

**The role of policy management units with particular  
reference to the PMU in the South African Parliament**

**BY**



**A Full-Thesis submitted in fulfillment of the requirements for the  
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**Supervisor**

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## **ABSTRACT**

This study seeks to understand and examine the role of public policy units with a specific focus on the South African National Parliament Policy Management Unit (PMU). The problem being investigated is that of a lack of constructive support and debate in understanding the role and functions of policy management units. Thus, the scope of the study is limited to policy management units with the South African Parliament PMU as a special reference.

The primary objective of this study is to investigate the role of policy management units, with particular reference to the PMU in the South African Parliament. The secondary objectives will then be to provide a theoretical perspective of the role and functions of policy management units; and to develop a case of the PMU in Parliament for further analysis and examination. Examples of existing policy units and the support they have with parliaments will be produced, assessed, and explored. These will be illustrated by examining the Congressional Research Service (CRS) in the Congress of the United State of America as an exemplary policy unit. The secondary objectives will also seek to develop a framework that will suggest and recommend the role and functions that the PMU should play. Lastly, the objectives will conclude and recommend, based on the literature review and the fieldwork results, appropriate ways and means that will assist the South African Parliament to perform its duties efficiently and effectively, through technical interventions from a modified and politically realigned Policy Management Unit.

The study will recommend and conclude that, by virtue of their expertise and skills, the PMU staff members are confined to administrative or internal policies. Therefore, they are under-utilised. Based on a rational desire to improve policy management capacity and quality in policy-making, deliberations and decision-making, it is therefore paramount to reconfigure the role of the Policy Management Unit in the South African National Parliament so to benefit parliamentarians.

Hogwood and Gunn (1984: 172) suggest that, “The most suitable ways of improving creativity would seem to be to recruit persons capable of original thinking and to provide an organisational climate which supports rather than suppresses such thinking”. Policy experts, the study advocates, should then, in the name of capacitating and empowering political elites, be placed as “... islands of professional policy excellence near main decision-making parameters or boundaries, to provide holistic and innovative analysis as an aid to top-level decision-making” (Dror 1988: 281). The role of policy units is to provide policy advice, policy analysis, policy research, policy guidelines or alternatives, policy design, and monitoring and evaluation to policy decision-makers.

Employing a qualitative approach as a methodological paradigm, did allow the researcher to analyse, investigate, interpret, as well as to participate in research activities for a better understanding of the workings of Parliament, research and independent policy units.

The fieldwork findings suggest that, the existing Policy Management Unit in Parliament is not understood and sufficiently conceptualised. As a result, the Unit is limited to internal policies, instead of attending to macro-governmental or external policies as its primary objective. Findings reveal that the PMU is not providing a successful and effective policy support service to Parliament. Various recommendations have been made in this respect.

## DECLARATION

I declare that THE ROLE OF POLICY MANAGEMENT UNITS WITH PARTICULAR REFERENCE TO THE PMU IN THE SOUTH AFRICAN PARLIAMENT is my own work, that it has not been submitted before for any degree or examination in any other university, and that all sources I have used or quoted have been indicated and acknowledged as complete references.

Prince Sipiwo Qwaka



Signed: .....

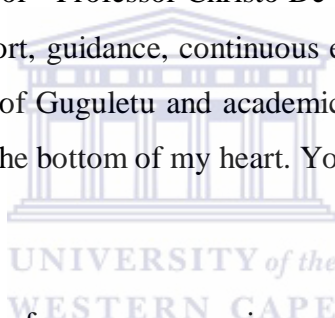
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## DEDICATION

I would like to dedicate this thesis to my late brother Mlungiseleli 'tatomkhulu' Qwaka, to my late and lovely sister Ntombikayise 'Lakayi' Qwaka. As well as to my late mentor, lecturer and comrade in arms Dr Siphon Maseko. May your spirits rejoice and be proud of me.



**THE ROLE OF POLICY MANAGEMENT UNITS WITH  
PARTICULAR REFERENCE TO THE PMU IN THE SOUTH  
AFRICAN PARLIAMENT.**

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## ACRONYMS AND ABBREVIATIONS

ANC	African National Congress
CRS	Congressional Research Services
FOSAD	Forum of South African Directors
MP	Member of Parliament
M&E	Monitoring and Evaluation
NA	National Assembly
NCOP	National Council of Provinces
PMU	Policy Management Unit
RDP	Reconstruction and Development Programme
RU	Research Unit
RSA	Republic of South Africa
UK	United Kingdom
USA	United State of America
UWC	University of the Western Cape



## KEY WORDS

Public policy

Policy Management Unit

Policy units

Parliament

Executive

Constitution

Policy management capacity

Role and functions

Policy decision-makers

Policy-making process



## **DEFINITIONS OF CONCEPTS**

**Policy Units** – The major function of such professional staff units is to contribute to better policymaking by considering alternatives more thoroughly and by imaginatively creating new policy alternatives (Dror, 1983: 266).

**Public Policy** – Is whatever government choose to do or not to do ... Thus, public policies may regulate behaviour, organise bureaucracies, distribute benefits, or extract taxes – or all these things at one (Dye, 1995, 2).

**Administrative Policy** - Administrative policy pertains to various aspects of a policy such as the income and expenditure of a particular government department, inclusive of stores, provision, development, utilisation and maintenance of personnel and other factors” (Cloete, De Coning and Wissink 2006: 19).

**Policy-making** – Policy-making is the activity preceding the publication of a goal, while a policy statement is the making known, the formal articulation, the declaration of intent or the publication of a goal to be pursued (Hanekom, 1996: 7).

**Policy Analysis** – Is any type of analysis that generates and presents information in such a way as to improve the basis for policy-makers to exercise their judgement ... The activities involved may range from research to illuminate or provide insight into an anticipated issue or problem to evaluation of a complete programme (Dunn, 1994: 61).

**Policy Analysts** – Are individuals with multidisciplinary character, concerned with what the decision-makers and policy-makers do or do not do. They are interested in the inputs and processes of a policy area (Parsons, 1995: 29-30).

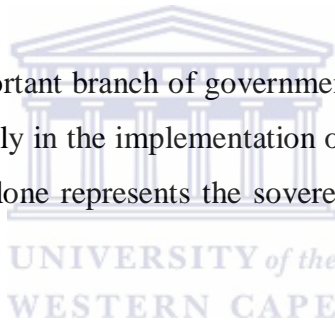
**Policy Implementation** – Policy implementation is the conversion of mainly physical and financial resources into concrete services delivery outputs in the form of facilities

and services, or into other concrete outputs aimed at achieving policy objective (Cloete, et al. 2006: 183).

**Think-Tank** – The term commonly used to describe organisations that perform research on policy. Their role is to focus on policy and legal issues, free from partisan influence and ideological biases, and provide the research and creative thinking that legislative bodies do not have time or resources to produce (Carter, 2008: 41).

**Government** – Government comprises those institutions and officials whose purpose it is to write and enact laws and to execute and enforce public policy. Government consists of legislators, the executive, the courts, appointed and elected officials (bureaucrats) in all branches of the state (Gitelson, Dudley & Dubnick, 2001: 12)

**Parliament** – Is the most important branch of government; it lays down basic principles which the Executive has to apply in the implementation of laws ... the power to legislate resides in Parliament, which alone represents the sovereign people (Inter-Parliamentary Union, 1976: 571).



**Executive** – The executive branch of government is the extension of government which implements the policies that reflects the needs and desires of the public and which are directed at solving the ailments and problems in society (Fox & Wissink, 1990: 48).

**Policy Management Capacity** – Refers to the establishment of a viable machinery that would be responsible for analysing and reviewing public policy on a permanent and continuous basis (Mutahaba & Balogun, 1992: 47).



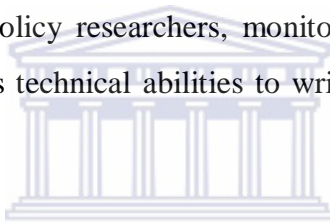
## **CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE STUDY**

### **1.1 INTRODUCTION**

It is argued that, where parliamentary democracy system exists, the constitution of the country mandates with authority, parliaments to design policies and fulfill their law-making responsibilities and to follow appropriate processes and procedures when doing so (Murray & Nijzink, 2002:88). It is overwhelming and objectively argued that “... legislators lack the expert knowledge required for the enactment of detailed laws” (Gildenhuys & Knipe, 2000:151). Thus, for parliament to perform its responsibilities efficiently and effectively, it certainly requires mechanisms that will “... bridge the gap between knowledge and power” (McGann & Johnson, 2005:12), and also technical expertise and professionals who will capacitate, advise, and prepare elite politicians, specifically on public policy-making.

It is said that public policy-making is a complex scientific exercise that demands competent governance, with intense acquisition of facts and knowledge about external problems, so to formulate better solutions (Parsons, 1995:17). Elaborating on the above statement, policy scholars are of the view that, for accurate and relevant public policies to exist, it is practically and scientifically imperative to have policy institutions or units within (in-house) and outside (think-tanks) the political system with dedicated ‘multi-disciplinary capacity’, assisting as technical support structures with the aim of augmenting intellectual ability and capacity for the benefit of official policy makers. In-house policy units are defined as policy analysts, who are responsible for policy research and intelligence in parliaments, governmental agencies and public bodies (Parsons, 1995: 30). Independent policy units or think-tanks are, according to McGann and Johnson (2005), autonomous policy institutions producing objective policy analysis, advocacy, education, and policy formulation. Hence, it is appropriate to associate or describe policy units as sources of intellectual information and capacity for adequate and quality policy input-output, and as providers of empirical policy research, analysis, and design.

The perceived gradual decline of technical capacity in parliaments is critically described as detrimental in policy-making, effective developmental strategies, and in reconciling political power with expert knowledge, particularly on the African continent (Olowu & Sako, 2002). In view of the fact that Africa is part of a global world, globalisation demands efficient and effective political institutions. Where political elites are empowered through the establishment of what Dror (1988:281) calls, "... professional islands of policy excellence near main decision-making (legislators) parameters or boundaries", referring to in-house or 'government affiliated' policy analysts. Whose main responsibility would be to provide evidence-based policy research, dynamic and innovative policy programmes and projects, relevant policy advice, monitoring and evaluation. The statements by Dror, explicitly advocate for the formation of across-boundary policy unit that will operate within a political framework, and be staffed with professional policy analysts, policy researchers, monitoring and evaluating specialists, and legal experts. Who possess technical abilities to write and interpret complex policy documents.



In examining the role of policy management units, the study will specifically focus on the functions of policy units working within the official political framework, as well as making significant references to policy units operating outside of the official political system. In Chapter Five, the role, the functions and the existence of the South African National Parliament and the Policy Management Unit are examined.

It is imperative to mention that this is neither a policy analysis nor a policy-making study; however important aspects of these will be explored.

Policy units in many democratic countries, particularly those from the developed world are playing a significant role as institutional support structures, providing empirical and qualified information to parliaments, and to government in general. The United States of America (USA) is the most experienced and advanced state in this regard. Countries like Brazil, through their open system approach have full acknowledgement when it comes to independent policy units, where government "... has established an official mechanism

for partnering with them in the delivery of social services” (McGann & Johnson, 2005: 37). Employing the USA’s institutional structural support system in this study is nothing more than a way of advancing and qualifying arguments in this study. Arguments disseminating from views or perceptions suggesting that, policy units and other policy stakeholders in Africa, that are expected to have an impact on policy processes have not played any significant role in the public policy scenario. Their magnitude of influence is relatively minimal. For that, “External actors, most notably international financial institutions, bilateral and multilateral donor organizations, and northern NGOs – have dominated the policy process” (Olowu & Sako, 2002: 63) in Africa.

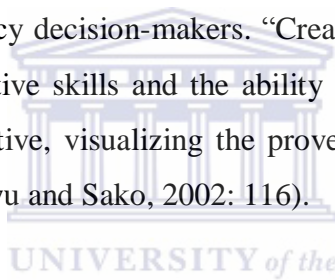
It is argued that, public policies will always have negative or positive effects on societies. That policy affects all citizens in different ways, hence, the call to augment and perhaps equip intellectual abilities and capacity, especially of policy decision-makers (Anderson, 1997: 6) is vital. The consensual view by most public policy experts and scholars, in relation to policy management capacity development, sees policy units as providers of technical knowledge to legislatures. Policy units are the basis for effective and efficient political institutions, for relevant policy and good governance. It is for this reason, that the study supports and advocates the creation of an in-house policy unit, to enable parliamentarians to directly access adequate policy advice, policy alternatives, policy research, policy analysis, monitoring and evaluating skills.

## **1.2 MOTIVATON AND BACKGROUND TO THE STUDY**

The National Parliament of South Africa is the ultimate political decision-making body in the country. Its prerogative and responsibility is about delivery of goods and services to the voters (Venter, 1998: 23). Empowered by the Constitution, the role and responsibility of Parliament is to uphold democracy and preserve stability, to hold the Executive to account and deliver services, and most importantly to make and pass laws. Hopkinson (1995) indicates that the new democratic South African National Parliament is faced with socioeconomic and political challenges that require appropriate mission and vision with

quality inputs and outputs, and that the little experience that exists among the thousands of new Parliamentarians is seen as a set-back for a developmental state.

It is argued that constitutional mandate alone does not transform or make parliaments effective and efficient political bodies, neither will they be innovative and creative when debating developmental public policies. The observation by Murray & Nijzink (2002: 4) suggests that, levels of expertise are not always present in the plenary sessions of legislatures. Hence, the division of labour through select committees within the mandate of Parliament seeks to address the above in a manner where efficiency and intellect is applied, particularly in policy deliberations and reviews. The argument is, for legislators to be able to engage in complex policy debates and also interpret documents with confidence. Technical capacity support is required, so they can analyse, communicate and perform independently, as policy decision-makers. “Creativity in policy-making requires more synthesizing and integrative skills and the ability to look at the problems from a broader, more holistic perspective, visualizing the proverbial whole elephant, rather its trunk, ears, or tail alone” (Olowu and Sako, 2002: 116).



This study, advocates that, the formula for a strong, effective and efficient Legislature is to draw the expertise of policy analysts, experts and policy researcher to provide empirical support in policy decision-making for Members of Parliament (MPs). Technical policy support can only be derived from policy units, whom by virtue of their existence, are professionally qualified to provide internal and external policy analysis, policy advice, policy research, monitoring and evaluation, and knowledge management. This study is motivated by arguments that say, it is important to allow policy researchers, analysts, and advisors working in policy management units within and outside the parliamentary framework, more space to exercise and provide a meaningful support to parliamentarians. In order for those units to have sufficient impact, it is necessary to expand the prescribed mandate; especially to allow those working within the parliamentary framework to focus more on national policies, specifically referring to the PMU.

The current South African National Parliament Policy Management Unit (PMU) has less impact in influencing the core business of Parliament, that is, to make laws and to monitor the Executive's programmes through its oversight role. The PMU only focuses on interpreting internal or administrative policies such as travel expenses, accommodation, cell phones, meals, sick leave, unpaid leave and annual leave, to name a few (see Policy Management Unit, 2006). The study advocates therefore that, instead of looking only at policies which are administrative and procedural by nature. The PMU should be adding value to the intellectual capacity of legislators, by assisting MPs to identify and analyse the demographic impacts of policies, their cost implications, and by providing MPs with skills so to enforce the intensions, goals and objectives of the new democratic Parliament.

For efficient service delivery, there is a need for qualified individuals to assist on national strategic policy coordination. Individuals with professional expertise in policy advise, while empowering parliamentarians to unpack, deliberate, and communicate policies that are mainly initiated by the Executive. According to Griffith, Ryle and Wheeler-Booth (1989), the executive possesses the required technical capacity and sufficient human resources, as a result, it carries an advantage over the legislature on public policy-making processes, thereof, demoting Parliament to a mere debating forum.

Motivated by the role that policy analyst could and have been playing in developed parliamentary democratic states. This study will argue and recommend that, the current Policy Management Unit's role and functions should be realigned to fit the political context of Parliament. The study will further advocate for a clear mandate to be given to the PMU so that it can exist as an advisory and technical support Unit, responsible and accountable to Parliament. This study will also show that, politicians in general are failing to recognise the contributions and the inputs made by policy units, because of political allegiance. This unfortunate conduct and practice is as a result of negative attitudes, which are accompanied by political stereotypes and actions, where structural authority and status, plays a major role (Cloete et al., 2006: 298). This behaviour is a recipe for losing specialists and policy intellectuals, who possess the skills to contribute

and transmit valuable knowledge on research and policy to private and international institutions. More critically, this is a recipe that will gradually work against the objective of producing empirical and relevant laws by policy decision-makers. Laws that are suppose to address socioeconomic and political challenges in the country. Institutionalising policy analysis, for national strategic development and profound policy deliberations is perceived as a tool to improve policy review, decision-making, and policy coordination across institutional boundaries. Such, is informed by the understanding that, “Power has always used the clever, wise and experts” (Parsons, 1995: 386) to advance the effectiveness, efficiency and capacity of institutions, in this case, parliament.

As a public policy management student, I am more interested in policy management capacity, particularly the need to technically empower policy decision-makers and actors. Evidence-based policy research is critical to me. I believe that to be a public policy scholar, one needs to understand first and foremost, how policies are formulated (policy process). Be able to identify who is responsible for what and how (policy management), and who has the authority to initiate, enact or reject policies (policy decision-making). However, as mentioned before, my focus is more on the technical support and capacity that exists in parliaments when dealing with complex policy-making processes. Policy units (within the political framework), I will argue, if given enough space could play a crucial role directly and indirectly in policy processes, policy management, and policy decision-making.

The study will demonstrate that, due to its current mandate the PMU is losing its fundamental reputation as an organ that should be providing legislative and policy support to Parliament. The PMU has been downgraded to administrative, procedural and human resources, as its primary role. It is therefore imperative to revisit and re-examine the role and functions of the PMU within the structural composition and the core business of Parliament.

### 1.3 PROBLEM STATEMENT

It is argued that, the role of policy analysts has increased over the years because they are bringing and developing more information and more weight, as well as new analytical techniques to the public policy-making process (Cloete et al, 2006: 323).

Policy management units in general bear the intellectual ability and the capacity to provide empirical policy proposals, to manage and facilitate technical policy challenges, and to profoundly analyse, advise, project, and monitor macro-governmental policies. Disappointingly so, these units are often faced with hostile working relations as a result of territorial boundaries, with lack of constructive support and debates in understanding the role and functions of the policy management units.

Staffed with highly qualified, well informed, skilled and professional policy analysts, the PMU's mandate should be to support the Legislature, in identifying aspects of research, facilitating and coordinating policy initiatives and alternatives, and advising and analysing macro-governmental policies. Based on literature review, structural conceptualisation and alignment is critical to in-house policy units to be influential and effective when providing support on legislative and policy matters. To make Parliament more effective and efficient, at the same time improving its institutional ability to perform its role as an oversight and law-making body, one needs more than a political will to do such. But a creative and intellectually capacitated Parliament that will demonstrate confidence with authority when initiating, debating, and passing national policies and programmes.

The research problem in this study is therefore that, the Policy Management Unit in the South Africa National Parliament is only subjected to administrative work which undermines and weakens the essence of its function. As a result, despite having highly qualified policy experts, analysts and researchers, the PMU remains isolated from being an influential unit to Parliament on macro-governmental public policies.

## **1.4 RESEARCH OBJECTIVES**

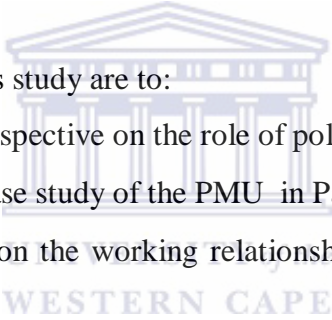
Speaking to the problem statement, the primary and the secondary objectives highlighted in this section seek to profoundly address the role and the existence of policy units, and think-tanks in relation to official policy decision-makers (the legislature and executive).

### **1.4.1 Primary objective**

The primary objective of this study is to investigate the role of policy management units, with particular reference to the PMU in the South African Parliament.

