

A Wedge in Parliament's Door

Putting the 'People' in People's Parliament

The collage features several news snippets:

- DAILY MAVERICK SOUTH AFRICA**: Screenshot of the newspaper's masthead.
- SOUTH AFRICA**: A snippet with the headline "SONA2018: Parliament sets stage for the unnamed 'head of state' to address the nation".
- BusinessDay**: A snippet with the headline "Gauteng legislature's draft money bills act is riddled with flaws".
- Shelters for abused women protest outside Parliament**: A snippet with the sub-headline "More funds needed to implement the recommendations of the Commission for Gender Equality".
- Equal Education pickets outside Eastern Cape legislature over bad state of schools**: A snippet with the sub-headline "news24 Mkhosi Mngadi, News24".
- Farm workers march to Parliament demanding moratorium on evictions**: A snippet with the sub-headline "Call for President Cyril Ramaphosa to keep promise he made in 2014".
- Western Cape's State of the Province Address will be more show than substance - ANC**: A snippet with the sub-headline "By Mxwangi Githahu Feb 16, 2021".
- Helen Sauls-August ready for th Bhisho hot seat**: A snippet with the sub-headline "'Til take it in my stride,' says newly elected legislature speaker who wants respect relationships".
- COVID-19**: A snippet with the sub-headline "Online Resource & News Portal SAcoronavirus.co.za".
- THETHA NATHI LAUNCHED**: A snippet with the sub-headline "The Speaker of the Western Cape Provincial Parliament (WCPP), Honourable Masizole Mngqesela, hosted the launch of the institution's new public engagement programme, Thetha Nathi, in Oudtshoorn, and via simulcast in George, today, 21 September."

Other visible text includes "A wedge in Parliament's door" and "BY STAFF REPORTER ON OCTOBER 30, 2019 NEWS POLITICS".

A Wedge in Parliament's Door

Putting the 'People' in People's Parliament

A Case Study

November 2021



Case Study prepared by Beneficial Technologies
Research team: Sithandiwe Yeni, Ronald Wesso, Femke Brandt
Authors: Femke Brandt and Ronald Wesso

The PPIPP is a project jointly implemented by the Dullah Omar Institute, UWC (DOI); Heinrich Boell Foundation Southern Africa (HBF); Parliamentary Monitoring Group (PMG); Public and Environmental Economic Research Centre, UJ (PEERC); and Public Service Accountability Monitor, RU (PSAM).



The project is supported by funding from the **European Union** and the **Heinrich Böll Foundation**. Any views and opinions expressed in this research are those of the authors and cannot be ascribed to the **European Union**



Contents

Introduction	1
A Wedge in Parliament's Door	1
Who and What is PPiPP	2
Why this case study	3
Whose voices are included in the case study?	3
Key values and views of PPiPP	4
<i>Intersectional feminism</i>	4
<i>How must Parliament and the provincial legislatures do their work?</i>	4
<i>What is public participation or public involvement?</i>	4
<i>What is public engagement?</i>	5
<i>Why is openness and access important?</i>	5
How this booklet works	5
Outline of the booklet	5
Theme 1: Going to Parliament	7
Going to Parliament	8
Shift to online meetings	9
Theme 2: Access to information	12
Information is political	12
Monitoring	14
Gatekeeping	15
Accessing National Parliament and Provincial Legislatures	15
"Why do we need a bridge to get in?"	16
Theme 3: Engagement between people and Parliament	18
Social justice issues - desired outcomes	19
Public Finance: Overseeing budgets and fiscal matters	19
Two types of advocacy	21
Monitoring and making submissions	22
Face-to-face engagements	23
Litigation and engagement	24
Engagement during Covid-19	25
Theme 4: Social justice through parliamentary processes	26
Reflections on aims and outcomes	26
Structural barriers to achieving social justice	27
Political party structures	28
What motivates people to engage legislatures?	29
"Being a wedge is not good enough"	31
Appendix: Methods	32
References	33
Guidelines for provincial legislatures and civil society organisations	34

Introduction



A Wedge in Parliament's Door

The newspaper headings above allow a glimpse of media coverage of people's interactions with Parliament and provincial legislatures (PLs) in South Africa. Women and activists protesting outside parliament or academics and analysts commenting on government decisions and scandals are common types of engagements people have become familiar with over time. In these examples, people engage from the outside. This booklet is about what happens when 'the people' go *inside* parliament to participate in processes of law-making and oversight. Activities and interactions in relation to these functions of legislatures are often hidden from the public. When did you last hear about a portfolio committee meeting in the Eastern Cape Province or the development of Money Bills at provincial legislatures?

In 2019, a group of civil society organizations met face-to-face for the first time in a 3-day roundtable with representatives from the Eastern Cape Provincial Legislature. This new initiative was reported in the media as people creating a 'wedge in parliament's door'.^[1] The same year, a similar engagement happened in the Western Cape. A press release stated that provincial legislatures are key in implementing national policy for critical programmes like health and education with multi-billion rand budgets. Project member Vivienne Mentor-Lalu said:

Yet these legislatures are allowed to fly under the radar and become black holes where public participation and information become guessing games and often meaningless. This must change because when provincial legislatures are not scrutinising their government departments properly, it hits much closer to home for many communities.

Who and What is PPiPP?

The roundtables mentioned above were initiated by a project called *Putting the 'People' in People's Parliament: Scaling up inclusive participation in South African Legislatures to enhance democratic oversight* (PPiPP). PPiPP has been a 4-year project, part of a larger EU-funding programme for organisations to work with legislatures. A coalition of five organizations led the project. They came to be referred to as 'project partners'. These were the Dullah Omar Institute (DOI) at the University of the Western Cape, the Public Service Accountability Monitor (PSAM) based at Rhodes University in the Eastern Cape, the Parliamentary Monitoring Group (PMG), and the Public and Environmental Economics Research Centre (PEERC) at the University of Johannesburg. The funding for the project came from the European Union and the Cape Town office of the Heinrich Boell Foundation.

The PPiPP partners had extensive experience in working in the national parliament and some experience with the provincial legislatures. The European Union (EU) issued a call that identified a gap in public participation. Few, if any, organisations were doing consistent work to make provincial legislatures sites for meaningful participation by the public for oversight and budget processes. PPiPP partners were ready to work towards bridging this gap and they responded to the call.

Four of the PPiPP partners were also members of Parliament Watch (ParlyWatch) which was established in 2014. ParlyWatch is an alliance of nine organisations that share a vision to protect and strengthen democracy, and who collaborate in a coordinated way to increase claims on the legislatures to fulfill their role in South Africa's democracy. During the Covid-19 pandemic and the lockdown, PPiPP partners initiated a new civil society formation to undertake advocacy for open legislatures called the Action on Legislatures (AoL).

The PPiPP project worked with 'core partners' consisting of Civil Society Organisations (CSOs), community based organisations, advice offices and social movements. A special effort was made to include groups working toward the realisation of women's rights. The 6 core partner organizations in the Western Cape were: Equal Education Law Centre, Right2Know Campaign, Social Justice Coalition, Women on Farms Project, Witzenberg Rural Development Centre, Social

Change Assistance Trust, all of these organisations in the Western Cape are also members of ParlyWatch. The 13 core partner organizations in the Eastern Cape were: Flagstaff Community Advice Office, Mqanduli Advice Office, Qunu Community Advice Office, Herschel Legal Advice, Care Alicedale, Tyinira Rural Advice Office, Adelaide Advice Office, Interchurch Local Development Agency, Dordrecht Legal Advice Community Development Agency, Berlin Advice Centre, Entlago Primary Agricultural Co-op and Masiphumelele LDA, while SCAT provided important support and participated in some workshops.

PPiPP's primary focus was on the national parliament and the provincial legislatures (PLs) of the Eastern and Western Cape provinces, although all PLs were included in some activities. For this reason, the case study emphasises messages relating to those two PLs and the national Parliament.

Why this case study

The PPiPP project partners commissioned Beneficial Technologies (Bentec) to write up a case study of the experiences of the project implementation. This study aims to consolidate lessons learnt by the project partners and core partners in engaging with legislatures, and increase understanding of the complex questions related to testing the application of mechanisms for access to information and public engagement with legislatures.

Based on the case study, Bentec was also tasked to develop guidelines for legislatures and CSOs with the aim to increase prospects for meaningful engagement between elected representatives and the public. The research into experiences and their meanings and sharing the lessons learnt in the PPiPP project provide both legislatures and civil society organizations with guidelines on how to strengthen their efforts for participatory democracy and social justice. In other words, the case study is intended for activists, CSOs and members of the public as well as for elected representatives eager to learn about how such groups in PPiPP experienced public participation.

Whose voices are included in the case study?

This case study includes the perspectives and experiences of the PPiPP project and core partners. They come from different backgrounds and contexts, have different levels of experience interacting with the legislatures, and have different access to resources. In addition, the partners interacted with different people, in different committees that are in different legislatures – specifically Parliament, the Eastern Cape Provincial Legislature, and the Western Cape Provincial Legislature.

