South Africa. (Seminar report no. 7) Konrad-Adenauer Stiftung, 2001.
- ⁸ The author conducted an opinion survey of the members of provincial legislatures from the nine provinces between September 2002 and July 2003.
- ⁹ See the Legislative annual reports and Speakers' budget speeches for provinces.
- ¹⁰ Lodge T. *Politics in South Africa (From Mandela to Mbeki)* Cape Town: David Phillip, 2002: 37.
- ¹¹ Interview with ANC MPL, Mpumalanga Legislature, 18 June 2003.