### **1.4.2 Secondary objectives**

The secondary objectives of this study are to:

- 
- Provide a theoretical perspective on the role of policy management units;
  - Record and develop a case study of the PMU in Parliament;
  - Provide an assessment on the working relationship between Parliament and the PMU;
  - Develop sound recommendations that will assist in identifying the role and functions that the PMU should play;
  - Conclude and recommend appropriate ways and means that will assist the institution in producing and retaining good quality advisors, and analysts who perform based on expectation and requirements;

In reference to the above objectives, the guiding questions of this study are:

- What is the extent of the role of the policy units in parliaments?
- How effective and influential are policy units from the developed countries?
- What is the role of the PMU in the South African Parliament?
- How can policy management capacity in Parliament be improved?



## 1.5 LITERATURE REVIEW

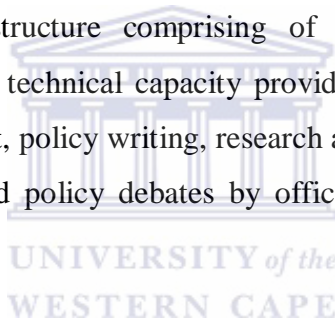
In a parliamentary democracy system, parliaments give politicians the right and authority to make policy decisions, to pass and reject laws. It present parliamentarians with a mandate to oversee the implementation of national programmes, and projects initiated the executive and other state agencies. As a result, presenting parliament as the highest decision-maker that upholds the constitution as the supreme law of the country. The literature in this study will focus on different factors that contribute to what is known as good governance and effective parliament. Moharir (2002: 113) mentions six of those factors:

- *Effectiveness* (achieving of goals and objectives of policy). Indicated by the contribution policy output makes to the realisation of policy objectives.
- *Efficiency* (realisation of policy objectives in less time and with less cost). Indicated by the ratio outputs to inputs.
- *Innovation* (creativity and innovation on policy design, mainly to realise the three criteria, in practise this is difficult in bureaucratic environments).
- *Political feasibility* (degree of acceptance of policy by proximate policy makers, political executives, legislature, and interest groups).
- *Administrative feasibility* (willingness, capacity, and ability of implementing agencies and target groups to realise policy objectives within stated time and cost parameters).

In examining parliament further, it is argued that, the essence of its operation is mainly and primarily done through specific committees, which are identified as an integral part of parliament's workings. Parliamentary committee are defined as “ ... mechanism to ensure that all executive organs of state in the national sphere of government are accountable to it” (Van Niekerk, et al, 2001: 71). These longitudinally selected members of the legislature are to deal with specific issues. They hold the authority to investigate, deliberate and advise on matters before Parliament, and “ ... they act as a vital contact point with the public” (Murray & Nijzink, 2002: 60). “The most important role of committees, on the other hand, is to develop expertise, to gather information and to do the

detailed work that must underpin properly informed decisions about public policy” (Murray & Nijzink, 2002: 60). Committees are constitutionally designed to provide specific analytical knowledge and expertise for legislators “ ... cutting across many policy areas” (Murray & Nijzink, 2002: 60). In the South African National Parliament context, the existence of committees through its support mechanisms contributes to the realisation of the six factors identified by Moharir (2002).

According to Friedman (1995: 14), government does not know enough about the environment in which it operates. Legislators will always turn to researchers on issues of policy formulation and problem solving. This is in agreement with the argument by Sako (2002: 78) that, “Many governments lack the capacity to design, implement, and monitor development policies and programmes”. Thus, suggesting for an introduction of an adequate technical support structure comprising of qualified policy analysts and researchers, who will serve as technical capacity providers to parliamentarians. This is based on the understanding that, policy writing, research and policy analysis is a complex exercise that requires profound policy debates by official decision-makers (Anderson, 1997: 134).



Theoretically, “Public policy is decided by the legislator and is, as such, the output of the political process. The implementation of the legislator’s policy decisions is the task of the public institution” (Van Niekerk et. al., 2001: 93). However, practical terms reveal that public policies, at state level, are initiated and determined by the executive. This is perceived as a practice that might, or tends to alienate and underrate the intellectual capacity and ability of parliament in public policy-making processes. Public policy is a contested and broad discipline. By its nature, it is a cross-cutting exercise that somehow, creates tensions, particularly between the legislatures, executive, think-tanks and civil societies. This is evidently so, if and when coordination and working relations are not properly designed and managed.

With a general understanding of their role and expertise they possess, it is argued that, the “ ... most important participant in public policy analysis is the policy analyst, whose

primary function is to analyse and evaluate the policies referred to him with a view to advising the policy maker on the best course of action to resolve policy inadequacies” (Hanekom, 1996: 70). The argument by Hanekom, which depicts the role of policy units as providers of evidence-based policy research, and of creative thinking that legislators do not have time for, enjoys a broader consent from many policy scholars. Carter (2008: 43) argues that, policy units and think-tanks in general, staffed with quality analysts and researchers serve as a necessary support for both the legislature and executive. In that, policy analysts, provides independent voice that is free of party influences and ideological biases. Carter (2008) further indicates that, policy units play a critical role in building institutional policy management capacity, by providing training, seminars, and workshops for legislatures and executives. The argument is, national and political policies require the support and expertise of policy units.

In most of the developed countries, policy management units, outside or within the political framework, are integral parts of a comprehensive political system operating within a clearly defined framework. Appropriate conceptualisation and institutionalisation of policy units stimulates better inputs-outputs, and that the realisation of an effective policy support structure creates space for better policy facilitation and collaboration, which in turn, provides a forum for understanding disagreements, if not a resolution of them (White, 1999: 324).

By inviting different interest groups to participate in policy debates and submit proposals on a particular policy area, certainly promotes the importance of a working relationship between key policy players. As well as enhancing a more cooperative and functioning intergovernmental and cross-boundary communication approach, specifically on public policy development. White (1999: 326) explains the above as an exercise that encompasses a participatory experience, of sharing ideas that eventually produces powerful motivation factors for establishing a course of action. This is to enable and to address what Olowu (2002: 63) defines as a better processing of information, with the view of generating responsive fact-based policies, with all key policy actors participating.

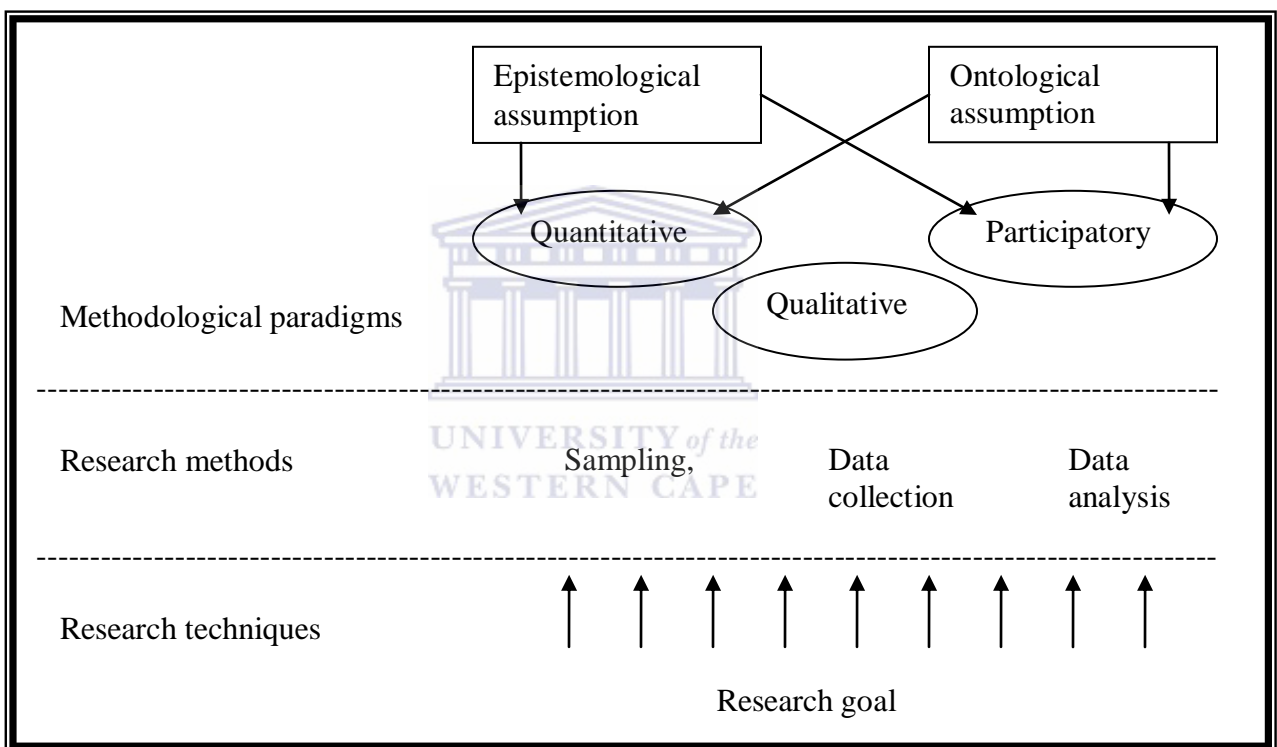
Policy experts and analysts have a duty of making sure that what they develop meets the standards not only of their particular country but of the world, taking into cognisance the issue of the rule of law, globalisation, and ongoing environmental, socio-political, and economic changes. Global politics requires that, national policies should be designed in order to address, promote and facilitate the adoption of good (corporate) governance, which is pertinent to service delivery, eradication of poverty, accuracy, transparency and efficiency. Hence organisations in modern democracies, to a certain extent, are required to function and think globally and be structured as such, so to allow high standards of intellectual activities to exist. The global notion advocates that good governance, viewed as outputs or outcomes of the governance system, depends on the state's ability to use available state and non-state institutional capacities to make and implement effective policies (Olowu & Sako, 2002: 67).

## **1.6 RESEARCH METHODOLOGY**

A research methodology should accurately reflect or rather speak to the research motive, research objectives, and to the research problem, so to assist in formulating relevant and precise findings and recommendation. Mouton (1996: 36) defines research methodology as "... the means required to execute a certain stage in the research process". This is a social science research, employing qualitative methodology as its paradigm. Employing a qualitative approach as a methodological paradigm will assist the researcher to assess how people (in particular participants) think, what are their ideas, perceptions, and beliefs. How they act and respond to issues that affects their livelihoods. Further more, by deciding to apply a qualitative methodology means that, this research will explore, investigate, describe, interpret, and be participatory oriented. The study will examine and describe key variables; namely parliaments, policy units (within and outside the political framework) and capacity building, in relations to access to knowledge, skills and expertise. This study will try to address theoretical and practical problems related to the above variables.

It is essential to state that, "... methodological paradigms are more than the mere collection of research methods and techniques – the term ‘methodological paradigm’ is used to or include both the actual methods and techniques that to be used, as well as the underlying principle and the assumption regarding their use” (Babbie et. al., 2001: 49). Figure 1.1 explains the fundamental relationship between assumptions, relevant methodology and appropriate methods and techniques.

**Figure 1.1 Levels in the methodological dimension**



Source: Mouton (1996: 37)

The main and fundamental goal of this approach is to demonstrate how *relevant, significant, original, legitimate, reliable, valid, objective, and usable* the research is, as explained by Cloete (2006: 259). This should allow or rather ensure that, when the same exercise or study is performed again under the same conditions, the same findings will be obtained (Goddard & Melville, 2001: 41).

The study seeks to understand the role of Policy Management Unit in the South African National Parliament, to achieve that, it will be critically appropriate to maximise the theoretical validity, measurement validity, representativeness, reliability, and inferential validity as defined by Mouton (1996: 112). In providing answers to theory and problem statement, it was necessary for the researcher to employ a multi-method approach that will, whilst balancing methodological paradigms, continues to address issues arising from the research methods. For accurate verification, population sampling, data collection, and data analysis will facilitate the classification of information gathered through observation, questionnaires and interviews. The aim is to enable the researcher to translate and analyse raw knowledge using various techniques for authenticity and to confirm and disconfirm the given information. This approach is in line with what Kelly (2006) called a 'triangulation' approach. Kelly explains, "Triangulation entails collecting material in as many different ways and from as many diverse sources as possible (Terre Blanche, Durreheim & Painter, 2006: 287). In accordance, the triangulation approach allows for both qualitative and quantitative data to be viewed equally, it gives room for adequate balancing of information from primary and secondary source, therefore overcoming inappropriate theoretical assumptions and biases. Interpreting and recording subjective experiences of participants (ontology) combined with direct participation and careful listening to what they say (epistemology), form the basis on how data will be analysed in this research. "The key in doing a good interpretive analysis is to stay close to the data, to interpret it from a position of emphatic understanding" (Terre Blanche, Durreheim & Painter, 2006: 321).

In this study, research methods and techniques comprise both primary and secondary sources. The primary source of information in this context included interviews, questionnaires, and direct observations. The secondary sources of information included academic and relevant research-based books, journals and media articles, parliamentary and government annual reports and manuals, conference papers, and relevant available electronic resources. Theoretical framework and fieldwork results (analysis), will inform the recommendations and the conclusion of the study.

By “Conducting an interview is a more natural form of interacting with people, ... It gives us an opportunity to get to know the people quite intimately” (Terre Blanche, Durreheim & Painter, 2006: 297). Primary observation included two (2) parliamentary sessions to directly observe and understand how parliamentarians debate and conduct their business, and one (1) Parliament Research Unit seminar organised by the UWC Law Faculty. The researcher attended four (4) Portfolio Committee meetings where policy or content debates, presentations and submissions by different stakeholders, organisations, departments, experts and academics were undertaken. Interviews were scheduled and conducted; two (2) officials from the Policy Management Unit; four (4) experts from independent policy institutions (think-tanks); two (2) academics were interviewed; two (2) parliamentary officers from unions were interviewed; and fifteen (15) Members of Parliament and officials were interviewed. Most of the individuals interviewed in Parliament are long serving officials exposed to policy-making and policy decision-making. Twenty five (25) questionnaires were emailed to Members of Parliament (randomly selected considering party representation) directly to their email addresses and through their political party parliamentary offices. Of those, ten (10) were returned completed. Questionnaires and interviews asked questions that seek to understand and examine the presence of capacity building in relations to policy design and management in Parliament, the role and the relationship between policy units and parliaments, and how effective policy units are, with particular reference to the PMU.

Both interviews and questionnaires were unambiguous, not biased in terms of political affiliations. Party political affiliations and party ideological beliefs were not a determiner in selecting a sampling frame. Stratified random sampling as explained by Goddard and Melville (2001: 36-37) is used to identify and select participants. For the purpose of this research, the sample is confined to MPs, policy researchers, policy analysts from independent policy units and from parliaments, as well as academics involved in public policy management. For a fair and better representation, interviewees from all institutions and units who participated in this research were selected randomly, whilst carefully considering their contribution and relevance to the study. Participants in this research were informed of their right to stay anonymous, of refusal and of the degree of

confidentiality with which the material that they provided would be handled. The purpose of the study was clearly translated to them.

### **1.7 LIMITATIONS OF THE STUDY**

The nature of the study is confined to policy management units in relation to parliaments. To be able to manage the study and meet the research objectives of the study, the researcher confined the focus of research to the Policy Management Unit in the South African National Parliament. Thus, the findings in this study cannot generically substitute or be applicable to other countries and parliaments. However, it is suggested that it will be prudent and advisable for the South African National, Provincial, and Local Government Legislatures, to study and perhaps consider the findings and the recommendations of the research as it could be beneficial. Because of its nature and scope, the research could not provide more quantitative information as it is a qualitative study and limited to such. It should be mentioned that the PMU is a new establishment, and therefore no previous study has been done on this Unit.

### **1.8 ETHICS STATEMENT**

Having read and understood the UWC ethics code of conduct, the study:

- Obtained the consent of the participants from Parliament before research is undertaken.
- Ensured that the well-being of the participants takes precedence over the expected benefits to knowledge.
- Informed participants of their right of refusal and of the degree of confidentiality with which the material that they provide will be handled.
- Ensured that participants have the right to remain anonymous and to have their right to privacy and confidentiality respected, permitting no release of information about individual persons that has been guaranteed as confidential, to any person inside and outside the Parliament.



- Approached the project with an unbiased attitude and strive to gather evidence fairly and accurately.
- Documented the source of information and the process of analysis in each task in sufficient detail to enable a technically qualified colleague to understand what was done and to verify that the work meets all appropriate standards and expectations.

## 1.9 STRUCTURE OF THE RESEARCH

**Chapter One** introduces and identifies research problems and questions. In this chapter the study will state the research objective, define important concepts, and provide a brief description on the theoretical framework. Research methodology and the limitations of the study are also explained in this chapter.

**Chapter Two** broadly deals with the theoretical and literature review encompassing definitions, types of public policy, and key policy actors or stakeholders. This chapter will give a theoretical perspective on capacity building in relation to government, and parliament in particular.

**Chapter Three** discusses parliament as a political institution; its mandate, role and functions, and the weakness of this supreme and rather unique organisation. This section will, as an example, discuss the Congress of the USA and its institutional support mechanisms in public policy-making.

**Chapter Four** will begin by discussing the relationship between evidence and research on the subject of public policy-making. This chapter will define and examine the role and functions of policy analysts in relations to Parliament, and how influential they can be if appropriately utilised and acknowledged. Furthermore, weaknesses and disadvantages of policy analysts and units will also be outlined and discussed in this chapter.

**Chapter Five** specifically deals with the South African Parliament. This Chapter will provide a brief historical background of the South African National Parliament, and subsequently identify the role and functions of Parliament as the highest political organ of the 1994 democracy. The chapter will highlight political concerns, leading to the formation of the PMU; at the same time the chapter will critically describe and discuss the current role and functions of the PMU.

**Chapter Six** will capture and discuss the findings from the fieldwork.

**Chapter Seven** will draw and propose recommendations and conclusions based on the theoretical review discussed in Chapter Two and Three, and the findings discussed in Chapter Six.

## **1.10 CONCLUSION**

Technically, this is an introductory chapter. In serving its purpose the chapter describes the nature of the study, the paradigms, and the composition of the research. This chapter briefly identified a theoretical framework which will form the basis of the research analysis and interpretive examination. The problem statement which the study seeks to investigate and clarify is highlighted in this chapter, thus complementing the objectives, purpose, and the motivation of the study. Research methodologies have been clearly identified, distinguished and appropriately alluded to.

## **CHAPTER 2: THEORETICAL OVERVIEW OF PUBLIC POLICY AND POLICY-MAKING**

### **2.1 INTRODUCTION**

Drawing from the literature review, this chapter begins by providing definitions of public policy as a discipline and an exercise, as defined by public policy experts and scholars. The chapter will further present the types of public policies with subsequent discussions on the key actors in public policy-making, as described by Hanekom (1996: 21) as "... official and unofficial policy-makers". The relationship that exists between the official and unofficial policy-makers will also be alluded to. In an effort to address one of the main objectives in this study, the subsequent section will therefore focus on the pertinent issue of policy management capacity, with policy experts from both official and unofficial policy actors, arguably perceived to be at the centre of capacity building for the benefit of policy input and output.

The focus area of this study and specifically of this chapter is to identify the essential key actors in policy-making, and how they intervene as analysts and experts in policy management capacity and in public policy-making processes as a whole. "Governments need access to analytical capacity around the many issues they have to deal with" (Heymans, 1996: 35), given the types of policies that exist, and "... other influences, perhaps the effects of other government activities, which were not taken into account in the development of policy ideas" (Hogwood, 1987: 8). Informed by the above, there is a view that promotes or suggests a correlation and synergy between public policy-making and capacity building.

Based on the premises that recognises not only the existing correlation between public policy and intellect, by nature public policy is a complex subject and exercise, and is eminently inter-organisational oriented (Peters, 1993: 5).

## 2.2 WHAT IS PUBLIC POLICY?

According to Dunn (1994), over the years the study of public policy has evolved and developed to such an extent that scholars have generated different but complementary definitions of what is public policy. It is worth noting for the purpose of this study that, when referring to policy the study merely refers to public policy as this is a public policy management research.