The result of all of these layers is that we cannot tell one single story about everyone's experience of all committees at all legislatures. The reflections are complex and layered. Sometimes the experiences even seem contradictory. In addition, PPiPP and its partner organisations are more likely to know about the problems, challenges and successes in the legislatures that they have worked closely with, rather than about the ones they have not. PPiPP is not able to say if the two PLs they are most familiar with are any better or worse off than the other seven that they have not worked as closely with.

Key values and views of PPIPP

In and through its diversity and inclusivity, PPIPP partners shared important values and views that laid the basis for joint work. For the purposes of the PPIPP project these included shared views on the following issues:

- Intersectional feminism
- How must Parliament and provincial legislatures do their work?
- What is public participation or public involvement?
- What is public engagement?
- Why is openness and access important?

Below we summarise PPIPP's views on these issues, which also frame this case study.

Intersectional feminism

In PPIPP's training and support for CSOs there has been a focus on women and gender equality in order to increase women's ongoing political participation in South Africa. This case study draws on ideas of intersectional feminism practiced and used by feminist scholars and movements. Intersectional feminism departs from a set of assumptions that combine the recognition that all women are oppressed by patriarchy and sexism with the awareness that women experience patriarchal oppression differently based on their positions of race, sexual orientation, class, disability and nationality. Patriarchy refers to relationships in a society and government in which men hold the power and women are largely excluded from it. Sexism refers to oppression of women and girls because they are women. In the analysis and presentation of PPIPP partners' experiences in engaging legislatures, we expose these different systems of oppression to better understand the power dynamics in public participation processes.

How must Parliament and the provincial legislatures do their work?

At the heart of all of their work, the legislatures must be a public forum to ensure 'government by the people, under the Constitution'. This is at the centre of South Africa's democracy, that it is a democracy driven by the people, not by the politicians. People cannot participate or engage if they don't know what's going on, so the Constitution requires that legislatures must conduct their work in an open and transparent way. The Constitution also says that legislatures must be accessible to the public, and that they must ensure that there is public involvement in their law-making and in their 'other' – oversight and accountability – work.

What is public participation or public involvement?

The Constitution's requirements for public involvement or participation have been discussed by the Constitutional Court and it has been clear that in South Africa, public participation does not start and end with voting. It must continue through the work of legislatures and local councils in the years between elections. Direct public participation with legislatures can take different forms, mostly it is done through sending written submissions to committees on different things, or through attending public hearings that are hosted by legislatures.

What is public engagement?

When PPiPP talks about ‘engaging’ they understand that people can engage with Parliament and the legislatures in many different ways. Sometimes that is directly with committees or with individual members of parliament/provincial legislatures – through writing letters, making submissions, or contacting constituency offices. Sometimes people engage with politicians indirectly – this can be through public demonstrations and marches, or through talking to the media, or by taking government to court. The PPiPP project focused on increasing direct engagement and also some work to increase media stories.

Why is openness and access important?

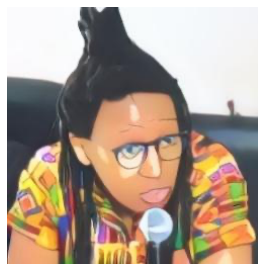
The Constitution’s requirements that the legislatures must be transparent and accessible are important in and of themselves. They are also absolutely important to public participation or engagement. If the public does not know what is happening, and if they cannot get to the meeting or get their message to MPs and MPLs, then engagement and participation cannot happen. For PPiPP partners a lot of the work was about this layer – finding out and sharing information on what is happening so that they could take information back to their organisations and develop advocacy strategies.

How this booklet works

Some concepts or names used in the case study might be new and unfamiliar to readers. We have selected the most relevant concepts and made space to explain their meaning or origin. The explanations are flown in by this explainer (x-plane) image:



The case study presents different viewpoints on different issues in relation to public participation and the legislatures. Throughout the booklet there are comments by the critical thinker. She makes observations and asks questions that will help readers to think more. The critical thinker¹ is represented by this image:



Outline of the booklet

This booklet is divided into four themes from which we drew key lessons learnt. They are presented in different sections where PPiPP experiences are discussed and analysed. The

¹ This is an animated photo of Sithandiwe Yeni, one of the Bentec researchers, used with her permission.

themes are focused around different moments and aspects of public participation, namely going to parliament, negotiating access to and sharing of information, experiences of different types of engagements and finally the question of possibilities for social justice.

Theme 1: Going to Parliament

Another vital function of Parliament is to encourage and facilitate participation from you, the people, in the process of Parliament. In fact, the constitution says that there must be public participation in what goes on in Parliament. After all, the word “Parliament” comes from the word meaning “to speak”. So make sure you make your voice heard in Parliament and in the provincial legislatures.

Government website parliament.gov.za [2]

While as ILDA through PSAM we had no difficulties to access some of the portfolio committees, I wish the people on the ground to have direct access and be there, not just us from organizations. Why do we need a bridge to get in? We should be able to just get in.

Nobuzwe Mofokeng, Interchurch Local Development Agency, Eastern Cape

Just the architecture of it, the space is sooo old and white. As a young person and as a woman, as a Steve-Biko identifying black woman, there aren't many of our faces in Parliament.

PPiPP Podcast Khadija Bawa, Social Justice Coalition, Western Cape

If it is a person's first time to go to parliament, in a way you feel you can stay there and sleep there, you don't want to go back home....you are in another world.

PPiPP Podcast Noncedo Bulana, Right2Know Campaign, Western Cape

As shown in the quote above, the South African Parliament presents itself as a people's **parliament** that encourages people to participate in processes of law-making and oversight. Government officially states you must make sure you make your voice heard in Parliament and in the provincial legislatures. This is what the people in the PPiPP project tried to do and the activists' quotes above reflect how this resulted in varying experiences of legislatures in practice.

In this section we share what people experienced when they went to Parliament and provincial legislatures. How did they negotiate access to the buildings and rooms where parliamentarians hold meetings and what happened with access when meetings went online during the pandemic?



Parliament

Parliament consists of two chambers - the National Assembly and the National Council of Provinces. Its main tasks are to make laws and oversee the functioning of the government and what is called the executive branch of the state. National elections take place every five years. The National Assembly elects the President from among its members. Chapter four of the Constitution of South Africa sets out the role, powers and functions of Parliament.

Although in principle everyone should have equal access to participate in parliamentary and legislature committees, we know from experience that this is not how it works. Here, we make sense of people's experiences by understanding how *power relations* shaped the *negotiation process* people engaged in to get entry, to receive information and obtain permissions to participate in committee meetings. We also address what happened with access during the Covid-19 pandemic and lockdown that started in March 2020.

Going to Parliament

The Houses of Parliament are located in Cape Town's city centre. Since 2014, there has been a bronze bust of Nelson Mandela in front of the National Assembly Building. The building of the Western Cape Provincial Legislature is in the city as well, a few minutes' walk from National Parliament. In the Eastern Cape, the legislature is in Bhisho. Bhisho is the capital of the Eastern Cape Province and many government headquarters are situated there. The town is 3 km from Qonce (formerly King William's Town) and 70 km from East London.

The locations of the three legislatures makes access difficult for poor people from townships and rural areas. For PPIPP core partners in the Eastern Cape, the remoteness of the Eastern Cape **Provincial Legislature** was especially challenging. One partner described Bhisho as '*an awkward location*' considering that parliament is meant to listen to the people. People experienced that on the way there, there are 15-20 minutes without seeing anyone. Partners also experienced the building and the arrival which involved boom gates, as intimidating and off-putting.



Provincial Legislature

Provincial legislatures are similar to parliament, but they operate at the level of a province. They have only one chamber. They make laws and oversee the executive for that province. Provincial legislatures are elected every five years at the same time as parliamentary elections. They elect a Premier from among them who becomes the head of the provincial government. The provincial legislatures also elect the delegates that will represent the province at a national level in the National Council of Provinces (NCOP). Chapter six of the Constitution sets out the roles, powers and functions of provincial legislatures.

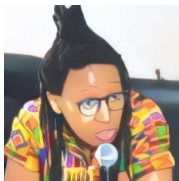
Attending **portfolio committee** meetings requires planning and travel costs. In addition to this, people who have to travel far are impacted more severely in cases where meetings are postponed or rescheduled at the last minute. Even when Parliament is not that far, it is still relatively expensive for poor people to travel to meetings. PPIPP enabled partner organizations access by providing resources and support systems to engage in public participation. Many partners in small community-based organisations would not have access without PPIPP.

Portfolio committees



Portfolio committees are substructures of the National Assembly. A few MPs are delegated to a committee that deals with a particular portfolio such as health or education. Portfolio committees report back to the National Assembly and work under its control. These committees play an important role in helping the National Assembly to come to grips with particular issues. They are also the platform where most public participation happens. It is sometimes said that the real work of the National Assembly happens in portfolio committees. Provincial legislatures also have portfolio committees. Committees of the NCOP are called select committees and committees that include members of both the National Assembly and the NCOP are called joint committees. These are their official names. In ordinary conversation people sometimes refer to all the different kinds of committees as portfolio committees.

