

REFLECTIONS ON EXPERIENCES OF ACCESSING GAUTENG PROVINCIAL LEGISLATURE

CONSTITUTIONAL MANDATE OF
PROVINCIAL LEGISLATURES

CHAPTER 6

- SECTION 114 of the constitution deals with powers of the Provincial Legislatures besides the responsibility to consider pass, amend or reject any bill before the legislature
- The Provincial Legislature also has powers to provide mechanisms to ensure that all organs of State in the Province are accountable to it and to maintain oversight of the exercise of Provincial Executive Authority in the Province including the implementation of legislation and any Provincial organ of State.

- As Civil Society Organisations we are most interested in seeing this constitutional mandate of the Provincial Legislature being fulfilled.
- Often this exercise is thwarted by the Political setup of the MPLs often regarded as political juniors of those who are appointed to serve in the executive as MECs as a result this constitutional mandate is not served by the Legislatures thus Civil Society suffers and whether we petition the legislatures concerning the failure to implement legislation by the provincial executive authority or to maintain oversight or make written and/or oral submissions, these efforts are thwarted by the political setup of juniors overseeing seniors in their party political setup

- Opposition parties also whose role is to shadow the provincial executive authority do not play this role genuinely in order to serve Civil Society but merely pick issues that will enhance their political expediency.

- for an example as LANDROSA we are interested in land rights and environmental issues in the Province, matters that deal with rehabilitation or lack of rehabilitation of mine land as well as air pollution by mining activities and other economic activities in the Province, urbanization that seems to overtake natural needs such making sure that the Citizens have water supply as settlements both for dwelling and commercial purposes such as malls are built on wetlands, these are issues that do not have much political expediency for the ruling party or the opposition parties as they are not bread and butter issues that affect the communities and thus won't win them much applause amongst the electorate, so the Executive authority that deals with such matters in the Province often goes unchecked, no oversight is provided whatsoever as a result mining companies and property developers who build malls on wetlands are not bothered at all, thus implementation of legislation concerning the environment is left unattended.

- One example of an oversight role that does give political expediency to the opposition is a case of striking cultural workers that spent days sitting in at the offices of the National Arts Council in Johannesburg.
- , Artists asked for assistance on how to reach the Portfolio committee on Sports, Arts and Culture at the National Parliament, I referred them to the website of the PMG and they made use of that, it was a matter of days before the entire portfolio committee on Sports Arts and Culture went to the NAC offices in Johannesburg to provide oversight over the matter of mismanaged covid relief funds for the artists, and the official opposition the DA also quickly took up the matter as it gave them much political expediency and main stream media airtime.

- One other shortcoming of the Provincial Legislature in this regard would be lack of subject matter experts that advise and guide the MPLs who are members of portfolio committees.
- while Heads of Departments are hired based on qualifications, MPLs are not and yet they have to provide oversight on a subject matter they have no knowledge of such as mining and energy, for an example in my involvement with National Parliament I have noticed that subject matter experts such as academics are used to advise and guide portfolio committees on matters such as Energy and mining.
- but where these National Legislations have to be implemented at Provincial level there are no such subject experts as a result HODs merely lecture the MPLs when presenting their reports often with no shadow reports from the opposition

- while we have provided shadow report on Gauteng Climate Change Budgeting in the past, we received no response from the concerned portfolio committees on departments that affect climate change in one way or another.

SECTION 118

- SECTION 118 of the constitution deals with public access to and involvement in Provincial Legislatures.
- our experience is that either the Provincial Legislature officials or the MPLs are not aware of this constitutional mandate besides of the sector parliaments and calls for submissions on new legislations or amendments to existing legislations, number one access to Provincial Legislatures means having means of communication with the MPLs our representatives in the Legislatures, but try to get cell phone numbers of the MPLs, even the officials who are mostly placed as gate keepers between the public reaching to their representatives the MPLs and the MPLs are shocked when you ask for this information, let alone minutes of committee meetings and quarterly reports.

THANK YOU