De Coning (2006) defines the term policy “... as a statement of intent”, arguing that “... policy specifies the basic principles to be pursued in attaining specific goals”. In his definition, De Coning indicates that, “... policy interprets the values of society and is usually embodied in the management of pertinent projects and programmes” (Cloete et al., 2006: 3). Public policy is about national government plans, objectives, intentions, and coordinated guidelines for a programme of action by government in order to realise and execute set priorities and goals based on political desire and vision.

In defining public policy, Guy Peters (1993: 4) is of the view that public policy consists of three levels, namely: *policy choice* – which involves policy decision-making by key policy actors (to be discussed in section 2.4); *policy outputs* – this is about putting theory into practice in the form of policy programmes and projects; and finally, *policy impacts* – which, according to Peters, reflects the successes or failures of the chosen policy (policy choice) and the implementation (policy outputs).

In quoting a resource document from the Centre for Development and Enterprise, Tim Hart (ed). 1995. *Building Policy Skills in South Africa*. Johannesburg: CDE, Bardill (2006: 37) avow that policy is “... a purposive course of action based on currently acceptable societal values, followed in dealing with a problem or matter of concern, and predicting the state of affairs which would prevail when that purpose has been achieved”. In his exposition, Bardill mentioned that state affairs, society values, and the meaning of a policy cannot be separated from the needs and aspirations of citizens; which further suggest that policy belongs to both the state as the initiator and the society as the

recipient. Bardill's definition embodies the notion that a sound policy should reflect and be designed based on the needs, challenges, and expectations of all citizens, regardless of race, class, and background. And that such a policy should be unequivocal and unambiguous.

For Anderson (1997: 9), "Public policies are those developed by government bodies and officials where non-governmental actors and factors may of course influence public policy development". In his definition Anderson proclaims that, public policy as an exercise involves not only the official policy makers, but citizens with civil societies as key actors in policy making. A definition by Hanekom (1987: 7) explains public policy as "... a formally articulated goal that the legislator intends pursuing with society or with a societal group". Hanekom further defines or describe public policy as a guide that delimits action; a mechanism employed to realise societal goals and to allocate resources (Hanekom, 1987: 7).

Susan Booysen, in defining policy, argues that, "... in general usage policy refers to the behaviours of some actors, such as officials, a government agency, or a legislature, in an area of activities (Venter et. al., 1998: 221).

Public policy as a discipline differs according to the areas of interest of researchers, policy analysts, experts, and most importantly, the political elites. Identifying unifying or rather common aspects to the above definitions is that of an overall understanding that: first, public policy is a political exercise with political intensions; second, public policy is participatory in nature with intended beneficiaries; third, who is the ultimate policy decision maker. In essence, a common denominator when policy scientists define public policy is to say; public policy defines and transforms government's ideas to programmes of action that seeks to address political, social, cultural and economic needs and problems of citizens. With the intention of giving life to policy decisions, that is by achieving the desired political plans, goals, objectives, visions and missions that are designed and crafted by key policy actors.

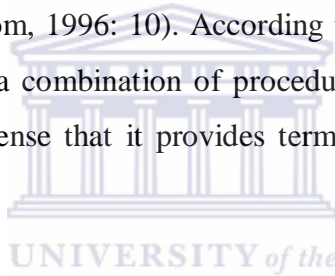
## 2.3 TYPES OF PUBLIC POLICIES

Public policy is said to be characterised by different stakeholders with different interests. Sometimes overwhelmed by conflicting political ideologies with intentions to influence and shape policy directions. It is therefore suggested that, to address such actions, legislatures as the representative of the people and the custodian of democracy and of the constitution should, and must, be proactive rather than reactive when it comes to policy-making, and perhaps find ways of asserting itself as the ultimate law maker. Having a proactive parliament in policy development means, efficient policy input-output for better services and goods delivery, with much influence on how well legislatures are able to describe policy problems for future policy outcomes (Dunn, 1994: 68-69).

According to De Coning (2006) there are three types of policies which determine organisational functions, their involvement and levels of influence on policy matters. The three types of policies are, De Coning (2006: 19) identified them as the "... *political policy* (legislation or policies of political parties); *executive policy* (cabinet decisions or implementation policies as determined by political office-bearers, assisted by or working in conjunction with high-ranking public officials); *administrative policy* (pertaining to various aspects of a policy such as the income and expenditure of a particular government department, inclusive of stores, provision, development, utilisation and maintenance of personnel and other factors).

Political policies are normally portrayed in political party manifestos, where they either unite or divide voters. Political policies are informed by beliefs and ideologies enshrined in that party. Eventually after elections, party political policies are relayed and transformed to legislative policies, depending on whether that party wins the elections. Political parties, in particular those in government, normally transfer their ideological beliefs to societal needs, which in turn translate to institutional goals, visions and missions, as a political strategy to assume, maintain, or regain political power.

De Coning (2006) describes the executive policies as policies that are designed and initiated by the executive. These are national programmes and projects for the government in power, with the sole purpose of influencing the lives of citizens. The third type, the administrative policy, merely ascribes to the internal aspects and activities within the organisation. Policies of this nature are confined to the overall performance of the organisation and the conduct of its people (personnel), as administrative policies are mainly human resource policies. “Administrative policy pertains to various aspects of a policy such as the income and expenditure of a particular government department, inclusive of stores, provision, development, utilisation and maintenance of personnel and other factors...” (Hanekom, 1996: 10). Hanekom further explains that, administrative policies do not address the core business of government which is to make laws. They do not affect any government or executive policy as they are operational in nature, relating to routine office work (Hanekom, 1996: 10). According to Bernstein and O’Hara (1979: 253), administrative policy is a combination of procedural, interpretive, and legislative rules; it is procedural in the sense that it provides terms of regulation, behaviour, and protocol for each employee.

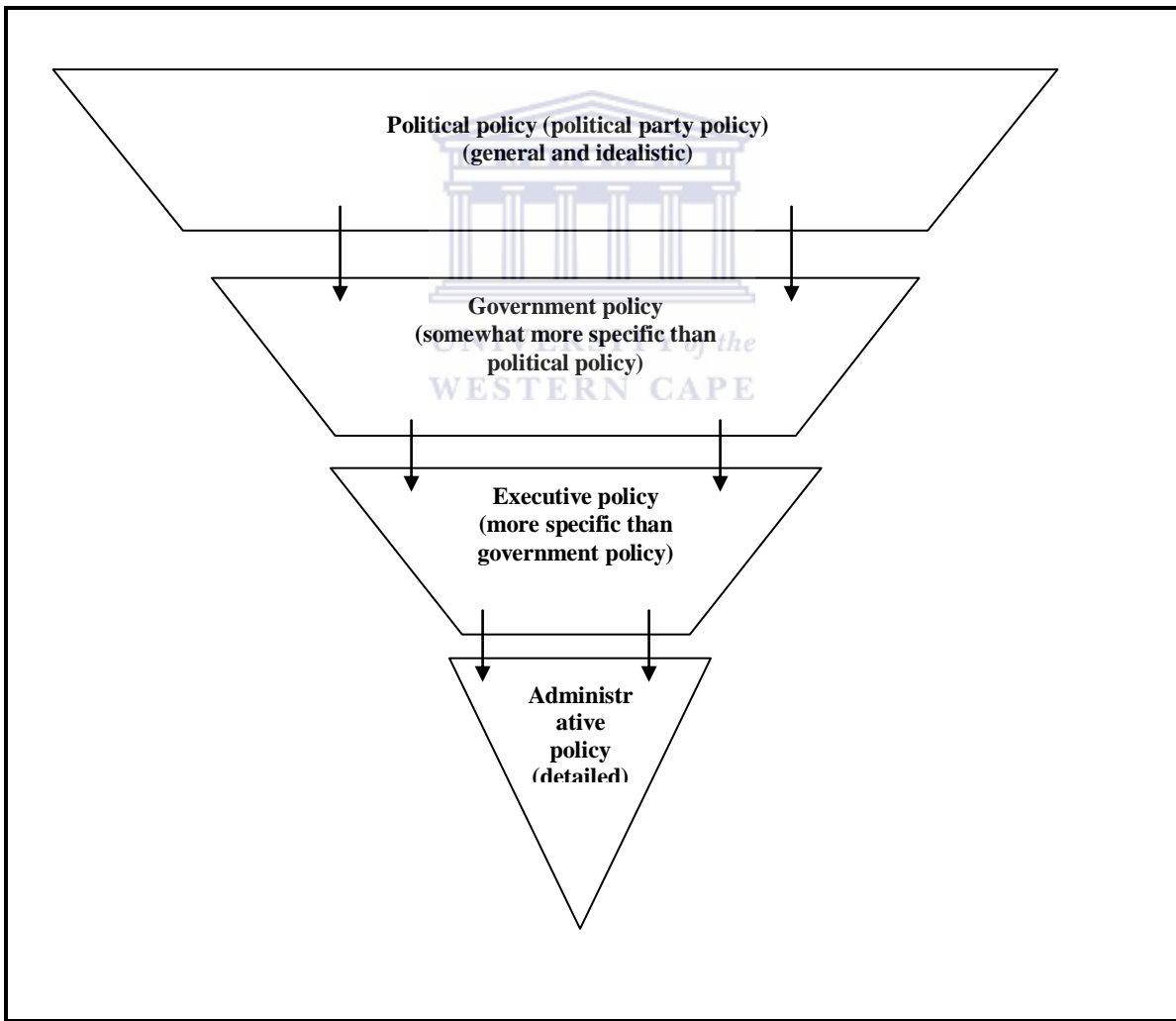


In explaining administrative policies, Wissink states that administrative or internal policies in an institution such as parliament speak to inter-organisational coordination and other administrative processes or functioning of different structures. He further describes internal policies as a guide to the internal operation of government institutions (Fox, Schwella & Wissink, 1991: 36-37).

Anderson (1997: 14-20) recommends that, policies be categorised in terms of the actual intentions of the government (substantive policy) and who is to do what, at the same time providing operational jurisdiction and mandate (procedural policies). He argues that, policies should clearly indicate as to who are the intended beneficiaries with much consideration to cost implications (distributive policies), emphasising the notion that policies should provide tangible services and goods, and political stability with carefully designed regulations.

Adding to the list of policy types as suggested by De Coning (2006), Hanekom presents an additional type as shown in Figure 2.1, which he calls a ‘*government policy or national policy*’. In describing this type of policy, Hanekom argues that, government or national policy derives its existence from national programmes or rather “...policy of the political party in power. It is a translation into practical objectives of the ideas of the party on how to govern the country and in which direction society is to be steered” (Hanekom, 1996: 10).

**Figure 2.1: Policy types**



Source: Hanekom (1996:11)



It is argued that policies are political, social and economical in nature, hence they “...tend to exist in a certain descending order, and each level has to have a specific institution that serves as the clearing house and/or lead agency with respect to each policy or group of policy” (Mutahaba & Balogun, 1992: 64). Sam Agere’s (1999: 11) view is that, policies speak to different organisational and societal aspects and factors. Therefore, they are classified and viewed as ideological and social constructs, representing the attempt by the ruling class to mask the reality of class relations and disguise the dominant role of the state.

The types of policies described by Hanekom (1996) and De Coning (2006), with the exception of the administrative policies, are macro-governmental policies. For that, they are subjected to expert knowledge and insight provided by technocrats, policy analysts and researchers, for more constructive and profound thinking and deliberations. The above argument illustrate a view that says, behind an effective, feasible public policy there is a mind or intellect of a qualified, professional analyst who continuously provides policy alternatives, analysis and research, with clear developmental objectives, to policy decision-makers for consideration. Dror (1971) argues that, there is a high demand and need for public policies that are more precise, clearly designed, managed and technically profound.

Thus, policy decision-makers do need the services of professional policy experts with analytical skills and knowledge to provide general and specific policy alternatives and to “...produce information about the likelihood that future courses of action will result in consequences that are valuable to some individual, group, or society as a whole” (Dunn, 1994: 266-267).

## **2.4 KEY ACTORS IN PUBLIC POLICY-MAKING**

Burstein (1991: 346) contends that “Public policy is influenced primarily by formal organisations and the relations among them, both informal and as structured by formal rules governing interorganisational relationships”.

Hogwood (1984: 21) explains that, “ ... though there are identifiable recurring relationships which cross formal organisational boundaries and even the boundary between government and non-governmental bodies. The concept of policy community may imply a degree of containment of issues within limited communities which is greater than what actually exists”. Literature reveals the existence of critical and sometimes tense relationships and interactions amongst policy communities, as a result posing a challenge for a compatible synergy or correlation, with desirable aspirations for better and appropriate policy deliberations, alternatives, and decision-making. The relationship between policy actors, structures, cultural and community groupings and power, is a dialectical one. However, to tackle the existing societal dynamics depends on those actors working together with a common principle and focus (Kooiman, 2003: 17-18).

With government being a compound business, where different stakeholders are involved in the process of advocating and making of policies, politicians in government as official policy-makers, would “ ... turn first to their advisers both from the permanent public service and from their party machines” for policy advice (Jenkins, 2008: 6). With an understanding that public policy-making and development as a process “ ... is typically a complex and protracted” (Fox, Bayat & Ferreira, 2006:48) discipline. Thereafter, Jenkins explains, because “ ... policy solutions have to fit with the complexity of their management task, they (politicians) will turn to organisational theories, business models and academic advice” (Jenkins, 2008: 6) for more appropriate and profound policy knowledge.

When examining public policy, it is always appropriate and thoughtful to identify and discuss policy communities, and the extent of their involvement in public policy making processes. The argument by Jenkins objectively suggests that, policy communities represent macro-policy ideas and exert broad-based specialised policy knowledge. These communities contain individuals with adequate skills to communicate, translate, develop, forecast, advise, monitor, and evaluate external policies

Hanekom (1996: 21), describes key actors in policy-making as ‘official’ and ‘unofficial’ policy-makers. When he speaks of official policy-makers, he refers to the legislative and executive authorities in government with constitutional mandate. Hanekom refers to unofficial policy-makers as interest groups and influential individuals, with the intellectual capacity and thinking to develop policies based on their subject of interest. Viewed as the secondary source in policy-making, unofficial policy-makers’ duties are to actively lobby and strategically influence policy content and directions with intentions to persuade, or rather win the hearts and minds of the official policy-makers. Policy analysts, civil rights and political party organisations, non-profit and non-governmental institutions, and labour unions are categorised as unofficial policy-makers.

It is generally argued that unofficial policy-makers are in a better position to forge close relations and contacts with citizens because they work with them on a daily basis through policy research, thus legitimising their policy input, findings, and recommendations.

The United State of America is one country that is acknowledged as prospering in terms of promoting the existence of unofficial policy-makers or think-tanks for broader policy alternatives and advice. Dunn’s (1994: 20-21) contribution is that, unofficial key actors in public policy-making operate from different levels, from various stages and basis, with limited and indirect influence to policy decision-making. Interest, lobbyist and advocacy groups as they are commonly known in the USA, present themselves as a force to be reckoned with in official policy decision-making. Whenever Congress is in session, unofficial policy makers or interest groups seek access to elected officials in an attempt to influence national or federal policy decision-making (Gitelso et. al., 2001: 211). Unofficial interest groups do preserve the ability to exist and act autonomously and somehow semi-autonomously with government and with other groups, and in the process they accumulate the expertise of specialists, analysts “... lawyers and former members of the executive branch” (Gitelso et. al. 2001: 216).

Hanekom (1987: 20) notes that, “... political office bearers (ministers) and the appointed officials are the most important participants in the policy-making, however vested with

the constitutional authority the legislature with the different committees are the ultimate decision-makers on policy-making”. This statement unambiguously promulgates the view that, the executive as policy executor remains central to policy formulation and implementation. That the executive, have had an upper hand (when compared to the legislature) when it comes to policy-making in many modern developed democratic states for many years. Critically so, the bone of contention has been on the issue of ownership – who preserves the authority and the right to initiate, legislate, execute and to monitor public policies, between the executive and the legislature.

In a parliamentary democracy system, Murray and Nijzink (2002: 73) indicate that, “... making law is often considered to be the major task of a legislature – after all, the term legislature itself suggests a body that makes law”. The legislature is referred to as the political body with constitutional authority to approve and reject policies. It is the ‘ultimate’ policy decision-making body. In practical terms, even in the modern parliamentary systems, legislatures have limited responsibility in realising their mandate as law-makers. Mintzberg (1983: 461) explains that, even within a parliamentary democratic system viewed by some as effective and efficient, the pitfall is that, the system “... concentrates a great deal more power in the executive branch of government”, leaving the debating activities to parliament. Sebastian (2008) argues that “ ... at the more proactive and constructive end of the spectrum, legislatures such as in the U.S. Congress are able to develop their own legislative proposals and thus participate along with the executive in directing the policy agenda. Given their policy capabilities, such legislatures are also likely to be active and effective in overseeing policy implementation”.

The argument put forward by Nagel (1984: 7) is that, “There is an increasing trend toward giving more power to the national government and the executive branch to cope with policy problems”, perhaps for specific reasons. According to Wissink (1991: 37), the executive has proven (with public officials as its vanguard) to be a vital role player in initiating, executing and monitoring both internal and external policies, this is as a result

of qualified (academically and otherwise) analytical skills and knowledge, embraced by the capacity that exists within the executive .

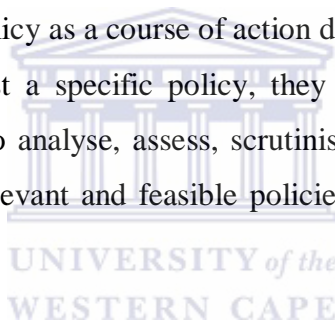
Across the world, the executive is considered to have a technical advantage in policy-making, with all the necessary support available. For instance, after much consideration, the UK government with the Conservative Party in power, introduced the "... Central Policy Review Staff (CPRS) designed primarily to advise the Cabinet on policy issues. Small groups of mainly younger people, civil service and from outside government advise the Cabinet collectively on major policy and financial issues" (Jenkins, 2008: 30), intensifying the notion that the executive is the major, and the key, policy player. Anderson (1997: 63) notes, "We continue to live in an 'executive-centred era', in which the effectiveness of government substantially depends upon executive leadership and action in both the formation and the execution of policy".

This section briefly identified and discussed key actors in public policy-making, those being the legislature and the executive (official policy-makers), civil societies, and independent policy units or think-tanks (unofficial policy-makers). The in-depth analysis of their roles in policy-making and policy decision-making will be discussed in the next chapters respectively.

With an understanding that official actors – legitimately so – control the official process in policy-making, Dror (1988: 281) therefore suggests that "... for the success of its empirical policy-making processes, the establishment of islands of professional excellence near main decision-making parameters or boundaries, to provide holistic and innovative analysis as an aid to top-level decision-making is necessary as a starting point". The context of Dror's argument is that, policy analysis and decision-making requires intellectual and technical capacity to critically assess knowledge which is relevant to policy problems for policy action with intentions to produce sufficient policy actions.

## 2.5 CAPACITATING POLICY DECISION-MAKERS

Shellukindo argues, “It is useful to remember that the purpose of analysing policies sufficiently before decisions are taken, by enlarge, is to provoke high-level inquiry and debate, the rest of which is certainly high-quality rational choice amongst better-known options” (Mutahaba & Balogun, 1992: 43). Political will or legitimacy does not automatically transform to, or rather make, good policies. It is a qualified individual who designs good, relevant or irrelevant policies. Based on arguments that depict policy-making process as a complicated exercise, this section will theoretically reveal the need for an adequately resourced, trained, empowered and capacitated official policy actor, specifically referring to legislators. In keeping with the executive that continues to be generally perceived as sufficiently resourced and technically empowered. Scholars like Nsibambi argue that, public policy as a course of action do not fail because they are poor, or there is no will to manifest a specific policy, they fail due to lack of intellectual capacity by decision makers to analyse, assess, scrutinise, and project implications and strategies for implementing relevant and feasible policies (Mutahaba & Balogun, 1992: 30).



Literature review reveals that, capacity development is the basic architecture for adequate policy-making as a process, when it is strategically promoted, appropriately conceptualised, and directly integrated within the overall political framework of policy decision-making institutions.