For many people in the country Parliament is literally far away, meaning the physical distance is long and people need to travel and plan their visit carefully. But Parliament is also described as 'far away' in the sense that it is *a space far away from me* or as *another world*. What does this mean? In South Africa extreme inequality manifests in the spatial and physical layout of society. Parliament is an unfamiliar place for ordinary people. The physical building and formal procedures that govern it contrast the hustle and bustle of everyday life outside of it. Some community activists describe Parliament as 'a palace' compared to places like Khayelitsha, a big township in Cape Town. Some activists associate Parliament's architecture and appearance directly to the oppressive structure of apartheid and colonial government, and experienced the systematic exclusion of poor people and poor black women especially.



What does it mean when I am in parliament and I don't see any other people like me? Will they represent me and make sure my concerns are considered in every decision they make?

Parliament can also be understood as another world in terms of hearing and seeing what members of Parliament do. Usually, most of their activities are hidden from the public view. When you visit parliament the processes of government become visible and real and it feels as if you entered another world. Then it is not easy for the public to understand everything that is happening there immediately. Women who traveled from the Western Cape farm areas experienced that in Parliament people did not speak Afrikaans. In the Eastern Cape language barriers were also noted as impacting on their ability to follow what was being discussed. People also found that portfolio meeting agendas were not always clear or communicated with the public attending meetings.

Shift to online meetings

On 15 March 2020, President Cyril Ramaphosa declared a **National State of Disaster** in response to the global Covid-19 pandemic. Three days later, Parliament announced that parliamentary business was suspended until further notice. A nationwide 'lockdown,' restricting

movement and domestic travel, was announced on 23 March. There was no indication if and how the government would include the public in their decision-making although the private sector and NEDLAC were consulted immediately. On 25 March, PPIPP and Parliament Watch sent an open letter to all South Africa's legislatures with recommendations to continue critical functions of the legislatures. These included moving committee meetings online and ensuring public access to these platforms.



National State of Disaster

A National State of Disaster is declared by the government in terms of the Disaster Management Act of 2002. The State of Disaster gives government special powers to use for the protection of the public against serious threats such as the Covid-19 pandemic. A state of disaster lasts for three months and then has to be renewed monthly to remain in place.

On 10 April 2020, the first virtual committee meeting was held by the Portfolio Committee on Health of the National Assembly. Soon after, Astrid Coombes from the Equal Education Law Centre wrote in an opinion piece for the Daily Maverick that *“while the move to online platforms has been a helpful step in facilitating continued oversight and accountability during these unprecedented times, it has not been without its challenges.”* [3] People were not allowed access to online meetings, experienced disruptions during meetings and could not participate due to poor connectivity. PPIPP partners reflected that although the shift to online meetings solves the problem of geographical distance for some partners, their experience was that moving meetings online did not fix key problems of access. For the activists and local organisations who had developed systems and ways to get to Parliament to attend meetings, it made it harder to access Parliament and so public participation became more difficult.

The pandemic, lockdown and shift to online meetings did not impact everyone's possibilities for public participation in the same way. Among PPIPP partners, rural-based and service-oriented organisations reprioritised resources and time to engagements with local municipalities to access basic services to deal with the health crisis and the consequences of the lockdown. The Eastern Cape community-based advice offices shifted their attention to essential work like providing health services and food relief during the lockdown. Because people were required to work from home under lockdown conditions, they did not have access to office-based computers needed for online ways of working.

The impact of the shift to online meetings was also **gendered**. In general, the pandemic increased existing care burdens of women who are often responsible for child care, community care and household chores. Many women lost precarious jobs or informal trade livelihoods. Women who live in rural areas or poor communities are affected by poor electricity access, poor network, no (affordable) child care facilities, and unaffordable data costs. In addition to these structural barriers, PPIPP noticed through its work in legislatures that women often have less access to technology and devices that would allow them to access an online meeting, compared to men due to a wide variety of reasons. All these factors make it more difficult for women to spend time and resources on accessing and engaging provincial legislatures.

Gendered

Gender refers to the way society creates different characteristics, roles and expectations for people based on whether they are seen as men, women, boys, girls or members of up to 72 gender identity groups. If something is gendered it means it differentiates between people based on their gender. Since gender is a hierarchy that places men in a position of power in our society, it usually means that if something is gendered it discriminates against women and other genders placed lower on the hierarchy than men.

Not everyone was able to join online committee meetings in platforms such as Microsoft Teams or Zoom. There were administrative barriers. Moreover, it took away the opportunity for informal interactions between MPs/MPLs and the public, which are so important for relationship building. Monique Doyle of PMG pointed out that as a general rule, members of the public are not allowed to speak in committee meetings unless the committee is conducting public hearings or they are given special permission, but the meetings present opportunities to influence elected representatives in other ways. She explained:

Members of the public (and PPiPP partners) have found that it is possible to speak to individual members of committees before and after meetings and during breaks to provide them with information that is linked to the issues being discussed. Sometimes after observing a committee meeting, members of the public and organisations submit written submissions or letters to the committee as a whole to try to give them more information on an issue.

Middle- and upper-class people may have found they could access legislatures more readily online, but for people in the marginalised communities where PPiPP partners worked, the move online represented a loss of the gains that were made in facilitating access. As Vivienne Mentor-Lalu reflected, *“I feel politicians keep speaking to the same small section of people who are middle and upper class. So, yes, the legislatures went online, but that does not mean they were accessible to all”*.

In order to continue the work PPiPP stepped in by ensuring partners in the Western Cape had access. This meant they had to make time and resources available for monitors to go to places where there was internet access and electricity so devices could be charged. PPiPP project partners also trained people with tools to access information about committee meetings and how to participate in online communication platforms.

Theme 2: Access to information

Our role is different. We have been around for a very long time so that gives us an advantage. We are neutral in terms of our approach and politics. So, access to parliament is not a challenge for us, we sit in all committees and our website is the go-to for many.

Rashaad Alli and Monique Doyle, Parliamentary Monitoring Group

They first look at how you are dressed to decide how to address you. Where do you come from? If you look like someone or something parliament is not at ease with, then they question your presence. Faces change, people following and watching you, ensuring you don't get the document. People who dress better and carry laptops will get the documents. It is almost like you have to up your game.

Sizwe Manqele, Right2Know Campaign

Besides knowing *where* to go, the public also needs to know *when* to go to Parliament and *what* is debated in order to participate and engage members of Parliament. For this, people need information on meeting schedules and documents to know what will be discussed in these meetings. A major challenge experienced by **civil society** was the timely provision of information on platforms accessible to the public. In this section we look at the practice of gatekeeping and what this means for public participation. An important lesson learnt in the PPIPP project was that sharing information is a political process shaped by competing interests in society.



Civil society

The term civil society refers to the collective of civil society organisations (CSOs). A civil society organisation is a non-state group whose purpose is neither to make profit nor to seek to become the government. The group usually aims to address social issues such as education or hunger. A wide range of organisations are sometimes seen as CSOs, from well-resourced, professionalised non-government organisations (NGOs) to less formal, under-resourced community associations.

Information is political

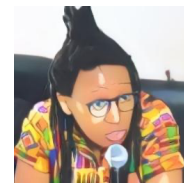
An important lesson learnt in the PPIPP project is that while many of the barriers to accessing information are technical and linked to systems, overall, it is a political issue. Negotiating access to information happens in the context of power relations where members of the public depend on politicians and staff in Parliament to give or receive information.

The Parliamentary Monitoring Group (PMG) is an NGO that monitors the work of Parliament. They were established in 1995 to help advocacy organizations like the Black Sash to participate in democracy. PMG is an information service, their monitors record and attend committee meetings to collect information. PMG provides information and documents on their website so that the public has access to them. Initially, PMG focused only on the National Parliament, but as a PPIPP partner they have expanded their work to provincial legislatures, providing general information on committee membership and schedules for all PLs, and monitoring most of the committee

meetings of the Western Cape PL and making the record of those meetings available on its website.

All legislatures have websites where information can be made available. In the Eastern Cape, PSAM experienced that while details about committee sittings and MPLs were published on the ECPL website, the Hansard archives, which is a written record of the proceedings and debates in the legislature, do not include minutes of committee meetings.² It is common across all of the legislatures that there is very little access to committee reports or the official minutes of their meetings. In Parliament and in the Western Cape legislature, PMG provided reports from most committee meetings and the information is more accessible, although not as a result of the efforts of the PL itself. Another problem is that provincial legislatures' websites are not always functional and are often outdated. People in the PPIPP project felt that the limitations of websites required the use of a combination of tools to ensure the public is informed about what is going on in legislatures. They have suggested the use of other communication systems like community radio, cell phones, zero-rated websites that are free to use and YouTube to make information more available.[4]

Politicians always know how to reach us during election times, they visit our communities and spend a lot of money on informing us why we should vote for them. So why can't they reach people and inform us about what they are doing in parliament once they are inside?



There is a systematic lack of access to information provided by legislatures that would enable the public to participate meaningfully. People in the PPIPP project are aware that this is not (only) due to lack of capacity or resources in the legislatures. In addition to some technical reasons, politicians and parliamentarians are motivated and at times even have an interest in not providing information. This has the effect of restricting or excluding parts of the public or civil society from participation in decision making. It requires a lot of effort and resources from civil society to ensure that information becomes available.