There is a demand for key policy actors to realise national policy objectives. It therefore becomes apparent, especially for official actors, legislatures in particular, to acquire necessary human and other resources for substantive analysis on macro-governmental policies, thus, referring to the need to draw from both tangible and intangible resources, as both factors communicate and compliment each other. Both tangible and intangible resources require practical skills, competent policy decision-makers, and capacitated and well informed leadership. Tangible and intangible resources are factors identified by Brynard and De Coning (2006) in determining effective capacity development. Tangible

resources explain the "... human, financial, material, technological and logistical". The intangible resources refer to "... leadership, motivation, commitment, willingness, courage and endurance" (Cloete et. al., 2006: 199). Both these factors are seen as vital in shaping and elevating the quality of an organisation, especially, in this case, the executive and the legislature, without excluding the unofficial policy actors.

Heymans (1996) identifies three crucial components of capacity building, one being what he describes as 'analytical accuracy'. He argues that because of insufficient skills and expertise to provide accurate analysis "... inaccurate demographic data make it impossible even to establish where people actually live, undermining government's overall ability to develop an understanding of people's need" (Heymans, 1996: 38). Public policy seeks to address multiple and diverse issues that affect the country and people who share different background in ideologies. In that, accuracy and details are an integral part of analysis, thus requiring capacity.

The second component mentioned by Heymans is "... developing a multi-disciplinary capacity". Given the consensual understanding that policies are a product of political ideologies, to put those political intents into action the quest will be to have comprehensive and diverse policy experts, specialising in different but necessary disciplines. To substantiate, Heymans argues that, for a country like South Africa where there are institutional and technical constrains, a broader range of qualified multi-disciplinary skills are required to achieve policy goals and objectives (Heymans, 1996: 38) in addressing the legacy of the past, and the current vision for a better future.

In describing the third component Heymans indicates that, capacity building involves activities that include and determine policy "... planning and implementation and thus the context against which implementation can be monitored and evaluated" (Heymans, 1996: 38). The importance of capacity building as a tool for effective and discreet policy debates, sensible policy decision-making, improved and efficient policy implementation, monitoring and evaluation requires a "... close relationship between the policy, information and evaluation functions" (Heymans, 1996: 39). In essence, Heymans avow

that, capacity building as a tool that seeks to improve intellectual abilities, should enable political leadership to accurately analyse and select priority information. At the same time creating and promoting an environment that allows the existence of multi-disciplinary expertise and skills for the creation of relevant macro-governmental policies. Consequently, promoting possible and positive interlinks between policy processes, human capacity and competency with broad policy outcome, produce sound evidence-based policy research.

To design solutions for policy theory is one exercise that involves accurate problem identification followed by scientific solutions or insights. In unpacking the concept, authors like Plummer and Slater, speak of “Capacity to analyse needs and develop a strategic response; capacity to implement the strategy; capacity to maintain effective partnerships; capacity to engage with stakeholders; understanding of capacity building needs and ability to improve capacity” (Plummer et. al., 2002: 273-274). Capacitating decision-makers is to instil a sense of knowledge and learning to elite politicians, where new information influences the pre-existing governing perception (Kooiman, 2003: 30).

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Policy-making is about weighing and interpreting technical arguments, evaluating financial resources, projecting future shortfalls, and the ability and capacity to assess political situation for sound policy solutions (Grindle and Thomas, 1991: 148). To develop capacity means, providing skills development mechanisms in order to address and empower the existing lack of analytical and technical abilities. It means augmenting both socio-political and economic knowledge, and enhancing the ability for effective communication, evaluation and data analysis. It is therefore suggested that, capacity building as the proponent of efficiency, bears the deeds of good governance, constructive policy deliberations, and organisational development.

Brynard and De Coning (2006: 199), citing Savitch (1998), “... regards capacity building as a total (structural, functional and cultural) transformation of the government in order to mobilise all available resources to achieve policy objective”. Based on this analogy, capacity building can be viewed as a tool that enables public policy decision-makers to be



able to maximise quality input when debating content and technical issues on policy formulation, research and recommendation, and policy reviews. By capacitating policy decision-makers, as mentioned by various policy scholars (see Grindle & Thomas, 1991; Heymans, 1996; Brynard & De Coning, 2006), the strategic intention and factor is then to improve the current ways of doing business in government, particularly in parliament.

The rationale behind the concept of capacitating decision-makers is about encouraging policy innovation. It is about what Wissink (1991) calls ‘analycentric perspective’, where policy makers can, with confidence, efficiently analyse, deliberate and decide on relevant policies. Capacitating parliamentarians on policy and law making is about empowering politicians so they can pass laws with clear empirical understanding of “... the principles of the proposed legislation and the policy that the law seeks to implement” (Murray & Nijzink, 2002: 60). The basis for capacity building is the notion that, policy-making exercise requires analytical skills and intellectual creativity as instruments to respond efficiently to those diverse and complex socio-political and economic policy issues. Hence, a need for an in-house policy advice mechanism is suggested. The call by policy scholars is for “... the institutionalisation of policy analysis (PA) as a ‘professional’ activity in government”, that will mainly focus on developing intellectual capacity for legislators, in the context of arguments suggesting that “... legislators lack the expert knowledge required for the enactment of detailed laws” (Gildenhuys & Knipe, 2000: 151). Different and critical questions then arise, as to who should capacitate parliament, who has the knowledge of providing adequate and necessary training on public policy-making processes, and who is able or qualified to provide policy analysis support to the legislature?

It is the role of policy units (both inside and outside Parliament) to provide policy training, to “... assist in policy issue identification and on possible course of action, including current programmes and their performance” (Fox et. al., 1991: 211). Policy units, it is argued, possess the required qualifications, knowledge, skills, and expertise with empirical abilities to assist and provide a systematic support to parliament as an organisation and to elite policy decision-making in general. Literature reveals that, policy

units are eminent support mechanisms that carry the appropriate credibility, intellect and ability in providing capacity building to government in public policy-making exercises, which is consciously perceived as technically, politically and academically challenging. Lending critical analytical support in order to strengthen the position and capacity of policy-makers, to equip them with new tools in relation to speech and action, and to improve the premise for policy formulation, either as an internal process or in a regional and international context, demands a properly capacitated unit, steered by analysts and policy professionals. This proves to be a reliable and necessary approach or effort for long-term success in policy-making (Grindle & Thomas, 1991; Odora Hoppers, 1997). However, when capacitating decision-makers, international standards in public policy management capacity are to be observed, and policy units with the potential and expertise to capacitate legislators should have the confidence and the ability to think globally because of the need and the demand for a sub-specialisation of global policy professionals, in order to improve the cognitive capacities of global governance with intergovernmental relations. The South African Institute of International Affairs (SAIIA) is a relevant example of a policy and research institute that provides policy advice, research findings, and recommendations to government and parliament on international affairs, whilst observing international standards and professionalism.

Qualities, such as the ability to critically and constructively analyse policy matters, to strategically project matters of national and international importance and challenges, to fundamentally understand the impact of external environment on policy formulation, are central to the concept and intentions of capacity building. Parsons (1995: 266) emphasises that, no matter how powerful politicians are, there is only one rule that applies as a matter of reference in policy decision-making, and that is, if a policy decision requires the specialised knowledge of a group of people, it will similarly be subject to safe review *only* by the similar knowledge of a similar group that is comprised of experts, policy advisors and policy researchers.

It is broadly argued and observed that parliamentarians are not experts, qualified policy analysts, neither are they policy professionals. For better performance and feasible

governmental reforms it is necessary and possible to equip and capacitate government branches, particularly the legislature, with what Brynard and De Coning (2006: 200) describes as ‘necessary resources’ for better informed policy decision-making. Weiss reaffirms this notion that, by capacitating policy decision-makers “ ... you are arming public representatives in government to be able to access resources and be analytical at the same breath, you are facilitating the capacity to respond to public policy challenges” (Weiss, 1992: 192).

In Africa to be precise, Shellukindo suggests that, if policy management capacity could be taken seriously, Africa could witness prosper and constructive development. He suggests that, “... we should not be too proud to ask for assistance or advice from those who have necessary skills and experience” (Mutahaba & Balogun, 1992: 47). This argument illustrate that, policy management capacity is the only hope for reviving Africa’s dying analytical skills, which are necessary for viable and adequate policy formulation, research, monitoring and evaluation, provided that it is done properly with policy experts, analysts, researchers and professionals alongside official policy decision-makers.



In short, De Coning et al (2002: 31-32) indicates that, policy management capacity underpins what is call ‘macro-institutional environment’, which speaks to governance, intergovernmental relations, the relationship between organisations and the legal framework; human capital with capacity to do the actual analysis, research, advice, monitoring and evaluation (M&E). It is about ‘institutionalisation of policy capacity’ with multi-skilled policy specialists facilitating and steering policy activities.

## **2.6 CONCLUSION**

In this chapter different definitions of public policy were discussed, where policy was explained as a politically guided and motivated framework or statement of intent, that seeks to address the desired ambitions, goals, values and visions of those in power. The chapter further discussed different types of public policies as suggested by De Coning

(2006) and Hanekom (1996) namely; political policies; government policies; executive or cabinet policies; and administrative policies. In examining the above types of policies this chapter categorically classified and identified key actors involved in the making of such policies; the key actors being the executive (cabinet); parliament (legislature); policy units; civil societies; and other relevant advocacy groups.

The chapter then discussed components of capacity building as efforts to capacitate official policy-makers, in a sense augmenting their intellectual, analytical and technical abilities as a prerequisite in public policy-making. Dror emphasises that, the word 'capacity' cannot only or literally be limited to academic qualifications. There are various factors that directly or indirectly affect capacity, notably: professionalism, individual knowledge and skills to identify socio-political and economic issues, the ability to assess internal and external environments, encompassed with the ability to communicate and to deliberate policy matters. Capacity building underlies quality policy debates and effective and efficient governance for better service delivery, hence a need to capacitate policy decision-makers is identified. Informed by the literature review, the chapter also alluded to arguments suggesting that policy units should steer and lead policy management capacity development. This is due to notions perceiving policy units as appropriately suitable and academically qualified to train, to facilitate seminars and workshops, to provide policy advice, research policy and policy guidelines, and assist with monitoring and evaluation.

## CHAPTER 3: PARLAMENT AS A POLICY DECISION-MAKER

### 3.1 INTRODUCTION

Labuschagne (2006: 19) in the *Journal for Political Science and Public Administration*, comments that the disappearance of absolute central power vested in one person who is the King, where ordinary people "... entrusted their will and gave the King the absolute powers" to rule the country, is as a result of long fought struggles that persisted throughout the world for many years. Hence, "... the role of parliamentary privilege may seem very different today from what it was when parliament was under physical threats from absolute monarchs and their forces" (Murray & Nijzink, 2002: 24).

The aim of this chapter is to examine the efficiency and the extent to which parliaments hold their constitutional authority, particularly on the issue of public policy-making. As a product of political evolution and transformation, from a one-man ruler to a constitutional democracy, parliament has in many countries proved to be the arc of the state, especially in a parliamentary democratic system. Subsequent continuation of Chapter Three will discuss, in-depth, the role and responsibilities of key actors in relation to public policy-making, and amongst each other.

This chapter will generally define and discuss parliament as a political organisation. It also will include a section that will specifically examine the role and functions of parliaments. Furthermore, acknowledging the executive as an eminent policy actor, the chapter will describe the strength of the executive in conjunction with weaknesses and challenges faced by parliament as a policy actor. An example of a policy unit will be investigated and discussed, namely the Congressional Research Service. The chapter concludes with a comprehensive theoretical analysis on the role that each key actor plays in public policy-making processes.

### 3.2 PARLIAMENT AS AN ORGANISATION

Rainey's (1997: 7) concern is that, when studying organisational behaviour, public administration scholars tend to limit their focus on individual and group behaviour, on attitudes and work dynamics, and on how to improve production by citing motivation and incentives. For this reason, this section will take a different approach, which is to understand and study the existence of the organisation in its entirety: the role of the organisation, in this case parliament, and the factors that affect its functioning.

It is argued that no organisation, including parliament, exists or operates in isolation. As a formal organisation, parliament is inevitably directly or indirectly affected and influenced by internal and external environmental factors. Parliament as an organisation operates from different, rather distinct, premises when compared to private organisations. Parliament is a political entity elected by the people, representing the people, and accounting to the people, so as to prolong the term of those in office or political power. External factors affecting parliaments relate to socioeconomic and political elements, whereas the internal factors are derived from within the institution, the functioning of the organisation. As an organisation, parliament adheres to sets of rules and procedures, with a clear mandate stipulated in the constitution of the country. It is theoretically argued that, parliaments are legislative bodies with ultimate but inclusive power, and the authority to make, debate, approve or rejects laws. Parliaments are structurally arranged and designed to accommodate the framework of political activities, which include – among others – debates on strategic and policy decision-making.

In describing parliaments, “The legislative assembly at the central government level is usually referred to as the Parliament although other names are used, like Bundestag in Germany, Bundesrat in Austria, the Nationalrat (National Council) in Switzerland and Assemblée National (National Assembly) in France. Some of these legislatures, consist of one or two so-called “chambers”, establishing what are called bicameral and unicameral systems” (Gildenhuis & Knipe, 2000: 136). In South Africa, the Legislature or Parliament consists of the National Assembly (NA) and the National Council of

Provinces (NCOP), where they participate in the legislative process in the manner set out in the Constitution (Van Niekerk et. al., 2001: 70).

Taljaard points out that "... parliament is a key institution in a democratic state: it is a place where important public issues are debated openly and freely; it elects the president and can remove the cabinet from office" (Venter, 1998: 23). Exercising authority as political powers, parliaments world-wide (weak or strong) design rules and procedures on how they will conduct their day-to-day businesses, and how they should relate to other institutions of state, namely the executive, and the judiciary. Parliament's organisational structure evolves from a point that a group of those elected to political power and decision-making positions will perform based on the principle of realising the vision with a mission to achieve national policy priorities as a collective. Hence, the structure of parliament is a formal system that controls how people coordinate their actions and use resources to achieve organisational goals. Organisational structures define and differentiate organisations, "... the purpose of the set organisational structure is to determine how operational functions or duties must be allocated, who reports to whom, and the formal coordinating mechanisms and interaction patterns that will be followed" (Robbins, 1990: 5).

Mutahaba et. al. (1993) argues that, organisational articulation, authority relationship, and capacity disposition are indeed intertwined therefore affecting policy outputs. A structurally arranged institution with a clear definition of roles and responsibilities promotes smooth and efficient operations, where policy management highly depends upon the interrelationship between functions, organisation and capacity. A coherent organisational structure undermines discord relationship. Taking the British legislature as an example, where the House of Lords and the House of Commons bear a historically uneasy and tense working relationship (see Pye & Yates, 1990) on issues relating to authority and policy decision-making.

The legislature, as mentioned before, holds a distinct position in society as compared to other organisations, making it a complex institution with respect to its existence in

relation to other branches of state, the role of individuals within, internal and external factors, and the manner in which it derives its mandate. For that, “Parliament is a significant institution, an organisation that acts across social, economic and political boundaries with coherent but distinct formal organisational features deliberately designed to achieve a common goal or set of goals” (Robbins, 1990: 4) as defined or determined by the constitution and by the political party in power. Blondel (1995) describes parliament as a state institution operating under the auspices of the constitution, which is a product of political engineering. The complexity and the size of parliament, as an organization, portrays the fact that parliament in a broader perspective represents different but particular interests, and that it generally speaks to the socioeconomic and political policies of the country and the well-being of citizens. As a product of political engineering, parliament depicts direct and indirect participation, and it is the embodiment of a representative government, where people are expected to look for policy leadership (Patterson, 1993: 468).

It is argued that organisations, if not feasibly and viably structured, may come and go and perhaps lose their effectiveness and relevancy, and even taking into account its unique identity. This predicament can apply to parliament as well. Elaborating on the above statement, Hopkinson (1995: 2) indicates that there is a growing debate about the perceived authority and relevance of parliament as an institution that is suppose to be effectively influential, whilst exercising its political power and upholding constitutional authority and mandate. Identifiable threats to the authority and the viability of this political institution relate to policy management capacity and to “... parliament’s ability to control the executive” (Pye & Yates, 1990: 220).

### **3.3 THE ROLE AND FUNCTIONS OF PARLIAMENT**

As the symbol and catalyst of a constitutional democracy, parliament is argued to be the mouth-piece and the eyes of all citizens. By ensuring that the executive prioritises national programmes and implements macro-governmental policies as a means to address problems and challenges faced by communities. It is appropriate and relevant to indicate



that citizens, especially in a parliamentary democracy state, will always have high expectations of what parliament as a political institution representing them (citizens) will provide. This is to say that, in a modern democratic state, parliament's role is politically and strategically modelled to ensure that goods and quality services are delivered to the people accordingly and effectively, and that the rule of law is observed. It is therefore the role of parliament to represent the people, to create and dismiss governments, to pass laws and scrutinise the executive, and to recruit and socialise political leaders (Hague et. al., 1993: 292).

The constitution, which is the supreme law of the country, allows parliament to monitor agencies that are tasked with specific responsibilities in performing their duties accordingly and as prescribed. This is what Bicker (2001: 186) would like to call as a practice of 'command-and-control' within the bureaucratic system. For Blondel (1995: 261-263), the role of legislatures is normally assessed at the level of broader policy influence, which is complex to measure due to procedural and technical aspects and the readiness of the government to allow policy debates to take place and support institutions to develop.



In describing the function of parliaments, Pye and Yates (1990: 218) state that, "The legislature is responsible, under the Constitution, for making policy: it is sovereign". Section 1 of the Constitution of the USA clearly stipulates that "All legislative powers herein granted shall be vested in a Congress of the United State..." (see Burns et. al, 1995), consequently providing the legislator with the ultimate mandate to pass, amend and return bills. Gildenhuis and Knipe (2000: 150) emphasise that, it is within parliament's prerogative to "... decide on the national objectives, strategies, functions and services and to convert them into legislation for execution by the executive authority". It is worth outlining that, in theory, the deliberation and adoption of laws may rest with parliament, but in practice, the executive proves to be the actual policy-maker, making in-roads into parliament's legislative powers (Inter-Parliamentary Union, 1976: 571). Such a statement rather suggests that, the role of parliament as the ultimate, supreme law-making body is only theoretically based; with the UK parliament for an

example, voluntarily delegating legislative powers (which include public policy-making) to the executive due to different reasons which include lack of capacity to make law, and to justifiable conveniences (Inter-Parliamentary Union, 1976; Pye & Yates, 1990).

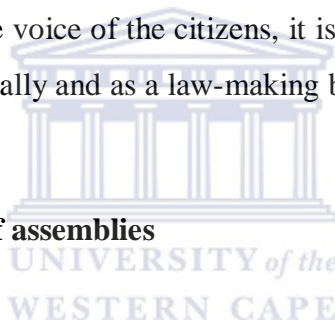
It is the role of parliaments to hold the executive accountable. This is an oversight role of parliament where they exercise their mandate to scrutinise the performance of the executive and other government agencies on issues related to national programmes and projects. Parliaments role is to monitor, review, and investigate departmental and agencies' activities (in most occasions through committees), it is to ensure good service delivery, transparency, efficiency, and consistency with the mission and vision of parliament. National parliaments as custodians of the constitution and of democracy, carries the authority and the power to “ ... decide what shall be done, how it shall be done, who shall do it and by what means it shall be financed. In short, the legislature is the highest decision-making and policy-making institution in a democratic state” (Gildenhuys & Knipe, 2000: 136). Chapter Six of the Constitution of Uganda clearly upholds the parliament of the country as the primary law-making body, indicating, according to Articles 79 and 92, Section (2) that “... no person or body other than Parliament shall have power to make laws except with permission of Parliament” (The Parliament of the Republic of Uganda, 2006).

Griffith et al (1989: 5) referring to the Westminster system argues that, “It is a central feature of parliament, however, that it performs a responsive rather than an initiating function within the constitution”. Table 1.1 provides an explanation of the types, nature and examples of parliaments considered to be active, reactive and otherwise, on the subject of public policy-making as a constitutional mandate and function of legislatures. Table 1.1 also indicates the level of challenges faced by these elite political bodies as policy decision-makers, as well as the extent of their participation in the entire process of law-making when compared to the executive.

In Botswana, where the Westminster type of parliamentary system is practised, Edge and Lekorwe (1998: 209) note that, the role and responsibility of the legislature in that

country, apart from passing laws and overseeing government's activities, is to promote governance and democracy by conducting the affairs of government in an accountable and transparent manner, free of corruption and illicit, with the formulation of public policy as one of its principal functions.

In his argument, Blondel emphasises the view that, "The function of legislatures was to make laws i.e. to pass the most general rules under which countries were to be governed. The argument is as follows: if the people are to be sovereign, or at least as powerful as possible, their representative should be concerned primarily with most general rules. The executives are needed to keep the country going, but the legislatures could and should decide on the general rules" (Blondel, 1973: 4). The general functions of parliament is to oversee the operations of state institutions or agencies, to monitor the programmes of the executive in that it becomes the voice of the citizens, it is to determine the functioning of parliament procedurally, politically and as a law-making body.



**Table 1.1 Policy classification of assemblies**

Type	Nature	Example
Active	Assembly makes policy actively and autonomously	US Congress
Reactive	Assembly reacts to and influences government policy	Westminster-style parliament
Marginal	Assembly is a minor partner in executive policy-making	Polish Sejun (pre-1989)
Minimal	Assembly is a rubber stamp under executive domination	Malawi

Source: Hague et al, 1993: 298

To a large extent, the argument has been that parliament's role and functions are first and foremost to represent the voice of the people in government, and to defend and promote the constitution which is the supreme law of the country. Parliament's role is to preserve democracy and good governance. It is the watchdog of government activities through monitoring, investigating, scrutinising budgets (for example), recommending, and deciding on public policy matters. However, in order for parliaments to realise and achieve their constitutional duties and to perform their role and functions in terms of assessing policy and legislation matters amicably. It is advised that the relationship between parliaments and committees with other branches of government needs efficient consideration (Hague et al, 1993; Taljaard & Venter, 2006).

A functioning and efficient parliament determines and;

“... sets up its own internal support institutions (we usually think in terms of standing committees) to evaluate policy choices, give power to external actors (here we think in terms of an executive, bureaucracy or quasi-governmental organisation), or employs some combination of the two. If the legislative body decides to delegate authority to an external body, it can either provide detailed instructions in the implementation legislation or give wide latitude in interpreting the law” (Braun & Gilardi, 2006: 77).

This is to suggest that, there can be no democracy if there is no functioning parliament. Literature supports the view that parliament has the autonomy and the power to make and influence public policies, however, it is also recorded that in many countries parliaments as public representative institutions are “... vulnerable to executive domination or outright suppression” (Hague et. al., 1993: 299), particularly when dealing with public policy-making. Two factors are attributed to the above. The first one is called, “Cabinet dominated version” (Hague et. al., 1993: 323), which depicts or portrays the executive as the sole responsible entity in policy-making and implementation, where they (the executive) monopolise the policy-making processes. Secondly, it is a lack of policy management capacity associated with insufficient or poor structural support for legislators when compared to their counterparts, in this case the executive.

Like most organisations, parliaments are faced with challenges; among those is that of having, even in a democracy system, the biggest political party controlling the “ ... majority in parliament and often reducing the role of parliament to a simple rubber-stamping of the government’s policy” (Braun & Gilardi, 2006: 190). This therefore, it is argued, instigates a sense that describes parliaments as ineffective and powerless, at the same breath confirming critics that view today’s parliaments as institutions with minimum input, and less value in public policy than they were thirty years ago. Furthermore, politicians (legislators) are perceived to be more concerned about image making (Wells & Hamilton, 1996: 97), thereby contributing to the apparent failures, inefficiencies and inadequacies associated with legislatures.

Another challenge that is objectively recorded by various authors as being detrimental to parliament’s feasibility is that of having legislatures that only react, but fail to proactively initiate policy programmes, actions and documents. As a result, such behaviour is viewed as hampering the image and the ability of these political institutions (Blondel, 1973: 115). Such challenges boil down or rather perpetuate arguments that generally promulgate and depict legislatures as only the “... organisers and planners of forums that seat to debate policies initiated not by them but rather by the executive” (Murray & Nijzink, 2002: 5).

### **3.4 THE STRENGTH OF THE EXECUTIVE AND WEAKNESSES OF PARLIAMENTS**

The emphasis in this section will be to examine arguments promulgating and sharing the view that “... legislatures or parliaments, representative assemblies have two main formal powers: making laws and voting the budget. But these are not always given in full even in theory, let alone in fact” (Blondel, 1995: 256). Saalfeld’s view is that, “In Britain’s parliamentary system of government, the cabinet depends on the confidence of Parliament, although under normal circumstances the cabinet clearly dominates Parliament” (Strom et. al., 2003: 622). Parliaments, including those from the advanced democracies, still “... have insufficient control over the executive” (Taljaard & Venter, 2006: 37), thus losing or portraying a weak political will and mandate – particularly in

policy-making, which in turn affects their ability and authority when performing their oversight duties, decision-making in terms of policy analysis, scrutiny, and assessment of available policy submissions.

It is argued that, when the executive begins to show signs of being dominant over parliaments, hypothetically speaking this reflects and affirms that:

- (i) Parliament is weak;
- (ii) Parliament is only a debating forum with minimal or lack of adequate inputs in the actual policy-making processes;
- (iii) Parliament relies on the executive to introduce, research, formulate, interpret, and evaluate public policies (see Griffith et. al., 1989; Sebastian, 2008).

Critical arguments and observations emphasise and continue to promulgate notions suggesting that, even in a parliamentary representative democracy system, parliament remains "... a debating forum not a government body" (Griffith et. al., 1989: 6).

The following authors: Edge and Lektorwe (1998: 210), Murray and Nijzink (2002), Saalfed (2003), and Taljaard and Venter (2006) attribute the weaknesses of parliaments to insufficient capacity, lack of formative knowledge, inadequate qualifications and poor technical skills, particularly on the subject of public policy-making processes, leaving them (parliamentarians) with no choice but to rely on the executive, and to depend on outside and perhaps foreign expertise. According to Patterson (1993), in a parliamentary democracy system, the executive and even the president are given express powers, thus making the executive provisionally and efficiently above parliament, although in principle and theoretically (constitutionally) the ultimate elite political and policy decision-making falls under the jurisdiction of parliament. Patterson argues that, because parliaments position themselves in a substantially disadvantaging position, in addressing and responding to policy complexity, they will allow the president and the executive to have additional policy staff and authority (Patterson, 1993: 462), therefore allowing themselves to be outclassed by well-resourced, staffed and skilled executives.

Wang (2005: 2) stipulates that, the most important aspect in policy decision-making is that of parliament's impact on the entire public policy-making process. However, raising his dissatisfaction, he describes the situation, especially in sub-Saharan Africa, where the issue of political oversight by parliament on the executive as one that is totally overlooked and poor, citing the lack of resources (capital and human), insufficient intellectual capacity to debate policy models, and the inability to assert its authority as the legislative body, as factors. In agreement with Wang, Strom (2003: 72) states that, even with the Westminster parliamentary system model, the impact and the role played by parliament is detrimentally weak and ineffectual, because of ineffective institutional support mechanisms, lack of motivation, lack of capacity and party partisan tendencies. Strom et al (2006: 27-37) argue that, in South Africa, the weaknesses of Parliament and its support mechanisms (committees) can be attributed to a lack of resources, staff, and skills, the consequences being that "... its work in the public eye quite often seems a ridiculous mud-slinging match between political parties" with insufficient input-output and insignificant impact on national policies.

When compared to the well-resourced executive, Patterson (1993: 468) describes the weaknesses of parliament as a threat to the development of comprehensive national policies, attributing such empirical perceptions and observations to a lack of intellectual and technical direction, and to poor organisational vision and political understanding within parliament. This perspective conveniently gives rise to systematic arguments that consider parliaments as political institutions with no capacity, lacking the ability and skill to rationally identify external and internal factors, affecting and influencing the dynamics of national politics and programmes. Patterson believes that, the weaknesses of parliaments are as a result of organisational inability in terms of human proficiency, poor institutional conceptualisation, and lack of competency to function as fundamental policy decision-makers, therefore presenting parliaments as less than a co-equal branch of the national government (Patterson, 1993: 480). In essence, these alarming arguments systematically and detrimentally depict parliaments as political institutions that are becoming irrelevant and unpersuasive.

In countries like the UK where;

“... there is evidence to show that the influence of Parliament is in decline, particularly due to the growth in power of the executive, the doctrine of parliamentary government (where government is drawn from, located in and accountable to Parliament) remains fundamental, since it is the way in which the system is made democratic and legitimates the government’s rule of the country by holding it accountable. Although it is no longer influential in terms of legislating, and even in scrutinising the actions of the executive, Parliament is still an important body despite its weakness” (<http://www.coursework.info/GCSE/Politics>).

This situation will continue until and unless parliaments prioritise “... a need for internal sectorally focused policy capacity” (Heymans, 1996: 44). Thus, suggesting the establishment of a functioning, professional and quality in-house policy unit. That will compliment and correlate with external policy units (think-tanks) in advancing policy-making, decision-making, analytical skills and providing evidence-based policy research for the benefit of legislators. In that, making the role of parliaments, which is to legislate or make laws, a reality and symbolic function that will be exercised with full and effective knowledge and technical skills. It is said that parliament will need more than political legitimacy or will in making policies, and in asserting itself as an influential and relevant key actor. The US Congress, which is portrayed as one political institution which commands the respect in terms of law making in particular, arguably, because of the technical support structures that exist within its political framework, it therefore resembles a strong model of a strong parliamentary democracy from which other legislatures can draw lessons.

### **3.5 US CONGRESS AND ITS POLICY SUPPORT UNIT**

The standard of policy discussions and making, of conducting policy research and implementation, of policy advisory and advocacy, differs from one country to another due to factors of human and capital resources, organisational support mechanisms, and political environments. Heymans (1996: 45) argues that, developing countries are faced with challenges where experts, specialised capacities and analytical skills are minimal or



do not exist, and are therefore threatened with dysfunctional or instable political institutions. Understanding the comprehensive nature of political institutions in relation to policy analysis, it is then generally argued that the size of government determines the complexity of policy and law-making activities in a particular country. And, that because of globalisation, the subject of policy-making has become more complex and complicated as modernisation takes its course. For the purpose of the study, this section, based on the relevancy and the strong establishment and functioning system that exists, will conveniently discuss the US Congress public policy support unit as an exemplary model. The discussion will concentrate specifically on the support offered by the unit to Congress, in relation to the constituency or staff in the unit. It will highlight the working relationship and the structural arrangement between the unit and Congress as a way of addressing arguments of previous sections and chapters, particularly arguments in Section 3.4.

With a clear understanding and knowledge of the existence of ‘similar’ in-house policy units in developed and developing countries, and in Africa, the researcher consciously chose the US Congress, so as to illustrate the purpose of the study. In Uganda for example, the Department of Library and Research Service and the Department of Legal and Legislative Services respectively, provide research and technical advice to members of Parliament and committees, with the aim of enhancing capacity building in terms of interpreting and analysis of bills, drafting Private Members’ Bills, and proposed amendments (The Parliament of the Republic of Uganda, 2006). Nonetheless, the US Congress is a preferred example, due to its advanced parliamentary democracy system and the perception that this unit has been in existence for a number years, therefore making it suitable for the study.

The structural arrangement of the US Congress is uniquely designed to suite its electoral system as it consists of two houses: the House of Representative and the Senate, divided along party lines; the Speaker is the leader of the House (Patterson, 1993: 449-450) and plays an active role in terms of “... formulating policy positions and coordinating party strategies” (Patterson, 1993: 465). Patterson argues that with the American system, the

Speaker is the second most powerful official in Washington, after the President. As the central principle of the American culture, Patterson argues that, the “Congress has the responsibility to see that the executive carries out the laws faithfully and spends the money properly, a supervisory activity” (Patterson, 1993: 488-492). Acknowledging the importance of capacity and the ability to debate and make laws, Patterson depicts the US Congress as body that is intellectually capable of taking a constitutional lead and a final say in policy and law making. In foreseeing the above, there has been a realisation of a need for institutional support in terms of lawmaking, technical policy analysis, and research capacity, the formation of the Congressional Research Unit was as a result.

The Congressional Research Service (CRS), which provides policy and research support to the Congress, has been functioning since 1914. It is one of the oldest policy and research units in existence worldwide, and was established through a needs analysis and as a result of honest rational acknowledgement by the Congress. Who rather sensed that, it was being outweighed in the ongoing struggle to maintain the balance of power between the two branches of government (legislature and executive). Constitutionally enacted in 1946 (see Weiss, 1992: 182-183). The Congressional Research Service has placed greater emphasis on legislative consultation (consulting with both members from the majority and minority parties), policy analysis, the use of simulation models and interdisciplinary analyses, and anticipation work.

The 1970 Amendment on the Legislative Reorganisation Act (LRA) gave the CRS more authority to provide support to the Congress on policy analysis. Legislators initiated this move as a method of reclaiming their authority as political decision-makers and as elected representatives of the public; the CRS was therefore seen as a support technical tool in empowering the Congress to a point where it could confidently apply its intellectual knowledge in public policy deliberations and decision-making. The CRS was formed on the basis that it efficiently informs policy decision makers on policy matters. It works under the principle that “... this unit should not offer policy recommendations but policy alternatives, and that it exists solely to help Congress to maintain its role as the world’s best-informed, most independent legislature” (Weiss, 1992: 189). The mandate

and the role of the CRS was carefully conceptualised and designed so as to ensure that political leadership maintains its power and mandate as the ultimate law-makers. Since the establishment of the CRS, it has been argued and observed that Congress has managed to perform its law-making role efficiently, debating policy matters with confidence and on the same level of quality standard, when compared to the executive.

The functional principle of the CRS, as explained by Patterson (1993), has been that of a policy unit that is non-partisan and neutral when consulting with a politically elected representative, a unit that will be serving not just one political representative or party but the entire Congress. The growing ability of the Congress to lead on policy-making, with legislative ability and capacity is as a result of the CRS being staffed with specialised individuals, who provide an in-house expertise for the benefit of Congress. As an institutional support unit, structurally designed to interact directly with Members of the Congress, when it comes to authenticity, scientifically proven analogy, and for better trusted and more efficient input-output. Analysts in the CRS are predominantly holders of graduate degrees in law, master's degrees in a variety of subjects, and many PhDs (Weiss, 1992: 186).



Congressional Research Service is divided into five interdisciplinary research divisions:

- American Law
- Domestic Social Policy
- Foreign Affairs, Defence and Trade
- Government and Finance
- Resources, Science and Industry

The Knowledge Services Group provides research support services to the policy experts in each of the five divisions.

Six infrastructure offices oversee long-term goals, management, and administrative duties of CRS:

- Office of the Director, including the Office of Communications

- Congressional Information and Publishing
- Counsellor to the Director
- Finance and Administration
- Information Management and Technology
- Workforce Management and Development (The Congressional Research Service, 2010).

The CRS, as indicated above, is a unit that mainly focuses on external or macro-governmental policies as its essential and primary role and functions. Acknowledging the importance of a viable institution, the CRS therefore includes, among its roles, internal organisation development which encompasses internal or administrative policy research, analysis, monitoring, and review, given the broad expertise employed in the Unit. Adequate and necessary conceptualising and support given to the CRS by the Congress has been noted to be significant. As it has strengthened the Unit and the professional analysts within it, so they can execute their duties independently, efficiently, and objectively. This move connotes the importance of institutionalisation of policy management capacity.

Viewed as a unit born out of thorough, precise conceptualisation, and established under the act of the legislature, the work of the CRS is monitored by the congressional leadership, which meets twice a year to ensure its consistency with Congress's own agenda. By such, the intention is to curtail any possible work duplication and out-of-line studies. The Amendment on the Legislative Reorganisation Act (LRA) of 1970 made it a point that the CRS as a congressional agency does not operate in a vacuum (Weiss, 1992). "While the need to keep technocrats in check is often politically acknowledged, it is of course often difficult to achieve" (Heymans, 1996: 32); the purpose is not to confine the CRS, but to ensure that policy analysts in the unit compliment political direction and programmes, thereby enhancing politicians to realise their socioeconomic responsibilities, and "... keep them on an agenda of management and governance issues" (Heymans, 1996: 32). The fundamental principle of the unit is that, the CRS accounts and "... works only for Congress" (Weiss, 1992: 189).

The enactment of the CRS as a policy unit functioning within the parameters of Congress is viewed and appreciated as a working mechanism that will spearhead, shape and enhance the involvement of legislators in policy debates, and will ensure that the Congress is effectively proactive when conducting its business. Alluding further to the above statement, Weiss points out that “Once Congress understands the problem and the family of choices available, members are good at fine-tuning the policy options and making the political judgements” (Weiss, 1992: 196). Whilst enjoying and maintaining its non-partisan objectivity and legitimacy in providing policy alternatives and advice, analysts in the CRS, as part of their mandate and responsibilities, preserve the right and the authority to present, explain and justify any critical assumptions; investigate and recheck data anomalies; use primary resources whenever available; double-check all statements of fact; and document and vet all sources. This, Weiss (1992) explained, assures members, as they engage in debate, that the analysis they rely on is as accurate as it is current. The presence of the CSR, it is argued, has managed (though with challenges) to entrench the role of the Congress as a leading sphere in policy and law making, in budget deliberations, and in overseeing the programmes of the executive, with confidence. The Congress is arguably noted as enjoying efficient technical support from qualified researchers, policy advisors, analysts, and professional policy experts situated within the political parameters of the Congress for national policy undertakings.

### **3.6 CONCLUSION**

The discussion in this chapter illustrates a theoretical perspective on the role and responsibilities of parliaments, firstly as organisations (politically oriented), and secondly, as law-makers. The indication has been that of acknowledging the uniqueness of parliaments when compared to other formal or informal organisations. What underpins this unique institution is the relationship that it has with the people, as it relates to national issues and international issues, to other external factors and to key societal players. As custodians of the constitution, especially in a parliamentary democracy system, parliaments preserve and uphold the authority to initiate, pass, amend, and reject laws, and to monitor government’s national programmes. The chapter identified

detrimental challenges and weaknesses faced by parliaments in general, in conjunction with the effective strength of the executive on the subject of public policy-making. The debate raised was that, weaknesses and challenges faced by parliaments empirically instigate growing arguments that questions their relevancy and efficiency as policy decision-makers. The argument is, parliaments, both in developed and developing countries only exist as rubber-stampers of policies initiated by the executive, thus portraying parliaments as merely powerless debating forums (Griffith et. al., 1989; Hague et. al., 1993; Heymans, 1996; Olowu & Sako, 2002; Sebastian, 2008). The above is being attributed to poor or lack of technical skills available for legislators in providing policy analysis, policy research and policy guideline or alternative for the better decision-makers. It for this reason that policy scholars advocates for an in-house policy management capacity mechanism, steered by policy experts, policy researchers and analysts that will provide quality and evidence-based policy. Stating that “It is advisable to create relatively small but competent units whose size may be expanded in accordance with the demands of the work” (Mutahaba & Balogun, 1992: 47) of parliaments.

The CRS in the US Congress has been an appropriate example of an in-house policy support unit established specifically to provide the requisite technical support, with skilled policy analysts, policy advisors, policy researchers, and monitoring and evaluating experts. The reason for establishing such an institutional support mechanism is rooted in recognition and introspection made by the Congress on the various subjects, with public policy-making as the primary course. Coming in to terms with the fact that they (legislators) were academically and intellectually outclassed by the well-resourced executive, thus creating a technical gap in terms of policy deliberations and making between the executive and the legislature became an essence in the formation of the CRS. The primary objective and role of the CRS as a policy unit is to provide policy advice on internal and macro-governmental policies: it provides policy analysis, interpretation and research support, and it consults with politicians on what Weiss (1992) called, ‘a legislation consultation’. Therefore, the CRS is an in-house policy unit that assist with policy monitoring and evaluation; provides policy alternatives; and informs policy decision-makers on relevant policy issues including policy development.