As part of the PPIPP project, PMG developed a 'Write to' tool aimed at connecting people to their representatives in Parliament and the legislatures. The tool is incorporated in their People's Assembly (PA) website.³ The idea was that it should be easier for people to contact their representative (national, provincial, and local) using the tool. The PA website also has a 'Rep locator' where members of the public can find the representative closest to them as well as information about **political party constituency offices**. PMG found that obtaining party constituency information is often a lengthy process requiring a lot of back and forth. Often, where information was shared, it was either incomplete or incorrect.

² During an engagement with ECPL Presiding Officers in 2019 - it was reiterated ECPL Hansard only records the house/plenary sittings and not the committee meetings. (http://psam.org.za/wp-content/uploads/2020/01/Putting-People-in-Parliament-Roundtable-Report_-FINAL.pdf)

³ <https://pa.org.za>

Political party constituency offices

National and provincial elections take place on the basis of proportional representation. That means people vote for parties, who decide who goes to parliament and the provincial legislatures. Legislatures established constituency offices to which parties assign MPs and MPLs to act as the party's representative in that area and to represent the issues of the area residents to the party and the legislatures.



PPiPP partners found that the ANC especially has been unable to provide information on its MP constituency information. If the public does not know who their representatives are, it is not possible to communicate with them and hold them accountable. This is especially relevant because PPiPP partners found that building direct relationships with speakers and staff members in the legislatures helped with accessing information.

Monitoring

ParlyWatch, the civil society alliance that was established in 2014, has been monitoring parliament's committees and the two provincial legislatures since 2015. Members developed a monitoring tool that assesses how an issue is dealt with in parliament. The framework was designed in 2016 and includes a paper/Google form scorecard for monitors around 4 themes. A committee's performance receives a score⁴ between 1-5 for each theme.

- 1) **Openness** and public access
- 2) **Independence** from the executive and holding the executive to account
- 3) **Responsiveness** to the public and influence of public input on the committee
- 4) General **effectiveness** and quality of discussions in the committee

The tool has also been used to engage in collective analysis and understanding of how committees work, which is then shared in reports with the public. In general, ParlyWatch monitors have observed that the National Parliament is performing better than the two provincial legislatures on providing information to the public about its schedules and therefore enabling more access. In 2018 for example, PSAM monitors in the Eastern Cape scored a 3 (fair) on all themes for the provincial committees they monitored except responsiveness which received a low score of 2 (poor). In a press release of the ParlyWatch report, Nomacebo Mbayo from the Right2Know Campaign was quoted explaining that sometimes decision making was shifted away from the public eye when committee members for example decided to have a working lunch outside of the formal meeting space.[5] Such experiences by partners point to the practice of gatekeeping.

⁴ 1 = fail, 2=poor, 3=fair, 4=good, 5=excellent.

Gatekeeping

A common issue that emerged regarding access is ‘gatekeeping’ by committee chairs, support staff or committee coordinators. A gatekeeper is someone in a position of power because you rely on them to access information, people or places. Even though in this case it is their job to ensure the public is able to participate, gatekeepers can undermine access by not making themselves available, by limiting or withholding information, or by being vague or hostile towards requests for access.

Different forms of oppression and discrimination that structure society manifest through gatekeeping practices. Parliament is a power-laden space where all people are not treated equally. In the context of South Africa’s high levels of gender-based violence, every setting where women have to negotiate access with men in positions of power there is potential for abuse and violence. PPIPP partners were aware of these dynamics and reflected on them collectively to understand and navigate power relations.

PPIPP partners had mixed experiences of feeling welcome in Parliament. Some felt that as people from poor and working-class communities who are not dressed in suits and arrive without laptops, they were questioned and watched more than other visitors like academics and middle-class NGO representatives. They have been asked who they are and who sent them as if their presence is something to be suspicious about. Women, black people from poor communities or non South-African citizens have experienced feeling intimidated when going to parliament. Because they form part of oppressed groups in society, some people working in government may perceive people in these categories as a potential threat to the system. This dynamic has been visible in cases where people from oppressed groups march to parliament to have their voices heard and are met by a police force ensuring that people only act within the rules of engagement determined by the state.

The experience of access was shaped by how people from Parliament perceived members of the public. For example, Vivienne Mentor-Lalu said that PMG monitors tend to be welcomed as “*neutral*” whereas people who come because they are taking up an issue, face problems with access. More regular contact between the public and representatives and committees increases the opportunity for meaningful interactions. When MPs and staff become familiar with people and vice versa, it becomes possible to have informal engagements before meetings and during breaks which increases the chance to ask questions or receive and share information. Therefore, an important lesson is that relationship building potentially improves the experience and outcome of public participation.

Accessing National Parliament and Provincial Legislatures

An important difference between national and provincial level legislatures according to Vivienne Mentor-Lalu is that “PLs are one step closer to the ground” meaning that “national parliament is focused on broad questions of national importance, which means they are often not well placed to do oversight over service delivery on the ground”. Provincial legislatures are responsible for oversight over provincial departments, which are the departments responsible for delivery on critical human rights like basic education, health, and social services. She further commented that

National Parliament allows public access to interviews or engagements with the Auditor-General (AGSA) on the audit outcomes of departments and entities. The Western Cape PL, on the other hand, is an example of a PL that has closed access to meetings or parts of meetings with the AGSA, which they should not do as it restricts oversight.

Some PPIPP participants experienced a hierarchy between different legislature levels. This did not necessarily mean MPLs were more accessible than MPs for all partners. In fact, other PPIPP partners had experiences of sitting around the table with MPs in National Parliament. The concern here was the inconsistency of access, which some partners perceived as arbitrary.

Experiences of inconsistent access must also be understood against the background of the scope and nature of PPIPP's work. When it comes to the PLs, it must be kept in mind that the PPIPP project focused on accessing committee information and engaging with the ECPL and the WCPL. Because the PMG has an office in the Western Cape and a team of monitors that are trained to monitor committees, the PPIPP project was able to commit that infrastructure and resources to build relationships and obtain regular information from WCPL committees.

In the EC where there is no PMG infrastructure, the PPIPP used a different approach, testing if it was possible, and what it would take for an NGO such as the PSAM to obtain more information about the proceedings in committees and make that information available to committees. In terms of differences between these two provinces, it seems that access to the Eastern Cape Provincial Legislature and information on committee meetings has been harder to obtain and share with the public. In the Western Cape Provincial Legislature the system where committees make resolutions and identify actions at the end of each meeting was utilised by PMG. Before the PPIPP intervention in the WCPL, the availability of this information was erratic. With PMG's routine presence in committee meetings and recording the discussions, PPIPP was able to make more detailed information available to the public, including the resolutions and the records of the discussions that led to these resolutions.

An advantage of being located in the Western Cape was that it was easier for PPIPP partners in the Western Cape to access and engage both National Parliament and the Provincial Legislature at the same time as both institutions are based in Cape Town. Activists who were able to follow committees around certain issues on both levels benefitted from developing a multi-layered understanding and context of oversight.

“Why do we need a bridge to get in?”

Nobuzwe Mofokeng of the Interchurch Local Development Agency in Eastern Cape asked the question, “*Why do we need a bridge to get in?*” This referred specifically to the experience of the core partner organisations of PPIPP, many of whom were not as well resourced as the project partners. Core partners appreciated the role of PMG, PSAM and PPIPP as a whole in helping them access the different legislatures. Yet both core and project partners expressed an awareness that this bridging role played by PPIPP should not be necessary. Or rather, core partners and the communities where they are based should be in a position where they are able to access legislatures without the help of PPIPP and similar projects.

Legislatures are supposed to take responsibility for this bridging role themselves, even if they would then find it necessary to work with civil society groups to carry out this responsibility. Thoko Madonko of the Heinrich Böll Foundation pointed out *“that both Parliament and the provincial legislatures are meant to budget for public participation as part of their constitutional mandate to facilitate public involvement.”* Legislatures have tended to interpret their responsibility narrowly in the sense that public participation is limited to written submissions and occasional hearings on special issues. As long as this is the case, Nobuzwe Mofokeng’s question will speak for the groups who found a bridge in PPIP, and perhaps for those who did not find a bridge to get in.

Theme 3: Engagement between people and Parliament

The role of the ordinary people (in the provincial legislature) is to ensure that the government takes responsibility and delivers on its duties.

Clarence Xiniwe, Mqanduli Community Advice Office

When they come to evict me, they say we are in an area that is for the municipality to use. The person who takes me out here, that person will tell me why at my age, I have a right to say I own this place. People are confused, don't understand and come to me to ask and I explain to them. I am monitoring the parliament so I am aware what cards they are playing.

Noncedo Bulana, Right to Know (R2K), Khayelitsha, site C

This work requires consistency (from civil society organisations). You need to claim space and have engagements while being aware that the systems are not working well. Therefore you need to also advance issues that aim at fixing the system (of public participation). If you just come and do submissions on your issues and leave, your chances of success are slim.