## **CHAPTER 4: POLICY UNITS: A THEORETICAL OVERVIEW**

### **4.1 INTRODUCTION**

As mentioned in previous chapters, public policy-making is a complex political exercise, with its own successes and failures. The focal point in this chapter will evolve around views arguing that, policy initiatives and debates should be informed by national priorities and needs, and supported by empirical investigation or research and proper analysis, which requires knowledge, ability and proficiency. “Establishing specialising staff positions for policy analysis and decision analysis is essential for better policy-making ... such teams should be attached to heads of the main policy-making structures as professional staff units” (Dror, 1983: 266-267).

This chapter will discuss the relationship between public policy-making and research. It will eminently discuss a theoretical view on the role and responsibilities of policy analysts, policy units and independent policy institutions or think-tanks, in relation to policy advocacy. The chapter will also outline crucial weaknesses faced by policy analysts and units, and how these weaknesses relate and affect the ideal existence and functioning of policy units in general.

Dror (1983: 266) perceives the role and functions of policy units as “(1) Continuous education of the policy makers on the uses and limitations of the different disciplines, and of policy knowledge in general; (2) Contributing, on a current basis, relevant knowledge to policymaking and (3) Liaison with universities, special policy-analysis and research organisations, and central systems-management, metapolicymaking, and comprehensive-policymaking units”.

### **4.2 EVIDENCE-BASED POLICY-MAKING**

Steven Friedman argues that “Policy research is the practice of using the skills of social researchers and analysts to inform social decision-making”; he further points out by

suggesting that, “Policy makers need researchers because, while they may know what it is they wish to achieve, they may also lack sufficient knowledge of how to achieve it” (Friedman, 1995: 1). In employing Friedman’s argument, relevant policies should always be informed by evidence and research based knowledge, with skilled and trained policy researchers and analysts in the centre stage as the source of technical and timely information for official policy-makers.

Fox et al (2006: 37) note that, “... research has an inevitable influence on policy matters” directly or indirectly, positively or negatively. Hence it is argued that, policy development will never be complete if those involved omit evidence-based research, as this is the critical exercise in determining positive policy input and output. The rationale behind this argument is that, evidence-based research guarantees policies that are supposed to be objective, empirically proven and goal-oriented. Masilela (2008), views the relationship between public policy and research as an essential one, adding that, ‘brainstorming’ in policy-making processes should be utilised as a research technique to improve sufficient input-output, and for priority-setting. In explaining that, he notes, “The adoption of this framework for the priority-setting exercise and the specification of sustainable development, social justice, democracy and peace as strategic goals, underlines the relative importance of the policy-demand side of the supply-and-demand framework used to characterise the research policy relationship” (Masilela, 2008: 31). Burton (2006) describes the role of evidence-based policy research as an approach that responds to, and “... enters at every stage, from problem framing, through solution generation and alternative testing, to retrospective evaluation” (Burton, 2006: 184). Burton believes that a “Scientific quality of evidence is crucial, and that stronger truth claims are more likely to be used by policy makers” (Burton, 2006: 184).

Argued by some scholars as an exercise based on knowledge and trust, evidence-based research policy-making requires and demands a healthy working relationship to be cemented between policy scientists (within and outside the political system) and the government. This reason being, Heymans (1996: 29) explains, an inclusive public “Policy-making entails issues being identified, researched and analysed, information



processed and interpreted, positions formulated, articulated and debated, and lessons of experience utilised to improve the quality of government'. Therefore, a much needed correlation between key policy actors might assist the decision-makers with the necessary technical abilities required. This relationship can also be classified as perhaps a creation of an essential synergy between knowledge (policy experts) and action (policy decision-makers), where policy analysts and researchers are allowed to promote evidence-based policy findings and recommendations. Appropriated utilised, the relationship between research and policy can therefore be viewed as a model that seeks to strengthen the understanding, judgement and intuition of both politicians and other officials involved in policy-making. According to Burton (2006: 174-175), the rise of evidence-based policy-making has prompted a burgeoning sub-field, concerned specifically with the relationship between research and policy.

For an accurate and positive policy, one has to prioritise research as a tool to identify key challenges. Literature indicates that "... anyone who has worked in the field of solving public policy problems knows that before a person can really solve a problem he or she must interact with the problem, become immersed in its very nature, and come to know the problem intimately" (Bertsch, 1991: 613). This is to say, with the ability to identify, and prioritise evidence-based researched policies, will diligently promote and commission official policy-makers to appropriately apply their minds with confidence when deliberating on public policies. Evidence-based research allows and provides policy-makers with the ability to strategically consider the evidence given, in conjunction with policy implications in achieve the anticipated and desired input-output. In context, evidence-based policy research seeks to adequately empower and "... to provide policy makers, practitioners and other stakeholders with knowledge about how best to improve service delivery and service outcome" (Masilela, 2008: 35).

A research-policy relationship is conceptualised as a mediated and contingent process influenced by the interaction of three factors:

- Context: determined by institutional structures, interests, roles, power relations, and organisational cultures

- Evidence: determined by pre-existing knowledge, values and experiences; the quality and packaging of research; the credibility and communication of research etc
- Linkages: determined by the closeness of the personal links between researchers and policy makers (Masilela, 2008: 36)

The argument advocates the notion that presume the importance of a working relationship between key policy actors, and for the existence of a conducive environment for knowledge of the subject matter, that will subsequently lead to positive and objective practical solutions. Frederickson and Wise (1977: 180) observe that, whenever there is a study or deliberation on policy proposals by government officials. There are always professional staffs trained in policy research, able to interpret data, with access to professional evaluation, trained to analyse data collected on public policy proposals, and with the capacity to contextualise and unpack research-policy problems. With good governance as the motivator, it is argued that good policy research equals to accurate findings, which are appropriate to be utilised to influence policy decision-makers, or rather advise them when a need to identify policy challenges, shortcomings, and implications arises.

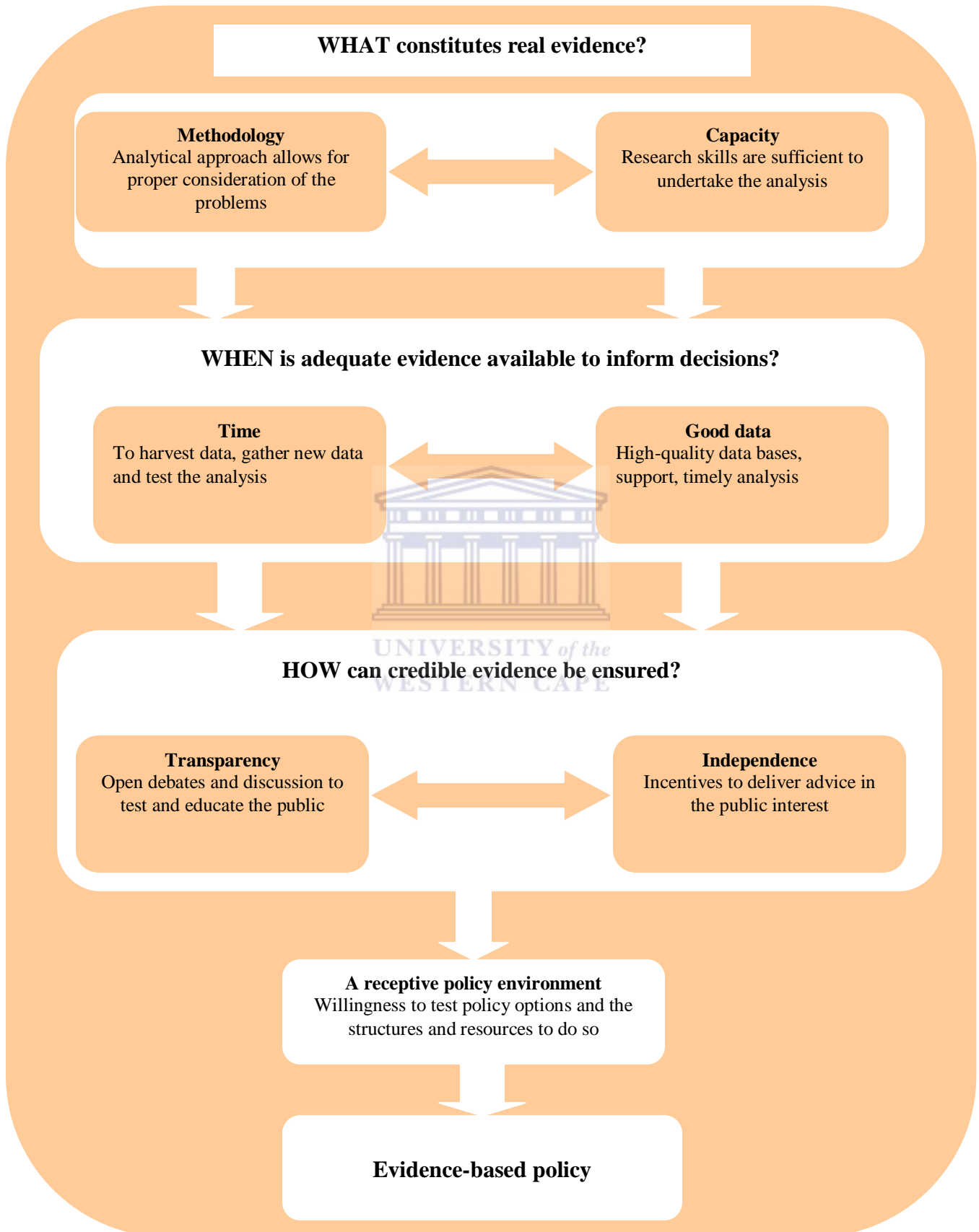
Complications associated with policy-making demands a fair political consideration, where policy decision-makers with policy experts and researchers as providers of technical support and policy directions, together with trust and respect share scientific content knowledge. The problems and challenges faced by official policy-makers in making a distinct choice between a good and an improper policy is caused by the inability to simplify, analyse, classify and process data provided by policy analysts and researchers. The existence of the perceived relationship between policy researchers and policy decision-makers will therefore address the above for better policy deliberations and analysis.

Presenting his paper to the Australian Public Service Commission (APS Commission) Gary Banks (2009: 1) asserts that;

“It is as important that we have a rigorous, evidence-based approach to public policy in Australia today as at any time in our history. This country faces major long-term challenges; challenges that have only been exacerbated by the economic turbulence that we are struggling to deal with right now. When the present crisis is over, we will still have the ongoing challenges of greenhouse, the ageing of our population and continuing international competitive pressures”.

The argument is therefore that, it is advisably eminent and relevant for policy decision-makers to know the significant features and benefits that accompany the evidence-based research approach to public policy-making. “Ideally, we need systems that are informed by evidence at each stage of policy development, from when an issue is first identified, to the development of the most appropriate response, and subsequent evaluation of its effectiveness’ (Banks, 2009: iii). As outlined in Figure 3.1, the relationship between public policy-making and evidence-based research constitutes a complex but positive output. It is about identifying and analysing a policy problem. It is an exercise that enables or informs policy research debates based on “Socially constructed realities” (Burton, 2006: 186), and it allows primary policy actors an opportunity to test, measure, and openly scrutinise (monitor and evaluate) the process with credibility and the confidence to produce better policy outcomes. One thing that should not be ignored is that the political world is changing, therefore there is a high ‘demand and supply’ (as explained by Masilela, 2008) for relevant, representative and reliable policy information which is consistently supported by evidence and research.

Figure 3.1: Evidence-based policy-making



The need for evidence-based policy research is primarily intended to improve national agenda for adequate policy priorities. It is about preparing the political environment for scientific data collected, that will influence and advance the entire process of public policy decision-making.

It is also argued that, the efficiency of policy-makers to formulate and make formidable policy decision depends, unconditionally, on the type of technical support they receive in terms of information or data collected, policy advice presented, and the analytical capabilities available to them. According to Burton (2006: 178), "... if policy research becomes more rigorous and the evidence it generates becomes more robust then policy makers will have no good reason for not using it". Basing this on the notion that, "... good evidence can ameliorate or 'neutralise' political obstacles, thereby making reforms more feasible" (Banks, 2009: 6). Figure 3.1 illustrates a framework that provides for a scientifically oriented, policy-based research and evidence that is tested and contested. The indication is that, when appropriately applied, evidence-based policy research, also described as an 'essential ingredient' by Banks, is a transparent approach that is consultative in principle. It is an approach that promotes and seeks to "... educate the community about what is at stake in a policy issue" (Banks, 2009: 12). Freidman (1995), Burton (2006), and other scholars concur with the notion that, "You can't have good evidence, you can't have good research, without good people" (Banks, 2009: 13). The underlying principle in evidence-based policy research is that, people are the source and the intended receivers or targets of national programmes and projects.

The view of Dror (2002: 147) is that, in modern democratic systems, public policy practices exist to engage key actors in quality policy deliberations, policy direction, evidence-based policy research, radical but moderate policy alternatives, value for money policy outputs, informed social critique and pure policy theories, all of which are steered by individual policy thinkers and free-floating intellectuals, academics and professionals, ideologues, grassroots activities, prophets, social dreamers, entrepreneurs, special interest groups, universities and think-tanks.

### 4.3 THE ROLE AND RESPONSIBILITIES OF POLICY ANALYSTS

Hanekom's (1996: 13) view is that, "Policy decision-making and policy-making are not synonymous, describing the latter as the action taken after a thorough intellectual process aiming to achieve policy goals or the policy intentions, whereas decision-making is about selecting a preferred alternative or advice after 'proper' consideration of other alternatives". Policy decision-making outlines a systematic exercise involving political elites as the ultimate decision-makers, and policy analysts as providers of policy options or alternatives for consideration. Thereafter, reaching a favourable and appropriate policy choice that speaks to political goals, governmental visions and missions, and the desirable national programmes. Though they are prominently involved in policy-making and influential in policy decision-making, policy analysts are not policy decision-makers, they are "... creators and products of policy systems" (Dunn, 1994: 71). This section will examine the role and responsibilities of policy analysts, who are regarded as the brains behind policy formulation, policy advice, policy analysis, guidance, monitoring and evaluation. In conjunction to that, this section will explore and discuss policy units as key players in public policy-making, and thus describing the types of these units.

The purpose and the role of policy analysts is to provide objective policy advice, interpret or analyse complex and comprehensive policy alternatives. Policy analysts possess the skills to intellectually brainstorm, conceptualise and produce evidence-based policy research, and facilitate policy management capacity. Acknowledged by many, responsibilities of policy analysts includes among others, designing of macro-governmental policies, and shape policy directions. It is to provide quality policy personnel and expertise, and be actively involved in policy advocacy and lobbying with intentions of influencing policy agendas. As providers of non-partisan or independent voices, policy analysts generally procure empirically and scholarly-based policy knowledge and capacity to benefit legislatures, the executive, and ultimately the people. The motive behind a non-partisan policy unit is to try and avoid what the Central Policy Review Staff (CPRS) in the UK suffered, as it was closely associated with political figures and parties (see Mutahaba & Balogun, 1992) in conducting its duties.

It is widely argued that, policy analysts "... should bear in mind that his primary client is the political office-bearer or policy-maker. The relationship between policy-makers and policy analysts should be of a very high order, especially because of the possibility that the analyst may have to try to 'sell' his personal views to the policy-maker" (Hanekom, 1996: 70). Putting the above into perspective, Carter (2008: 41) emphasises that, public policy analysts roles include among others "... focusing on policy and legal issues, free from partisan influences and ideological biases, and thus providing research and creative thinking that legislative bodies do not have time or resources to produce" (Carter, 2008: 41). Generally staffed with quality analysts and researchers, policy unit's purpose is to assume a role of providing, what Carter (2008: 43) called 'conventional wisdom', technical and timely policy analysis, research findings and recommendations. As policy advocates and advises; policy analysts play a crucial role in building state policy management capacity and are very much interested in policy formulation, implementation or evaluation (Parsons, 1995: 31).

Commonly known as technocrats, policy analysts provide what is viewed by some authors as critically qualified analysis on matters regarding economic, social and political importance. They mediate between the government and the public, by providing an informed environmental examination, at the same breath identifying problems for further assessment, as well as creating possible interaction and communication for quality policy dialogue (Carter, 2008: 43). By possessing qualities to identify and translate social, economic and political problems into policy cases, policy analysts' roles also involves the ability to scientifically "... design implementation strategies to give effect to the legislative framework and participate in policy implementation, monitoring and revision" (Fox et. al., 2006: 42). This explains the diverse skills entailed by policy analyst, if employed adequately by political elites, literature reveals, could benefit legislatures, citizens, as well as policy units.

Policy analysts exist in government agencies, in non-governmental institutions, and within political party parameters. Identifying types of independent policy institutions

(think-tanks), Carter (2008: 42), in making a reference to McGann (2005), classifies policy analysts as:

- “Academic (specialised and diversified) think-tanks are theory based, produce research for the academic community; and for long-term research
- Contract research organisations have a narrow policy orientation, focus on specific sectors, and can serve as policy or programme consultants
- Advocacy think-tanks push an ideology, and their work is defined by partisan causes. They generally reject academic orientation to policy analysis
- Policy enterprise think-tanks invest in their brand to produce research outputs only to meet the needs of busy policy makers and politicians. They place a premium on marketing their ideas rather than validating them”

In explaining the four types of think-tank organisations as identified by Carter:

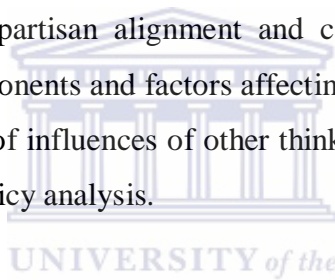
*Academic think-tanks* are theory based, producing policy research for academic purposes, long term scientific research, and training. It is argued that, within this category one can receive enormous quality knowledge and skills in public policy-making and awareness. Dror (2002: 143) describes the academic think-tanks as “More innovative and creative, free floating intellectuals”. Noted in the *World Social Science Report* (2010: 17), the work done by academic think-tanks elevates their standards. Hence, they enjoy recognition with a strong presence among official policy-makers, especially in developed countries. The report further describe this type of think-tank and its institutions as a “ ... driver of economic growth” (International Social Science Council, 2010: 15). However, the limitations or challenges faced by academic think-tanks are that, the material they produce is mainly for academic communities, with intellectual or academic jargon which is difficult for civil societies, ordinary citizens and sometimes government, to understand. Thus portraying the work of academics on policy-making loses support, as they are perceived to be less accommodating.

Having a narrow policy perspective, *contract research institutions*, as explained by Carter, are considered to be limited to a particular field, and are said to find it difficult



when analysing or researching policy that does not interest them. This is to say, their policy research knowledge and expertise is limited. As independent policy institutions, contract policy analysts operate on a consultative basis with specific groups of individuals possessing specific interest, e.g. an education policy unit that mainly focuses on education related matters and nothing else. These are, as Parsons (1995: 30) informs us, institutions that contribute and are involved in public policy-making processes based on them attaining government contracts determined by fees. Contract research institutions are 'freelance consultants' perceived by others as career opportunists.

The *advocacy think-tanks* are ideologically oriented. Their work is easily defined by partisan causes. Advocacy think-tanks/units concentrate, or are rather, structurally designed to formulate, articulate and market policy ideas as a result of a particular organisational interest. Their partisan alignment and causes, in a way, restrain their understanding of broader components and factors affecting societies, therefore in a sense, closing or becoming sceptical of influences of other think-tanks, especially the academic influence and orientation to policy analysis.



The *policy enterprise think-tank's* role is to advocate a specific policy agenda, and interest ahead of national policy programmes that exist as a result of manipulating a weak or ill-defined role by parliament (legislature), regarding policy analysts, policy management and advocacy. Policy enterprise think-tanks generally exploit the situation, where the executive and the legislature lack the capacity and the ability to develop and advance policy proposals for a particular period. The danger imposed by this type of think-tank is that they produce unqualified, unsubstantiated policy research proposals which might lead to chaotic and problematic policy implications, especially on implementation.

*Political party think-tanks*, identified by Parsons (1995) and Burstein (1991), are mostly aligned to political ideologies and parties, where they design, advocate, analyse, and redefine policies in support of the party's vision and goals in pursuit of political objectives. How authentic, substantive and representative their policy advice and analysis

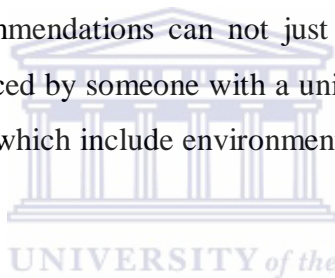
is, is another matter, as policy domains are supposedly objective and substantive in content, rooted from an organised but complex political system (Burstein 1991: 328). Taking into cognisance the view that, policy experts construct their policy research based, on social or environmental needs. With political party think-tanks, however, their policy inputs are arguably considered to be biased as they are subjected to political ideologies and open to party political control and manipulations which sometimes favour political careerism. In South Africa, the ruling party has its own fundamental and influential policy unit headed by Mr Jeffrey Radebe, who is also a Minister in the Cabinet (ANC Parliamentary Caucus). The ANC's policy unit is a typical example of a political party think-tank as described by Parsons (1995) and Burstein (1991).

Although differing in their 'professional setting', these different types of think-tanks contain both specific and multiple capacities and the abilities to effectively influence and contribute on the subject matter, that being public policy-making in its entirety. The view therefore is that policy analysts "... have a number of common and overlapping concerns: they are concerned with what the decision-makers and policy makers do or do not do" (Parsons, 1995: 29). With visible intellectual growth and opportunities, South Africa has seen a number of competent and credible think-tanks developing and nurturing quality researchers, policy analysts, and specialists. Among those are the South African Institute for International Affairs (SAIIA), Centre for Policy Studies (CPS), Institute for Democracy in Africa (IDASA), Democracy Development Programme/Konrad Adenauer Stiftung in South Africa (DDP/KAS), Centre for Education Policy Development (CEPD), Human Science Research Council (HSRC), and the South African Institute of Race Relations (SAIRR), to name a few. These are vibrant public policy research institutes, which mostly initiate policy research with intentions to shape national policy agendas and programmes. They advocate, lobby and educate by sharing their findings and recommendations the policy decision-makers. In most instances, these units conduct specific policy research independently and sometimes in collaboration with government.

The argument in this chapter is that, making governments and legislatures in particular, more effective and efficient, requires an in-depth technical investment in multi-

disciplinary and policy management science. Policy analysts, with their acquired policy research, policy design and analytical skills positioned in the central mind of government, could add essential and necessary intelligence to official policy-makers, as catalysts and proponents of policy management capacity development.

Various scholars, including Dror (1988), Burstein (1991), Heymans (1996), and Carter (2008), share a common belief that says, policy analysts are an important segment of a strong efficient democratic society. Policy analyst's role is described by these scholars as imperative in public policy management. However, it is also recorded that policy analysts face a challenge in advancing their policy suggestions, alternatives, findings and recommendations for consideration by official policy-makers. Friedman (1995: 18) points out that, public policies and policy research should be relevant and exciting, hence policy proposals, findings, and recommendations can not just be "... accepted at face value simply because they are produced by someone with a university degree". Policy experts need to meet the requirements which include environmental knowledge, authenticity, and capacity.



#### **4.4 WEAKNESSES AND CHALLENGES OF POLICY ANALYSTS**

Policy analysts and experts have their own individual and organisational weaknesses and limitations, which affects their performance, credibility, and objective analysis in public policy making. Dror (1971: 3-4) contends that;

“Policy recommendations presented by scientists, presuming to rely on science, suffer from a number of serious weaknesses, including in particular; the following:

- A tendency to formulate problems narrowly “tunnel vision” taken from specialised disciplines, for example an economist tends to view all problems as economic ones, with a little attention to borders of validity.
- These weaknesses can be summed up as narrow, mono-disciplinary perspectives, which produce single-dimensional images of multispace issues; a distorted perception of problems; careless transgressions beyond one's area of scientific competence; and zero-effective, if not counter-productive, recommendations which are accompanied by lack of

knowledge by most scientists of even rudimentary elements of policy prescriptive approaches.

- By lack of knowledge, Dror's argument clearly means; lack of knowledge permitting control and direction of the environment, direction of society and individual. [is this part of the direct quote?
- The absence of meta-direction and meta-control not only constitutes a serious lacuna in scientific inputs into policymaking, but also hinders transformation of available scientific knowledge into policy recommendation, because policy recommendations must be based on some fusion between prescriptive methodologists and knowledge of the environment, society and individuals".

Wissink in Cloete et. al. (2006: 323) explains that, a prominent policy analyst should be able to identify and project conflicting policy options. Policy analysts should, as a pre-requisite, possess skills to develop appropriate policy alternatives, develop and provide policy outcome measures for evaluation with relevant information. They should contain the ability to facilitate an environment for political adoption. Wissink further notes that, "The standard that usually disqualifies most social scientists is the inability to present all this information clearly, concisely and convincingly ... policy analyst fails if his advice is not taken, his advice fails to produce the intended consequences" (Cloete et. al. 2006: 323). By disregarding the above fundamental segments and guidelines in understanding the processes of public policy-making, policy analysts, in most cases directly or indirectly, expose themselves to rejections, being ignored or being vulnerable to manipulation and political influences.

In order to succeed, Burton critically notes, policy analysts, researchers, and experts should acquaint themselves with political skills, noting that academic qualifications alone are not enough to advocate and accurately provide policy advice, and to research and analyse. He emphasises that policy analysts should "... become more politically savvy as well as technically skilful if they want their work to be influential; even if they cannot envisage themselves as fully-fledged deliberative practitioners" (Burton, 2006: 189-191).

The notion that policy experts are obvious technical and analytical support providers for legislatures because of their academic qualifications is, according to Dror (2002: 142), a misconception. Elaborating, he points out that an individual may carry many qualifications while lacking the fundamental abilities and qualities to influence trajectories into the future within given or mutated evolutionary potentials. Which requires the ability to identify high quality critical choices and to strategise based on the information gathered; and those choices are likely to have a significant impact on the future policy decisions taken that eventually affects the lives of ordinary citizens. The emphasis is that, policy analysts, with their academic knowledge, are still required as a prerequisite to public policy-making, to logically and strategically acquaint themselves and adjust to complications related to the political environment, and to complexities associated with the workings of government in general and parliaments in particular as elite political bodies. The argument suggest that analysts should be aware that, “ ... government does not need to accept the proposed policy” (Braun & Giraladi, 2006: 192). It (government) enjoys the right and liberty to decide whether to accept what has been proposed to them if and when it feels ‘appropriate’. Hence, it is crucial for analysts to rationally understand and follow political agendas, goals, vision and mission as stipulated by the state. Mintzberg (1983: 26) describe this as the ability to acquire ‘political skill’ while maintaining non-partisan. It is, he argues, “... the ability to use the bases of power effectively – to convince those whom one has access, to use one’s resources, information, and technical skills to their fullest, ... to sense what is possible and to organise necessary alliances”. Lacking the above, leads to frustration, thereafter, forcing policy analysts and units to choose unethical means in influencing policy-making processes, in that they become insignificant unendorsed allies of the government, who legitimise political party policies (Friedman, 1995, Braun & Gilardi, 2006), by such facing the risk of losing their integrity as providers of independent, objective and non-partisan policy voice. For these reasons, Hogwood and Dunn (1984: 30) suggest that “... analysts have to be trained in the political skills as well as in planning techniques and approaches. The trained (whether undergraduate or post experience) should emerge with a heightened awareness and understanding of, and sympathy for, the essential political nature of the policy process”.

#### 4.5 PUBLIC POLICY UNITS AND POLICY ADVOCACY

Boundaries between policy domains are more permeable than party-political boundaries. This is because policymakers and experts, in one domain borrow ideas from other domains close to their own, supposedly when and if they share similar policy content and perspectives (Burstein, 1991: 335-336). Policy units, especially academic, contract researchers and policy enterprise think-tanks, understand that policy advocacy involves activities that demand capacity, networks, and sufficient or popular recognition. The rule therefore is to advocate while at the same time drawing the attention of official policy-makers for acknowledgement. Public policy units should, it is argued, as a critical starting point, ensure that what they are lobbying and selling is political relevant and significantly progressive.

It is strategically imperative for policy units or centres to “... remember that policy makers are often confronted with a multiplicity of policy issues; some of which are complex and messy, and others that are more routine and simple” (Cloete et. al., 2006: 361). The point is, there will always be a political need for accurate, effective policy advice from technically skilled policy experts and professionals, with the ability to channel, communicate, and sell feasible and progressive knowledge. Carter (2008) believes that the idea of having an influential policy research on national agenda depends on the interplay of networks and relationships between the producers (policy units/analysts) and users (parliament and executive), between evidence and the political context. For Parsons (1995: 185-197), this represents what he calls ‘policy subsystem’, a policy-making process, which is composed of all key policy actors involved in a number of policy advocacy coalitions, based on a context of relationships and dependencies. The argument advocates for an appropriately conceptualised and conducive operational environment that will define sensitive boundaries in policy domains for actual growth of think-tanks (see Burstein, 1991; Parsons, 1995; Braun & Gilardi, 2006; Carter, 2008; Jenkins, 2008).

Gumede (2008: 16) indicates that a “Policy Unit oversees and partakes in meta policy development and management through the cluster system in ensuring that the goal of mitigating poverty and building a cohesive society, and other complementary objectives are achieved”. The empirical perception thereafter, relates to policy management units as providers of comprehensive and professional perspective for evaluating major current decision issues, with special attention to the more critical ones (Dror, 1988: 281).

Heymans (1996: 31-32) and Shellukindo (1992: 48) stipulate the view that, official policy decision-makers or political leaderships, on a continuous basis require, and base their policy stance partly upon the perspective derived from technical advisors. They argue that, a tactically clever government will most likely engage with various interests and sources of expertise in order to make its pursuit of policy goals more streamlined. This creates and confirms, theoretically, the general demand by official policy-makers for more technical and empirical solutions to complex policy processes, therefore allowing for ultimate policy advocacy to prevail in a consensual manner.

In clarifying environmental contentions and boundary confusions, Parsons (1995: 267) note that, in line with the perception that policy units (within or outside the political framework) exist only to offer policy alternative and advice, assist with monitoring and evaluation, conduct and produce research findings and recommendations. They are not policy decision-makers, and therefore can not recommend a policy. Their role is to facilitate, advocate, provide, and suggest a more coordinated, semi-academic research-based analysis. They provide intense high level thinking, with moderate but relevant radical ideas (Jenkins, 2008: 30).

The environment and boundaries for the possible viability of policy units should be explicitly identified and be conducive, so that the units can play an active and efficient role in facilitating and sharing information for informative policy dialogue, policy guidelines, and proposals. Christiansen and Nørgaard (in Braun & Gilardi, 2006: 192) observe that, in European parliamentary democracies, especially the Scandinavian countries, the general practice is that independent think-tanks with strong working

relationships to political parties in parliament have traditionally been closely, and effectively involved in public policy-making and implementation, through well coordinated relationship that allow progressive advocacy, networking, lobbying, and other participatory arrangements to exist.

With the USA having a large number of policy analysts and units, their contribution in public policy-making and decision-making through lobbying and advocacy is regarded as the most advanced and efficient. As a result, policy units in the US are acknowledged as crucial and eminent policy communities in national agendas, in policy-making processes, as they are considered as providers of intellectual capacity to official decision-makers. This argument in this section advocates for institutionalisation of policy management capacity in parliaments, with "... professional (analytical) support functions, such policy and research analysis, information management, planning as well as monitoring and evaluation as a core" (De Coning et. al., 2002: 32).

Policy advocacy is a delicate exercise. What hinders the 'success' of think-tanks in this regard is the willingness by elite politicians to make use of data produced and presented by think-tanks, as they operate outside of the official political framework. For policy management units to be effectively influential in public policy advocacy, they should, Dror (1988: 285) suggests, position themselves in a manner that will give them "... direct channels to top-level decision-makers, the cabinet and senior advisors in ministries. The purpose in Dror's suggestion is, for policy units to obtain the opportunity to present their policy findings and recommendations directly to political office bearers. To build up islands of professional excellence near main decision- making structures, as suggested by Dror (1988) and Heymans (1996) is not sufficient in policy advocacy. Considering that, policy advocacy combines lobbying, advancing and channelling what is presumed to be accurately designed policy alternative. What should be emphasised as crucial in policy advocacy is, "The ability to "sell" research findings, to identify the research problem and the actual need to conduct a research. What is viewed as crucial is the skill and the technical competency of an analyst and the researcher, to influence the political environment wishing to operate under.



“Policy advocacy requires the skills of rhetoric, persuasion, organisation, and activism” (Dye, 1995: 6), hence, it is argued that, to generally view policy units as credible expert with influential structures which automatically provide policy research, advice, policy alternative and advocacy is to be short-sighted.

When it comes to Africa, authors like Mutahaba et. al. (1993); Olowu and Sako (2002), are not entirely convinced that Africa’s policy units are even on the verge of adequately propagating policy ideas based on profound evidence-based policy research. The reason for this is that, official policy decision-makers (politicians) in Africa do not totally subject themselves to technically profound policy input, promulgations, analysis, and advice. That is why “ ... policy analysis tended to be weak in many African countries” (Mutahaba et. al., 1993: 50). The argument by these authors shows that, state priorities or national agendas in Africa have always been of different nature, when compared to developed countries. Good governance and service delivery, as mentioned before, promote and compel policy decision-makers to augment their capacity and technical skills for relevant policy making. In Africa, “ ... the absence of policy analysis units presented decision-making as an optionless exercise, since the capacities for defining different policy choices were lacking” (Mutahaba et. al., 1993: 50).

The existence of policy units in the USA, arguably, the leading parliamentary democratic system in the world with the largest government, is rooted in ongoing official ties and working relations between the scientific experts and the legislature, leading to gradual policy innovation and efficiency (Burstein, 1991: 333). As a source of valuable knowledge, the purpose of a cross-cutting multi-disciplinary, policy unit reflects efforts that seek to improve and instil good quality policy dialogues, alternatives, analysis.

Table 2.1 categorically highlights specific roles and responsibilities of policy units as determined by the nature of the organisation concerned, and the relationship it has with official policy makers and the citizens. Furthermore, it indicates that, policy units in general present the ability and human capacity to ultimately influence public policy management and policy decision-making, given the multitude of expertise possessed.

**Table 2.1: Roles and responsibilities of policy units**

Policy design	Dunn (1994) Dye (1995) Cloete, De Coning and Wissink (2006)
Policy analysis	Mutahaba & Balogun (1992) Dunn (1994) Heymans (1996) Cloete, De Coning & Wissink (2006)
Policy research	Friedman (1995) Parsons (1995) Burton (2006) Banks (2009)
Policy advice and alternatives	Dror (1983, 1988, 2002) Weiss (1992) Heymans (1996) Hanekom (1996)
Internal or administrative policies	Fox et al (1991) Hanekom (1996) Cloete, De Coning & Wissink (2006)
Policy advocacy	Vining & Weimer (2002) Braun & Gilardi (2006) Carter (2008)
Monitoring and evaluation	Parsons (1995) Heymans (1996) Cloete, De Coning & Wissink (2006)

## 4.6 CONCLUSION

In this chapter, the focus has been to combine evidence-based policy research, public policy-making, and policy management capacity. The chapter highlighted the view that policy-making as a process is not complete if it lacks knowledge or omits quality evidence-based research, steered by qualified policy units. Theoretical aspects of the role and responsibilities of policy analysts were examined. Policy analysts are essential technical providers, who produce policy analysis, offer policy advice, assist with monitoring and evaluation, and conduct and communicate policy research findings and recommendations to official policy-makers. Types of policy units or think tanks as identified by Carter (2008) were discussed, namely: academic think-tanks; contract research organisations; advocacy think-tanks; and policy enterprise think-tanks.

Vining and Weimer (2002: 699) emphasise the notion that, "... good policy analysis has substantive depth. It is important that analysts take time to learn about the legal, political, economic, social, and, where relevant, scientific aspects of the issues they are attempting to address". In discussing weaknesses and challenges faced by policy analysts, the chapter argued that, it is paramount for policy analysts to understand the political context that they are working under, the external factors that affect and determine their perception of what their role is, and who their clients are. The idea emanates from what Dror (1971) perceived as a lack of meta-direction and meta-control for productive influential scientific policy input-output. The inability to identify and adapt to socioeconomic and political realities, affects the functioning of policy units as policy advocates and analyst. Who by virtue of their work, should be relating, selling and communicating evidence-based policy research. As Vining and Weimer (2002: 701) indicate, "Public officials, interest groups, non-governmental and international organisations, operate in different policy arenas and bring different interests, responsibilities, authorities, and political resources to the policy process. It is important therefore to provide novices with experience in recommending the particular sorts of actions that can be taken by their clients". Policy units who lack the expertise, rhetoric skills and capacity, to influence

while advocating their policy interest, will be marginalized not only by government departments, but by other policy institutions.

Policy units or think-tanks duty is to systematically and strategically influence policy decision-making through advocacy and lobbying. As providers of profound and independent voices for policy debates and policy solutions (Carter, 2008: 43), it is crucial for policy units (especially those outside the political frameworks) to strategically position themselves so to have direct access to policy officials and makers. To ‘succeed’ in doing so, policy units eminently require the services of professionals who possess the ability to efficiently sell research findings and recommendations, analysts with not only academic qualifications but who understand the political environment, who has the qualities of channelling policy information accordingly.



## **CHAPTER 5: THE SOUTH AFRICAN NATIONAL PARLIAMENT AND THE PMU**

### **5.1 INTRODUCTION**

In this chapter the focus will be on the South African National Parliament. The examination of Parliament will deliberately begin in 1994, during the birth of the new dispensation. The discussion will highlight, in context, the challenges that the new regime encountered and had to address and deal with, as a result of the previous apartheid regime. The aim and the objective of this chapter is to illustrate the role and functions of Parliament as prescribed by the Constitution of the Republic of South Africa, Act 108 of 1996, which categorically defines Parliament as an important political institution in a parliamentary democracy system, and as the law-maker. To facilitate this exercise, key functions of Parliament or the National Assembly are discussed. The study will assess the technical capacity of Parliament in policy-making. It will further and specifically present policy-making as a political exercise, and thus examining the role of the Policy Management Unit in Parliament.

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### **5.2 A HISTORICAL OVERVIEW OF THE DEMOCRATIC PARLIAMENT OF 1994**

Internationally pronounced as a crime against humanity, apartheid, as advocated and spearheaded by the National Party of Prime Minister Verwoerd, Vorster, Botha and De Klerk, deliberately chose to suppress the rights of Black people. As a result Parliament and government in general felt less responsible in terms of accountability and equal service delivery, and in designing comprehensive developmental and representative public policies. In its dying days, it is argued, the apartheid regime tirelessly and covertly strived to destroy South Africa's efforts for change, mostly targeting the "... institutional mechanisms" (Gumede, 2008: 10) of the state. This action was seen as a political ploy aimed to destabilise the new incoming administration, so they could lead the country to failure. Detrimental and destructive measures were made, especially during the period

between 1990 and 1994, to make South Africa a haven of ‘political’ and ‘ethnic’ violence, where the country was masked with chaos and bloody incidents (Ross, 1999: 185), so to promote disunity, distrust, and a sense of incompetency.

Sparks (2003: 16) makes an important observation when he notes that, the new regime, unfortunately, inherited an economic and political mess. Not only that, it also inherited a rather peculiar segregationist and less representative parliament in the form of the Tricameral Parliamentary system. Where Coloured and Indian voters had their ‘own’ legislatures separate to the White Parliament, and where “ ... black parliament set up besides the Tricameral Parliament, would consist of the governments of the black states, representatives of black local authorities” (De Klerk, 1991: 58) with less or no human rights.