Vivienne Mentor-Lalu, Womxn and Democracy Initiative, Dullah Omar Institute, University of the Western Cape

Even then, you could use parliament as a site to try and force a massive expansion of government expenditure, but you need to be having a lot of pressure happening elsewhere. It is not the way the legislatures are structured. So, in that sense, it is a site of, in my view, less radical change. But does that mean it serves no purpose? That would probably be going a bit too far.

Seán Muller, Public & Environmental Economics Research Centre (PEERC)

PPiPP partners in the quotes above talk about their reasons for working with and engaging legislatures. The common theme between them, we can say, is that they wanted to ensure that the political system promotes and delivers **social justice**. In this section we consider what the PPiPP partners did in order to achieve their desired outcomes and what the issues are that arose from their actions and experiences. We start by looking at what the outcomes are that they desired.



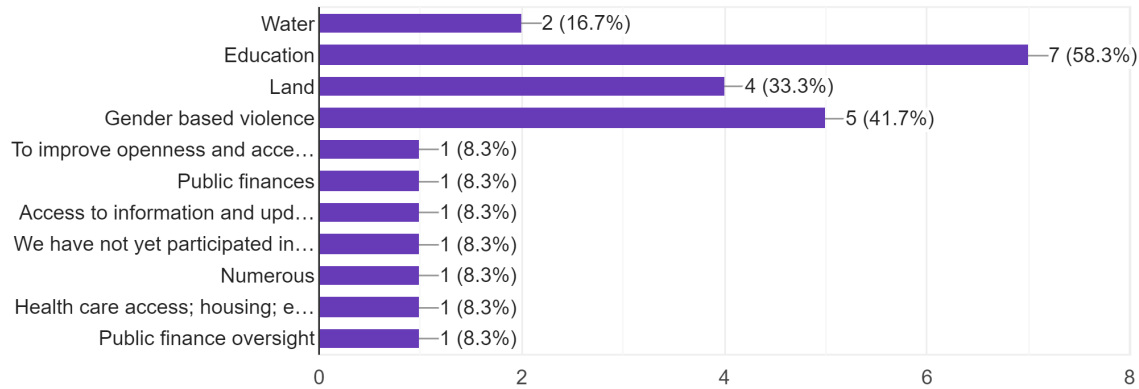
Social justice

Justice is based on the idea of fairness and is usually related to the law. Social justice goes beyond the law and looks at wealth and oppression. Most people who use the term social justice mean they want fairness in the way wealth is generated and shared as well as fairness that results from doing away with oppression, even and especially where inequality and oppression are supported by the law.

Social justice issues - desired outcomes

8. What social justice issues did you try to solve through public participation in the provincial legislature? (You can tick more than one box.)

12 responses



The chart above is from the survey we conducted among PPIPP partners. It gives an overview of the type of problems or issues people in PPIPP were trying to address through their work on the legislatures. On the left of the chart is a list of these issues and on the right are the number of ticks each issue got. It is important to keep in mind that the respondents who completed the survey were members of organisations and that their responses reflect their organisational as well as individual views and experiences.

A wide range of issues were taken up, with education, gender based violence and land being the most common. Others were water, access to information and participation, healthcare and public finance oversight. Although this list is not exhaustive, it gives an overview of the wide range of social justice issues activists were trying to address through PPIPP.

Public Finance: Overseeing budgets and fiscal matters

The way governments at all levels raise and spend money is critical to addressing issues such as education, gender based violence and land. The legislatures' role in ensuring transparency, public engagement and oversight over how government raises and spends public money is critical, and required in South Africa's democracy. Given the principle of democracy in decisions on public finances, and noting weaknesses in the way our legislatures perform their roles, the PPIPP therefore included these matters in its work.

Budgets and fiscal matters



A budget is an estimate and a plan for income and expenditure. All government departments have budgets but the most important one is the national budget on which provincial governments and other institutions base their budgets.

Fiscal matters refer to laws, policies, actions and decisions that relate to government finances. It includes taxes, loans, investments, revenues and spending.

Taking part in the oversight of budgets and fiscal policies requires knowledge and understanding that can be technically complicated. PPIPP partners knew that if they wanted to be effective in their interactions with politicians and officials, they had to empower their own members with knowledge and understanding of fiscal matters. In order to do so, PPIPP focused on research, training and developing educational materials.

PEERC, the PPIPP partner with expertise on these matters, produced a research report into *'Fiscal oversight by parliament and provincial legislatures'* that furthered PPIPP's objectives regarding research, capacity building and awareness raising.[6] The report explained the legislation that governs the making and oversight of government budgets and fiscal policies. It also identified a number of issues that constrained and even undermined the ability of provincial legislatures to oversee budgets and fiscal matters.

These constraints included:

- Provincial legislatures did not pass the Money Bills Acts that would give them the powers and procedures to change budgets proposed by provincial governments. These Money Bills Acts are required by the Constitution and without them the legislatures can only accept or reject proposed budgets, but cannot change them. Seán Muller of PEERC added that “this is a legal grey area. We lean towards the view that in the absence of such Acts, legislatures can strictly only reject or accept, but that view is contestable.”
- The Gauteng and Eastern Cape Legislatures passed Money Bills Acts during the time PPIPP was active, but these are deeply flawed according to the PEERC research report.
- Neither National Parliament nor any Provincial Legislature has ever made a substantial change to a budget proposed by the executive. In fact, budgets tend to be treated as announcements rather than proposals in the legislatures and the media.
- MPLs often lack the information and knowledge needed for effective budget oversight. The provincial legislatures lack the necessary expertise, either internally or through semi-autonomous institutions like provincial legislature budget offices, to support MPLs in this work.
- In practice the time frames of various budget processes do not allow for thorough engagement by MPLs.
- The political system of proportional representation places the majority of MPLs in subordinate positions in relation to premiers and MECs in their political parties.



Money Bills Acts

A bill is a law or an act that is proposed to parliament or the PLs. A money bill is any law that concerns the allocation of public monies or taxes, levies and duties. The Constitution says that only the Minister of Finance can introduce such bills in the National Assembly and only Members of Executive Councils (MECs) of Finance can introduce them in PLs. Parliament and PLs must pass Money Bills Acts in order for them to have the power and procedures to amend the proposed budgets.

In the light of these constraints and weaknesses in the oversight role of provincial legislatures, what chance do members of the public have to exert meaningful influence over budgets and fiscal matters? Muller commented that:

I do think that the legislatures, for all their many limitations, they do have potential...if you are somebody who is looking for, or working for a group of people or an organization who is looking for serious social change on any kind of short horizon, by which I mean less than a decade, then I am not sure the legislature is the place to go.

Two types of advocacy

Nobuzwe Mofokeng of the Interchurch Local Development Agency (ILDA) in the Eastern Cape said, “As for ordinary people, they must participate in platforms and engage with the legislature to make sure their needs are addressed.” She added, “We wanted the provincial government responsible for education to provide transport to schools, that was the primary goal at the time we had an opportunity to engage with them.” On her part, Emmarentia Goliath, a founder and coordinator of Witzenberg Rural Development Centre (WRDC) in the Western Cape, said:

One of the issues we presented was on water access and installation of proper sewage and sanitation systems in our communities in rural areas. We learnt that there was a budget set aside for this work, yet nothing was implemented.

These two examples point to a second type of advocacy work done by PPIP partners. The first type, of which the work around budget oversight is an example, aims to change laws, policies and structures. It is the work of ‘fixing the system’ that Vivienne Mentor-Lalu referred to. The second type aims to solve the problems and meet the needs of the specific group of people represented by the partner organisation. For ILDA, it was their constituents struggling with school transport, and for WRDC, the people in Witzenberg communities who lacked access to water and sanitation. The two types of advocacy complement each other, but it is important to understand the difference because of the different constraints and requirements.

Mofokeng gave an insight into the difference when she said:

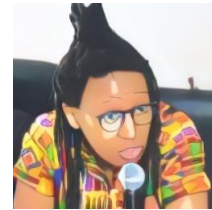
When I attended the portfolio committee for the first time, there was one government official who was sharp, asking his colleagues critical questions and grilling them. I realized that he understood the issues on the ground and wanted things to change. He was one of the few committed ones. So, I thought when it was time for us to make a presentation in the future, I would drop his name. Indeed, when we presented about the school transport issues, it was resolved. Association to power is important, but he is no longer there. This was in 2018.

The government official made a difference in favour of meeting people’s practical needs. Could the same happen regarding legal and policy changes around budgets and fiscal matters for

example? PPIPP's experience suggests otherwise. The probable implication is that face-to-face contact and relationship building can help with practical needs advocacy, but that structural change advocacy requires a broader approach that includes building an intellectual-political case and cultivating a public movement in favour of the desired change.

PPIPP combined practical needs advocacy with structural change advocacy, showing an awareness that each on its own is not enough. The issue of the time needed to achieve change confronted both types. To Muller's warning against expecting short-term change, Goliath added, *"The challenge is that working with the government is a slow process, things take years. As a result, we have not achieved much as we are still monitoring."*

If change does not happen in the short term, can we explain how it will happen in the long term? Or are we just hoping it will happen?



Monitoring and making submissions

"We have a right to monitor and influence," said Philiswa Gwasela of the Qunu Advice Office in the Eastern Cape. She explained that monitoring meant being invited to observe without making comments. In the Western Cape the Right2Know (R2K) Campaign monitored parliament and the provincial legislature (PL) systematically. In the context of the 2019 Western Cape roundtable initiative where the Speaker gave an address, R2K activist Khaya Xintolo said: *"I have heard these promises before from politicians who say the right things but the implementation never happens."*^[7] PPIPP partners had diverse experiences with MPs and MPLs. Some PPIPP partners were able to, over time, find opportunities to interact with MPs and MPLs, while others experienced members behaving 'like royalty' who people found unapproachable.

Monitoring took a lot of time and resources, and the kind of monitoring that R2K was doing in the Western Cape was not done by most groups for reasons of distance, time and the lack of an organisational structure that enabled the work. Nevertheless, there was a sentiment among PPIPP partners that MPLs and MPs performed and behaved better if they had a sense of being watched. At the same time there was an awareness that monitoring was not enough. Samantha Waterhouse of the DOI in the Western Cape summed it up:

For instance, when someone from R2K enters, the committee knows they are being watched. But we do not know what it means really, if it means more stuff is swept under the carpet or taken to the corridors and out of the committee room.

One of the means PPIPP used in addition to monitoring was making **submissions**.

Submissions



Submissions usually refer to written documents including letters delivered by members of

the public to the legislatures. Oral submissions can also be made to hearings hosted by the legislatures. Sometimes people make oral submissions based on a written submission that they have sent and sometimes when provincial legislature committees go out to towns and villages for hearings, they allow people to make oral submissions without having sent written ones first. [8]

Jay Kruise of PSAM in the Eastern Cape explained how they approached submissions: *“We draw on evidence to make our claims, we remind stakeholders of what the law requires and expects of government.”* According to Zukiswa Kota, another staff member of PSAM, the organisation made submissions to the Eastern Cape PL committees on health, education, Money Bills and human settlements. In the Western Cape, PPiPP partners made submissions on community safety, social grants and public health. The work was often led by women and incorporated a strong **feminist** perspective.



Feminist

If an action, view, person or group is feminist it means they support justice, liberation and equality for women. There are many feminist views but most agree that this requires wholesale changes to basic social institutions because they are patriarchal, which means they support and embody male domination.

One of the issues that came up regarding submissions is the fact that its focus and pace are under control of the legislature and may not meet the needs of civil society groups and communities. As Rebecca Mort of Women on Farms Project (WFP) in the Western Cape explained:

On the whole parliament works on its own schedule and the advocacy needs of civil society is not reflected. There is one meeting a year by the labour portfolio committee for example, but underpayment of wages happens every day. The tempo of parliament and civil society is not the same.

Another issue is reflected in the pattern that it is the well-resourced, professionalised and often university based NGOs that take the lead in this type of activity. The language, research and writing requirements seem to have marginalised community groups and members of the public from poor communities.

Face-to-face engagements

One on one engagements was another important way through which PPiPP partners engaged with legislatures. This took place in different ways - formally and informally, as part of monitoring and making submissions, and as a standalone activity. Informal engagements included opportunities to build relationships with elected representatives by simply sharing the same space, getting tea together and greeting. In some cases, PPiPP partners went beyond MPLs and MPs and reached out to senior public servants with good results. In general, the partners experienced face-to-face engagements as more positive than monitoring and making submissions. There were fewer restrictions and more immediate results were achieved.

When partners complained, it was that there were not enough opportunities for such engagements between members of the public and elected politicians. Rebecca Mort of WFP in the Western Cape, for example, mentioned a provincial health indaba and said, “*This was the first time I saw MPLs out (in poor communities), but it was on the invitation of the MEC and it was very rare. They are not seen at an event not linked to government.*” Zukiswa Kota of PSAM in the Eastern Cape mentioned the roundtable discussion that took place in 2019 and was attended by the speaker of the Eastern Cape PL and other PL delegates. She added that “*a number of helpful resolutions emerged from it*” and that “*This was perhaps an example of meaningful, responsive engagement with a range of stakeholders.*” In summary, partners experience face-to-face engagement as a positive opportunity for public participation, but felt there were not nearly enough such opportunities. Successes that came from this were about meeting people’s practical needs and not about achieving structural changes, which does not preclude this type of engagement from contributing to structural change over time.

The PPIPP partners in the Western Cape attempted to engage directly with MPLs via the constituency duties of elected representatives. This method of engagement proved particularly difficult as described by Vivienne Mentor-Lalu of the DOI in the Western Cape. According to Vivienne Mentor-Lalu, PPIPP partners decided to approach the MPL assigned to represent the ward in Khayelitsha, Cape Town where one PPIPP partner was based. They could not find out who the ANC representative was and when they called the DA representative, said Mentor-Lalu, he responded as follows:

At first the MPL denied that he was that person. He was deeply suspicious. Our core partner explained that you are our MPL, but he would not listen to her, the community member. I had to speak to him. I had to kind of pull rank and say this is an EU project and all that. He then agreed that we could email him, which we did but there was no response. We were not gaining access. We had hoped for real contact.

Litigation and engagement

When legislatures failed to ensure public involvement, some NGOs found that taking them to court was the best way to ensure that public involvement would happen and be taken seriously to some extent. Although litigation was not part of the PPIPP project, the partners were aware of its importance for public involvement. Khadija Bawa who was of the Social Justice Coalition in the Western Cape said, “*Litigation in the civil society sector has become the default.*” Some of the better resourced NGOs have opened legal departments that focused on litigation, which happened after other advocacy methods had been exhausted and promises had been extracted from politicians who did not keep them.

As Bawa noted, this is not necessarily a positive development. “*You take people to court for things the constitution says they must do,*” she explained.

A lot gets lost in the court process, you can only focus on a policy issue, an implementation issue that is going to take you 500 more years. The court process is a very non-participatory process. The only people involved are the head of the NGO and legal people. Communities have literally no space and voice in the court process. The court doesn't talk about systemic issues and culture of things.

Engagement during Covid-19

Several PPIPP partners expressed their frustration at the attitude of the legislatures when the Covid-19 pandemic started and legislatures shut down without considering the gaps left in public engagement and oversight over the executive. When the legislatures reopened under pressure from, among others, PPIPP partners, the work of the legislatures and opportunities for access and engagement moved online. Clarence Xiniwe of the Mqanduli Community Advice Office in the Eastern Cape said, *“The lockdown has been hard. We were not able to access the legislature and committees. They did not let us in and most of them worked from home.”* In the eyes of some PPIPP partners the Covid-19 pandemic provided legislatures with a convenient excuse for them not fulfilling their mandate. As Emmarentia Goliath of WRDC in the Western Cape said, *“After Covid-19 broke out and a lockdown was implemented, things stopped moving. They blamed Covid-19.”*

Observing committee meetings in person created the possibility of partners finding informal opportunities to engage with members. When meetings moved online this was no longer possible. Despite this, PPIPP partners agreed that they were able to continue their work, although most of the issues that frustrated this work also persisted.

Theme 4: Social justice through parliamentary processes

Leading up to the election [in 2019] there was an outpouring of disruption over people's issues not being addressed as well as not attending to the complaints of communities... The legislature cannot stand back and just say local government go there. It needs to become more robust in that space and make sure we give feedback if we can't do things in the timeframe given to us by communities because that results in flare-ups.

Speaker of the Eastern Cape Provincial Legislature, Mrs Helen Sauls-August.[9]

When people are not involved in the decisions that affect them, political interventions are likely to fail. Public participation improves the quality of policy and legislation, it strengthens accountability and enhances the overall system of governance...the key constraints for the less powerful and the poor to participate in parliamentary processes are expensive data costs inhibiting communication, transport, limited access to content and inherent culture of disengagement. People have lost trust in government and politicians.

Speaker of Western Cape Provincial Legislature, Mr Masizole Mngqasela⁵

Another issue that we took up with parliament was in partnership with Black Sash on SASSA grant payments in 2018. There was a problem with the payment of social grants, and we worked with Black Sash to ensure that there would be no delays in the payment of grants that year. This was a success because the grants were paid.

Emmarentia Goliath, Witzenberg Rural Development Centre

There is a link between the trend for people to protest in the streets rather than voicing their demands through the legislature. It is because these platforms are hard to access and superficial. I would like to see a move from protests to more dialogues, as protests don't result in long lasting solutions with clear plans.

Jay Kruise, Public Service Accountability Monitor, Eastern Cape

In this final section we look at what sense of achievement PPiPP partners felt as a result of the engagements enabled by the PPiPP project. We share how different partners reflect on the question, was the PPiPP project worth it? As the Speaker of the WCPL pointed out in his key-note address quoted above, democracy does not work when people are not involved in decisions that affect them. However, in this section we also discuss barriers to participation that are the result of the structural and institutional set-up of legislatures. All these experiences and insights from them are relevant to consider when making an effort to improve public participation and achieve social justice.

Reflections on aims and outcomes

The aim of PPiPP was to connect people to politicians and parliamentary processes. There have been mixed achievements as many organizations engaged various issues in different ways. Generally, Vivienne Mentor-Lalu expressed that *"ideally they [parliament] should be working for us. Instead, we have to work very hard to defend and protect democracy"*. Samantha Waterhouse

⁵ Key-note address at PPiPP Western Cape provincial roundtable 13 November 2019.

pointed out that it is sometimes difficult to know what the effect of public participation is and whether 'being in the room' leads to more or less transparency. She said *"you raise things and you see no immediate change, but debates begin to be more robust. It is hard to see success and point it out because things are done in a collaboration. It becomes hard to point it out to one project/programme."*

Core partners, as mentioned before, identified the relationships they were able to build with project partners as a key outcome of the PPIP process. These relationships also helped them access information and engage elected representatives, which were the other important positive outcomes for them. At the same time, Motlatsi Komote from DOI reflected that *"partners are overwhelmed and do not have the capacity. It is very difficult to keep people engaged if it is not a bread and butter issue."*

The late Jenny Nkala, an activist who worked with Women on Farms Project, shared in the PPIP podcast the challenge of achieving social justice on 'bread and butter' issues through engaging with Parliament. She said the root causes of injustice are not addressed which makes it hard to solve the problems of farm workers and dwellers. They went to Parliament to make sure that white farmers stop evicting people. In addition to this she emphasized that farm workers and dwellers are in urgent need of housing and better wages as the minimum wage does not cover basic expenses like clothing and school fees. When asked about her experience in the National Parliament Jenny Nkala said, *"People just talk and talk and there seems to be no solution to the problem."* What then are the possibilities of addressing the root causes of poverty and inequality through engaging Parliament?

Structural barriers to achieving social justice

Reflections such as Nkala's in the above, indicate the awareness among PPIP partners that there are limitations on the achievement of social justice through engaging legislatures. Some of these limitations are systemic, meaning that even when the public has access to information and when they are allowed to participate, the structural set-up of the system makes it difficult to achieve social justice.

One reality is that the public has limited means to enforce their views and demands in parliament. The experience with litigation as discussed earlier through the example of Khadija Bawa, illustrates that it is possible and common for the government to ignore the public. Litigation however becomes a barrier to social justice when it is the only effective way oppressed people can make the government listen to them. It requires resources most civil society actors and activists don't have. Moreover, when litigating, people have to give over control to experts and representatives, often from outside their communities, in the process of achieving social justice.

This dynamic also emerged from the Eastern Cape Roundtable event in 2019. The South African Human Rights Commission faced challenges performing its duty to monitor and address human rights violations in the province. Loyiso Mpondo mentioned during his presentation that due to budget cuts (10 million ZAR) the **chapter 9 institution** has limited resources for litigation. This

indicates the prevalence of litigation as an instrument to force the government to act according to the rules of South Africa's democracy.



Chapter 9 institution

Chapter 9 of the constitution of South Africa establishes six independent institutions whose role is to safeguard democracy. These institutions have different powers and focus areas. The Public Protector, for example, investigates allegations of maladministration and improper conduct by state officials, while the South African Human Rights Commission (SAHRC) monitors and investigates violations of human rights.

Another lesson has been that public participation is more effective when an issue receives a lot of media attention. Again, this experience shows that parliament becomes (more) responsive when there is a lot of pressure and attention on their decisions and practices. A Parliament Watch report (2016-2018) on the experiences and reflections of monitors mentioned that: *".. it appears to us that committees often only spring into action once issues have exploded into the public domain through civil society advocacy campaigns or litigation"*.

Political party structures

Political party structures compromised the independence of committee members in relation to the executive. The party's hierarchy, based on seniority and status, has an effect on relationships between MPs/MPLs and members of the executive. This results in parliamentary committees appearing as weaker than the government departments they have to oversee and hold accountable.

ParlyWatch monitors have observed that committee members act deferential, sympathetic and protective towards members of the executive, especially when a party is in the majority such as the ANC at national level or the DA in the Western Cape, and when ministers or deputy ministers are present in the meeting. In other words, MPs and MPLs have to challenge their senior higher-ranked party members when they engage the executive. In cases where committee members and chairpersons did exert authority over ministers and senior departmental officials, monitors noticed that these MPs were ignored or resisted (Parliament Watch report 2016-2018, page 13-14). Across political parties, committees tend to fail following through with departments on requests for information or to ensure that their recommendations are implemented.

When one political party has a majority, it is very hard for MPs and MPLs from opposition parties to have influence over the outcomes and decisions of committees. The Western Cape Legislature has been unique in the sense that the DA is in power and the ANC in the opposition. Still, the same structural power relations and dynamics have been observed. Whether the executive is ANC or DA, political parties use their power to dominate decision making in parliament at the expense of the public.

Sizwe Manqele, an activist working with the R2K campaign, has been monitoring in the national parliament and the Western Cape Legislature for three years. In his view, elected representatives know what is happening on the ground, but *“they were there [in the party] to get into the palace, the parliament, to become royalty”*. People learned that once people are elected in power, they are carrying out the mandate of the political party and not that of the community. He witnessed that members of parliament cannot get away from party politics in carrying out their work. In the end, they will comply with the ruling party.

Khadija Bawa from SJC also experienced that committee members didn’t engage on the substance of issues, but instead asked why participants are attacking the ANC or the DA. In a PPiPP podcast she gave an example of the time when SJC wanted to address the lack of street lights and how it creates dangerous situations for women travelling in the dark. Instead of engaging the problem of women’s safety, SJC was questioned around their political loyalties.

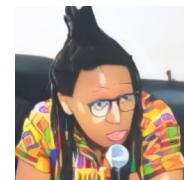
PSAM learned that in the Eastern Cape the ANC actively works to avoid public engagement through the media. Jay Kruuse shared that *“if ordinary members of society are critical, they may want to not have that critique, and make sure it does not get coverage”*. This is a problem because the opposition party is perceived as weak in terms of both representation and their oversight duty. Such political party power dynamics create structural limitations for public participation.

What motivates people to engage legislatures?

People involved in the PPiPP project had different motives for engaging in public participation and being part of a project like the PPiPP. These motivations were based on people’s realities, hopes, belief systems and previous experiences as members of a highly unequal society. PPiPP placed high demands on core partners who all indicated the project was worth it. Here we discuss how partners understood the benefits of the PPiPP project.

Generally, core partners appreciated the learning and being informed of what is going on in parliament as a result of being part of PPiPP. Activists reason that because Parliament ‘should’ listen to people’s concerns and represent their interest, it is worth fighting for public participation. This reasoning is hinged on the notion that public participation is a right and civil society has a duty to defend democratic rights. Part of this duty is to monitor Parliament and to keep its members accountable. Khadija Bawa from the Social Justice Coalition said that *“the fact that you can sit there, even if it is hostile, is something”*. The current situation is implicitly compared to the apartheid past where it was not possible for oppressed groups to participate in government at all.

What does it mean when the right to public participation does not give marginalised people in society real decision making power over issues that affect them directly?



For small community-based organizations with limited resources, there are opportunity costs to joining a project like PPiPP. Organizations identified a number of benefits related to PPiPP that

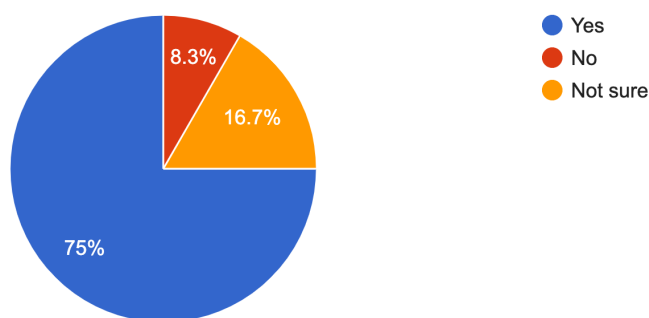
made the project worthwhile for them. Learning and being connected to partners like PSAM in the Eastern Cape and DOI in the Western Cape were perceived as benefits. Activists understood public participation not only as being able to voice out community interests in Parliament. Importance was also placed on being able to bring their knowledge from Parliament and PPIP training back into their communities.

Rashaad Alli of PMG said that elected representatives are nervous about public scrutiny and need to be educated together with the public on the benefits of engagement. Civil society should be motivated to be part of the solution because “*scrutiny by Parliament is never enough in a democracy - civil society is an important part of the chain.*”

These findings are reflected in the public participation survey results where twelve participants answered the question ‘was it worth it to spend your time and energy on public participation?’ All core partner participants responded that it was worth it. This corresponds with the reality that many core partner organizations were exposed to parliament and able to access information on budgets and portfolio committees for the first time. This generated a sense of inclusion, connection and learning that was highly appreciated. ›

12. Was it worth it to spend your time and energy on public participation?

12 responses



Three of the project partner participants answered ‘not sure’ (2) or ‘no’ (1). This means that the members with relatively more access to resources, information and parliamentary processes are more skeptical about pursuing public participation in parliament. What explains this? Zukiswa Kota of PSAM reflected that this might be connected to the different roles of project and core partners. Core partners were focused on participating themselves and experienced their access as a positive, while project partners had the additional role of facilitating broad participation and were more aware of the limited achievements in this regard.

In an interview Vivienne Mentor-Lalu expressed that:

This work is frustrating. We had regular check-ins with partners. We always said it was not easy, but we are all here because we believe in fighting for legislatures

that do their constitutional work. You can only do this work if you believe that to some extent, and some organisations said it is not worth it, but for us it was.

From extensive experience, awareness of the limitations of public participation is heightened. However, a strong belief in democratic values and hope for the future, motivated even skeptical participants to keep opening parliament's door for the people.

“Being a wedge is not good enough”

On 14 September 2021, PPIPP hosted a Virtual Roundtable called “Successes and Challenges in Gaining Access to Provincial Legislatures from a Civil Society Perspective”. This was two years after the first PPIPP face-to-face encounters between legislatures and civil society organizations in the Eastern and Western Cape Provinces. A lot happened in the two years between these roundtables. The Covid-19 global health pandemic is still causing much havoc in communities and societies and public participation has shifted to online platforms. Reflecting on experiences in PPIPP, Zukiswa Kota from PSAM remarked that *“being a wedge is not good enough”*. She gave an overview of the persistence and efforts of civil society partners to participate in the legislature and the ongoing challenges they are facing. Many of the experiences were echoed by presenters from organizations in other provinces. Despite the frustrations and difficulties all PPIPP partners revealed immense persistence, effort and hope that one day social justice will be achieved.

Appendix: Methods

Three methods informed the analysis and writing of this case study. The first was a review of PPiPP documents consisting of meeting notes and minutes, annual project narrative reports, training materials, media publications, podcasts, research outputs and roundtable reflections. These materials were reviewed throughout September and October 2021.

In addition to this, we generated primary data through qualitative interviews and an online survey. Fourteen interviews with PPiPP core and project partners were conducted between 29 September 2021 and 18 October 2021. Due to time constraints and the ongoing health risks in relation to the Covid-19 pandemic, researchers did not travel to the Eastern and Western Cape partners for face-to-face encounters. We conducted all interviews online and by telephone. DOI and PSAM assisted with the selection of interviewees and we followed up on survey participants who indicated they were available for an interview as well. The 8 interviews with PPiPP project partners were conducted, and recorded, in zoom. The 6 interviews with core partners, often located in more remote places with limited internet connectivity, were conducted by telephone (except one). Telephone interviews tended to be shorter, between 15-30 minutes than online interviews which lasted between 30-75 minutes.

An online Google Forms survey was shared through email and WhatsApp with the PPiPP project and core partners between 23 and 28 September. We received 13 responses. The participants were from the following types of organisations: CSOs (8), advice offices (2), academic research institutes (1), cooperative (1) and CBO (1). There were 7 participants from the Western Cape, 5 from the Eastern Cape and 1 from Gauteng. The majority were women (8).

References

1. Staff Reporter. A wedge in Parliament's door. 30 Oct 2019 [cited 2 Nov 2021]. Available: <https://www.grocotts.co.za/2019/10/30/a-wedge-in-parliaments-door/>
2. What Parliament Does. [cited 2 Nov 2021]. Available: <https://www.parliament.gov.za/what-parliament-does>
3. Coombes A. Maverick Citizen Op-Ed: Parliamentary oversight resumes, but challenges remain. 9 Jun 2020 [cited 2 Nov 2021]. Available: <https://www.dailymaverick.co.za/article/2020-06-09-parliamentary-oversight-resumes-but-challenges-remain/>
4. Grocott's Mail Contributors. People in parliament under covid-19. 13 Aug 2020 [cited 13 Nov 2021]. Available: <https://www.grocotts.co.za/2020/08/13/people-in-parliament-under-covid-19/>
5. Mothudi TM. Parliament Watch releases worrying report on Parly's Performance. 17 Apr 2019 [cited 16 Nov 2021]. Available: <https://psam.org.za/news/parliament-watch-releases-worrying-report-on-parlys-performance/>
6. Muller S. Fiscal Oversight by Parliament and Provincial Legislatures. Public and Environmental Education Research Centre; 2019.
7. Don't let "We serve the People" just be rhetoric. 15 Nov 2019 [cited 16 Nov 2021]. Available: <https://dullahomarinate.org.za/news/don2019t-let-2018we-serve-the-people2019-just-be-rhetoric>
8. Legislative Sector Support Project Team. Public Participation Framework for the South African Legislative Sector. Legaslative (sic) sector South Africa; 2013 Jun.
9. Nkosi N. Helen Sauls-August ready for the Bhisho hot seat. In: The Weekend Post [Internet]. 25 May 2019 [cited 2 Nov 2021]. Available: <https://www.heraldlive.co.za/weekend-post/your-weekend/2019-05-25-helen-sauls-august-ready-for-the-bhisho-hot-seat/>

Guidelines for provincial legislatures and civil society organisations

Scaling up meaningful public participation in provincial legislatures

The guidelines below are based on observations and recommendations made by the PPIPP project during the course of its 4 years of existence and through interviews with PPIPP and ParlyWatch members in preparation for this case study. These recommendations are meant to guide CSOs and assist MP's/ MPL's in how they can improve access and participation in legislatures. Similar recommendations have been made by PPIPP partners and can be accessed on various websites of PPIPP partners.

Guidelines for members of parliament and members of provincial legislatures

- Be receptive and responsive to public inputs. Levels of participation will rise if people get a sense that public inputs are taken seriously.
- Even though engaging with meaningful public participation is challenging and takes your time, remember that it is valuable for our democracy. It is also part of your job to help make public participation happen and to engage with it. Do not see it as an optional extra or a distraction.
- Use your constituency time more effectively to engage with the public.
- Do more to facilitate public participation. Get creative and do not stick to the same methods when they are clearly not working. Think outside of the box, for example, some PL committees use chat platforms (such as Telegram, Signal or WhatsApp) to create conversation with the public. Make your contact details (email, phone number and social media contacts) easily accessible and ensure that such details are kept up to date on Parliament's website and your political party website.
- Take special measures to ensure the participation of marginalised groups like women, people living in poverty, people with disabilities and gender non-conforming people. Ask those groups what the measures should be. Always take the conditions of constituencies into account. Take responsibility to enable people to participate.
- Be organised. Be respectful of the public. No last minute meeting cancellations!
- Broadcast public participation events and legislature sessions on community radio. Why is Parliament being broadcast on a pay channel? Channels and websites that do not make use of data or cost people money to use, have been proposed to legislatures and several responded they will consider this option.

- All committee meetings must be held in the open and be accessible for the public to attend, if a meeting is closed it must meet the standards of the Constitution for closing a meeting and the reasons must be made public.
- Committees should make the resolutions and actions clear at the end of every meeting and these must be made available to the public on free platforms within reasonable timeframes.
- Make public access and participation a priority. Spend money on the infrastructure for communication.
- The timeframes are often too tight, especially for public comments and engagement on budgets and fiscal matters. Allow more time.
- Insist on resources for technical support for MP and MPLs, including either greater internal capacity for public finance oversight or properly staffed and empowered provincial legislature budget offices.
- Normalise public participation in all oversight meetings and in amending budgets. End the idea that budgets and fiscal policies are announcements that must just be accepted.
- Public participation must come with the possibility of influencing decisions. Understand that this may mean you change your views because of the participation. Make sure that the public sets the agenda for any participation including Taking Legislatures to the People participation events. Do not undertake or participate in tick box processes.
- Read and implement the Public Participation Framework and the Sector Oversight Models, call on the presiding officers of the legislatures to publicly release all evaluations of the legislatures and to act meaningfully on these.
- Tell yourself: I am accountable to the people before I am accountable to party leaders. Think about what structural changes would be necessary to make this a reality and how the legislature can support such changes. Engage civil society and the public about these changes.

For Civil Society Organisations and the public

- ★ Make use of the spaces for public participation. Be proactive. Continue to raise ideas, make submissions (even when there is no call) and engage. Include provincial legislatures in your public participation work.

- ★ Demand openness by being there, taking up the space and refusing to be ignored on important issues.
- ★ Be consistent. This work requires continuous efforts over long times to bring the desired results.
- ★ Use both informal and formal approaches to achieve your goals. This means to engage with committees through submissions or letters and informal approaches such as conversations with MPs and MPLs.
- ★ Build partnerships and coalitions to strengthen the impact of your advocacy.
- ★ Advance ideas aimed at fixing the legislature's systems for transparency, access and public participation. You need to recognise that the system is not working well. If you come and do submissions on only your issues and leave, your chances of success are slim. Consider joining networks and coalitions that try to make the legislatures more open.
- ★ Check your practices and the frameworks you use. Are they democratic and participatory? Do they respect the agency and interests of the people you work with? Do they recognise how oppressions intersect, including along lines of race, gender, class, nationality and disability status?
- ★ The mandate and rules of parliament and the legislatures must be tackled. Avoid focusing on attitudes alone, although they are important. The attitudes of the politicians cause problems, but the attitudes are partially formed by the rules and the institutional design. We must push for a genuine participatory democracy at the level of institutional design. Civil society must build visions of what structural changes are needed to make meaningful public participation not just possible, but unavoidable.
- ★ Familiarise yourself with how legislatures can amend or reject budget proposals from national and provincial government.