The new democratic government of 1994 was unavoidably faced with numerous complex challenges which, among others, “... involved redrawing the geo-political map of South Africa” (Sparks, 2003: 18), concurrently followed by “ ... rebuilding the institutional mechanisms, initiating and implementing legislation and policies that are in line with the Constitution” (Gumede, 2008: 10). This exercise, overwhelmingly called for inputs from all stakeholders on how to craft a functioning unitary state under one supreme law, which is the Constitution, which would be people-oriented in principle. A new country with new visions entering the ranks of global parliamentary democracy principles, which are based on the rule of law with an emphasis on human rights and dignity, good governance and accountability.

The new democratic regime, in no time, had to set its priorities and address issues of socio-political and economic inequalities, at the same time, it had to reconfigure and reconstruct a previously malfunctioning Parliament as a result of separatist philosophy, so to transform it into an institution that would respond effectively to the needs of the people. Tireless efforts and planning by former freedom fighters and activists in political leadership, in collaboration with those of the previous regime who were ready and willing to accept change, were based on the desired “... need to develop a

common understanding of the constitutional design of South Africa's legislative institutions" (Murray & Nijzink, 2002: 15). Hence today, the new South African National Parliament is arguably the dynamic political body representing transformation and unity, an institution that "... gives expression to one of the most liberal constitutions in the world. With an entrenched Bill of Rights guaranteeing all the fundamental human rights, including the right to life, liberty, and freedom of expression" (Sparks, 2003: 7).

Committed to the rule of law, the new democratic system subjected itself to the idea of separation of powers or 'trias politica' to guarantee the existence of accountability and good governance. Making a reference to Van der Weyver (1993: 178), de Vries avow that 'trias politica' illustrates separate functions of government branches. It is about identifying and defining official boundaries, monitoring and evaluation, checks and balances, clarifying mandates and codes of operation in the three components of government, which are the Executive (cabinet), Judiciary (courts), and the Legislature (parliament). The aim of checks and balance in a trias politica system, is for each branch of the state entrusted with special powers to monitor other two so that an equilibrium in the separation and distribution of the powers may be upheld ( de Vries 2006: 43).

The first outline of the Constitution was drafted in 1993 as Act 200, leading to the final creation which was adopted in 1996 as the supreme law of the country, and became officially known as The Constitution of the Republic of South Africa, Act 108 of 1996. The existence of this supreme law empowered and gave direction to the government and Parliament in particular, so as to unambiguously identify and define institutional responsibilities, core business of Parliament, work ethics, communication boundaries, mission and visions, processes and procedures to be adhered to by all within and outside the institution. With the ANC as the majority and a ruling party, the new democratic Parliament of 1994 operates from a clear mandate enshrined in the Constitution, and constitutes two Houses: the National Assembly (NA) with 400 Members of Parliament (MPs), where MPs as party representatives are elected into power by the people through party affiliations or lists, and the National Council of Provinces (NCOP) representing nine provincial legislatures with ten delegates from each, which provides a national

forum for provinces to express their interests (Murray & Nijzink, 2002: 16). Both these Houses are Parliamentary institutions, operating parallel but interdependently especially when it comes to policy and law-making, where public policy-making has to reflect the aspirations and visions of a new democratic country, and be transferred from national to provincial to local government for implementation.

According to the *Strategic Plan for Third Parliament 2004-2009* (2007: 39), Parliament has shown signs of political maturity, hence in 2005 it adopted a new vision for a democratic South Africa, that outlines the desire “To build an effective people’s Parliament that is responsive to the needs of the people and that is driven by the ideal of realising a better quality of life for all the people of South Africa”. The focal point was echoed in the launch of the Parliament’s new Vision by Mr Zingile Dingani, the Secretary to Parliament;

“Explained that the time had come for Parliament to focus on how legislation is affecting people’s lives and how Parliament can play a role in improving the quality of life for all South Africans”, indicating that “Our Vision, which was based on the Constitution of this country, indicates a new direction for Parliament. From 1994 to this point, the emphasis was on getting rid of apartheid laws and replacing them with progressive legislation. Now we are moving away from that and we require a more vigorous and vibrant Parliament, one that oversees government programmes to ensure they impact positively on the people of our country” (Parliament of the Republic of South Africa, INsession, 2005: 04).

Since 1994, Parliament has therefore rigorously embarked on activities and exercises with intentions to transform, reshape, and redirect this institution so that it can heal the divisions of the past and advance the aspiration for a democratic, non-racial, non-sexist South Africa through effective public policy-making.

### **5.3 KEY FUNCTIONS OF THE NATIONAL ASSEMBLY**

Contrary to Ghana, where the Provisional National Defence Council (PNDC) is the highest ruling and policy-making body, vested with legislative and executive powers



(Mutahaba & Balogun, 1992: 64). In South Africa, the Constitution mandates Parliament, as the highest political institution; to make, amend, debate, pass or reject laws, with checks and balances in place for adequate separation and distribution of power.

Fox and Bayat (2006) present a different perspective on the role of Parliament in South Africa as law-makers. Making a reference to the Constitution, their argument is that, “Section 85 (2) provides that the President shall exercise the executive authority, together with other members of the Cabinet by, inter alia, developing and implementing national policy. Therefore, policy-making and law making in the national interest are vested in the President and the Cabinet of the South Africa Parliament” (Fox et. al., 2006: 17). Revealing an interesting observation, the authors portray the Parliament as a political institution with limited or no legislative powers, when compared to Executive that contains the ultimate legitimacy to make laws.

However, de Vries (2006: 44-45) objectively views the Constitution as the guiding doctrine and the highest law of the country, with Parliament as its author. To confirm that, Section 44 of the Constitution of South Africa notes that, law-making authority is constitutionally vested in Parliament as the elite political body. With Section 42 (3) of the Constitution mandating and compelling Parliament to represent the people, to ensure that government by the people under the Constitution is in existence, more importantly to pass legislation, and to scrutinise and oversee executive actions (Parliament of the Republic of South Africa, 2006: 26). “Thus the Constitution suggests that the representative role of legislatures is to be realised both in institutional arrangements (such as the participation of minority parties and the facilitation of public participation in legislative work) and in representativeness of their members” (Murray & Nijzink, 2002:4-5). Section 57(b) of the South African Constitution Act 108 of 1996, clearly stipulates that the National Assembly may make rules and orders concerning its business with due regard to representative and participatory democracy, accountability, transparency and public involvement. As a representative body, Parliament therefore “... provides a link between government and the people” (Murray & Nijzink, 2002: 6).

The Constitution of the country permits the National Assembly to develop effective institutional entities and supporting mechanisms that will assist it to realise its responsibility as an oversight body. The "... fundamental role of the legislature is to provide ongoing scrutiny or oversight of government" (Murray & Nijzink, 2002: 6), and to hold all executive departments accountable including relevant stakeholders and agencies. The most pivotal supporting system in this regard would be Parliament's committees, which play a critical role in terms of oversight, public hearings, and debating in-depth policy matters. Taljaard and Venter (2002: 26) avow that, "... before May 2004 the committees existed primary to rubber-stamp the laws put forward by the apartheid regime. Now they are the engine room of the new parliamentary democracy". In executing their responsibilities, parliamentary "... committees must monitor, investigate, inquire into and make recommendations relating to any aspect of the legislative programme, budget, rationalisation, restructuring, functioning, organisation, structure, personnel, policy formulation or any other matter considered relevant" (Taljaard & Venter, 2002: 26). For this reason, it is argued and acknowledged that Legislative institutional support mechanisms have the ability to empower and embrace Parliament in efficiently exercising its role as a law-making, policy decision-maker.

With the legitimate political authority, it is the responsibility and function of Parliament to elect the Speaker, Deputy Speaker and the President of South Africa, at the same breath bearing the right to dismiss, through a vote of no-confidence, the executive members and the presiding President of the country (Constitution of South Africa, 1996: Chapters 4 & 5). Again, the ANC-led Parliament nominates and appoints individuals to perform constitutionally designed positions, most importantly positions and institutions which aide Parliament with its oversight role; these are called Chapter 9 institutions, with Chapter 10 Public Service Commission (Murray & Nijzink, 2002: 5-6). Parliament is also constitutionally mandated and obliged (see section 165(4) of the Constitution) to "... assist and protect the courts and state institutions, to ensure their independence, impartiality, dignity, accessibility and effectiveness". In addition, it is compelled to educate, inform, and consult the electorate on any government or policy matter.

Taking into consideration the eminent constitutional role and function of Parliament, which is to make laws, it is however argued with empirical knowledge by many, including Venter and Landsberg (2006), Murray and Nijzink (2002) that, in practical terms, most of the law-making work of South African Legislatures takes place within the walls of the Executive. Meaning policy papers or Bills are initiated, promulgated and executed by the Executive, thus portraying Parliament as a reactor and legitimiser of the Executive's policies.

In a nutshell, the role and functions of Parliament as clearly stipulated in the *Strategic Plan for 3<sup>rd</sup> Parliament 2004-2009* is to:

Function 1: Pass legislation

Function 2: Scrutinise and oversee executive action (keep oversight of the Executive and organs of state)

Function 3: Facilitate public participation and involvement in the legislative and other processes

Function 4: Participate in, promote and oversee cooperative government

Function 5: Engage in, participate in, and oversee international relations (Parliament, 2008: 31).



#### **5.4 PARLIAMENT'S TECHNICAL CAPACITY IN POLICY-MAKING**

With the end of Apartheid in South Africa, and the arrival of multi-party system throughout the continent, new parliamentarians emerged, most of whom with no experience of operating within a parliamentary framework (Hopkinson, 1995: 40). Thus raising concerns about the urgently needed capacity to deliberate and produce sound developmental policies.

In South Africa the immediate challenge was how to do away with old separatist policies and introducing new representative policies. Chelechele (2009: 45) explains, "Apartheid policies in respect of human resource development have left a legacy of a low skills base and gross inequalities in terms of skills development in South Africa".

Chelechele's argument relates to views suggesting that, it is not only because of their involvement in the struggle or political activities that caused politicians (who are now MPs) and people in general not to have "Necessary abilities, capacity, skills, and knowledge" in policy-making (which is a complex exercise), it is as a result of a systematic strategic plan by the apartheid regime to depress and deprive the oppressed fundamental skills, education, and confidence in preparation for a future developmental state. "The development and education policies of the apartheid regime were purposely designed to confine Black South Africans to menial labour" (Chelechele, 2009: 48).

Nevertheless, taking the bull by the horns, in 1994 the ANC-led government adopted the Reconstruction and Development Programme (RDP) as the basic strategic policy framework that will guide the ruling party towards an ideal transitional and developmental stage. The RDP emphasises and encourages the development of human resources or capital, and of building capacity as a driving force for success (RDP White Paper, 1995). Complimenting or rather supplementing the RDP, in 1996 the government developed a macro-economic strategic policy, called the Growth, Employment and Redistribution, or GEAR (Venter et. al., 1998: 237). These developments reflect that, within a short period of time in power, the ANC-led Parliament had to take full consideration of the fact that policy-making in South Africa had to redress the acute socio-political and economic programmess of the past. For Parliament to perform such with efficiency, Ahmed Mohamed (2008) in his article in the *Cape Times*, emphasises the importance of strengthening the technical capacity of the legislature with the objective of attaining and promoting a vibrant policy debate with substantive policy outcome.

It is the view of Booysen and Erasmus, in Venter et. al. (1998: 231), that the commitment and determination by the new government to address the issue of technical capacity has to be undertaken with an understanding of the complexities involved in turning around government's attitude, practices, or business as usual, in line with relevant policy decision-making as a political exercise.

Considering and acknowledging the crucial role to be played by Parliament as a representative institution in public policy-making, calls supporting suggestions by Booysen and Erasmus in Venter et. al. (1998: 232), that is, to capacitate and empower the Legislature so to advance their understanding of “ ... discussion documents, government directives, white papers, legislation and regulations for policy implementation” were advanced and promulgated. In support of such calls, the former Chairperson of the NCOP, Naledi Pandor explains the need of a technically capacitated Parliament, saying that the only thing they have done as Parliament is to “ ... debate oversight”, therefore suggesting that “ ... Parliament can do more if and when tools to ensure effective policy analysis, evaluation and implementation are in place, when they are provided with knowledge and scientific evidence to perform as decision makers” (Parliament of the Republic of South Africa, 2006: 102).

The reason and concern raised by Mrs Naledi Pandor emanate from perceptions that, there is a detrimental lack of technical support and institutional capacity provided to assist Parliament (NA and NCOP), so it can perform its duties effectively and efficiently. According to Dr Corné Mulder, Freedom Front representative in Parliament, poor or lack of technical capacity in Parliament when it comes to policy-making processes elevates and justifies impression that the Legislature is there to rubber-stamp bills that are already finalised by the Executive. In order for Parliament to be visible and respected, Mulder motivates, “More is needed in terms of support, staff and research capacity to really make a decisive input”. Citing the above to the fact that, “... in a committee, members will be up against the department, with all their expertise, consultants and huge budget” (Parliament of the Republic of South Africa, 2006: 103-105); thereof exposing the ill-capacitated Legislature as inefficient and no technical ability.

A study done by Murray and Nijzink (2002: 26) reveals that, “... in the provinces many MPLs were unprepared for the type of job in which they found themselves. In particular, they had not anticipated the amount of paper work and detailed analysis of laws that are involved and often found it difficult to adapt to the intense reading culture required of them”. This revelation captures a negative bearing with detrimental effects in the

functioning of Legislatures as oversight bodies mandated to make laws. Thus, calling for interventions on technical empowerment for the benefit of Parliament, to logically generate and reflect positive and comprehensive results particularly on the subject of public policy management. Introducing and augmenting capacity for policy analysis, research and advise are seen as efforts seeking empower Parliament to be competent, and to create an environment where appropriate transfer of quality knowledge from skilled policy analysts to elite politicians exist. This argument reveals the need for efficient training in public policy-making accompanied by legislative procedures, for both old and new members, in order to achieve a better approach in sustainable development and good governance (see Booysen, 1998; Wissink, 2006; Carter, 2008).

Considering the fact that policy is not only an intellectual exercise, it is also about outputs and outcomes, Theunissen contends that, for a better policy-making input-output exercise there is a need to identify specialised analysts with required technical capacity and skills to produce, influence, and project outcomes. However he cautioned that, with the support and the availability of quality and adequate capacity from policy experts and professionals, “A legislature cannot choose a political impossible option, whether or not it is within its legal competence” (Venter et. al., 1998: 124-127). Emphasising the above with a contextual understanding of the role of Parliament, that is to: represent a diverse constituency, make laws, do oversight duties on the well-capacitated Executive, educate the public, and interact with other stakeholders. Parliamentarians are politicians who abide not only to the rule of Parliament, but also to party political rule. The argument is that, while advocating for the need of appropriate and systematic capacity building to exist in Parliament, political will and knowledge should be the basis for policy management capacity.

In the study done by Christo de Coning, Masingita Zwane, Sonnyboy Maphanga, Kim Olbrich, and Catherine Churchill, in Nelspruit, October 1999, on the *Maputo Corridor Tracking System*, in the section of *institutional arrangements and capacity building*, they identified and revealed the importance of having a professional full-time capacity support system to address issues of research and policy work in an informed, focused and

systematic manner, therefore making the environment conducive to policy options and adequate policy debates. Furthermore, they suggest that, by having a dedicated in-house technical capacity working closely with organisations outside government, referring to think-tanks and research units is fundamental, in terms of improving and promoting strategic and evidence-based policy research, and eventually advancing the process of public policy-making in its entirety. The notion therefore is that, the supply-and-demand regarding policy advice, monitoring and evaluation, and policy design and policy analysis is critical, taking into cognisance profound arguments that “ ... political leaderships based their stances partly upon perspectives derived from technical advisors” (Heymans, 1996: 31). To realise technical and analytical capacity in the Legislature, and to empower legislators as policy decision-makers, requires specialised knowledge, experience and expertise to provide policy options, and the ability to write appropriate policy papers and explanatory papers supported by evidence-based research (Hanekom, 1996: 26).

In explaining the structure of Parliament, in line with the institutional supportive mechanisms available for consolidating and realigning operational objectives for efficient institutional governance, Appendix B portrays the PMU as an administrative division, accountable to the Office of the Secretary to Parliament, where Parliament’s support system is designed for specific services aimed at empowering, and at the same time maintaining, a professionally administered Parliament. The National Assembly Table Division was established to give procedural advice, support and guidance on House rules, whilst the Legislative and Oversight Division, and the Parliamentary Legal and Constitutional Services provide brief and content research, oversight instruments, administrative support to committees, and legal advice respectively. The Human Resource Division is an administrative and organisational wellness division which aims at ensuring that institutional policies and labour relations matters are adhered to by all. The Corporate Service Division is to improve and update ICT in and around Parliament, and the Office of the Secretary facilitates the access to information and provides legal and procedural advice to Parliament. The Parliamentary Research Unit’s role is to provide MPs sitting in committees with specific policy research knowledge and specialised information.

## 5.5 BACKGROUND AND THE ROLE OF THE PMU IN PARLIAMENT

Section 73(2) of the Constitution explicitly indicates that, any MP has the right to propose or introduce a Bill to Parliament with the exception of the money Bill. With an understanding that policies are political by nature (Heymans, 1996), the view is that Bills are driven by political ambitions, where politicians take full responsibility for identifying, designing, deliberating and analysing political policies, which in turn become Bills and later Acts of Parliament. Whoever defines or designs boundaries and rules of engagement in the National Assembly determines the socio-politics of the day, policy directions, as well as national intentions in relation to challenges and policy problems as perceived by the public (Parsons, 1995: 207).

Rapoo (1997: 15) convincingly argues that, “... in order for political leaders, administrators and planners to face the enormous tasks of dealing with complex policy problems in modern societies, their demands for policy information and researched options have grown substantially”. For a more capacitated National Assembly with credible technical support from policy analysts and policy researchers, who, according to Rapoo “... have thus come to fulfil the role of gathering data, analysing it and presenting it to policy-makers in a form relevant for resolving policy problems”, could prove to be as effective and efficient as their counter-part, that is the Executive, if appropriately and politically conceptualise.

Ann Bernstein (2009: 19), in her presentation in the *Report of the Tswalu Dialogue* indicates, “... it became apparent that the role of Parliament was diminishing as a centre for effective policy debate and serious exchange, and so much more attention was paid to the Executive in Pretoria rather than the Legislature in Cape Town”. Thus, echoing arguments suggesting that, “Cabinet is a core agency in public policy-making and implementation” (Booyesen and Erasmus, 1998: 234). Within the community of official and non-official policy-makers, the Executive is argued to be the ultimate policy initiator, designer and implementer, with the capacity to monitor and evaluate its own programme. Table 3.1 illustrates policy communities and the extent to which they influence macro-



governmental policies and the national agenda, as well as the extent of their relationship with other key policy actors when viewing or deliberating on policy matters. Critically so, the Table below highlights the basis for or rather what informs (directly and indirectly) such influence. In this case, the African National Congress as the ruling party determines macro-governmental policy outcome as it constitute the majority in policy decision-making structures. In South Africa, according to Booyesen (2006: 739-741), the core and the primary clusters in policy-making and implementation are aligned with the Presidency, where the Executive remains the core and the centre for strategic and effective policy-making. Parliament in this regard is considered less influential and effective in the process, in a way sharing similar status with civil societies in a secondary cluster, as shown in the table below. This illustrates how policy is being channelled and the ‘balance of power’ in relations to law-making and policy decision-making. This arrangement has been identified by many policy scholars and elite politicians (from the ruling and opposition parties) in South Africa as a demeaning arrangement which elevates a sense of superiority and authority to the Executive. Hence, it is argued and perceived that an arrangement of this sort, directly contributes to a deteriorating behaviour of active engagement in policy-making, leaving Parliament technically ineffective, especially when considering complex documentary stages, with the Executive gaining an upper-hand, whilst it continues to enhance its human capital behind public policy-making. These are enough reasons for cause of concern by politicians, think-tanks, and some civil societies, who call for a revitalised Parliament and a commendable voice of the people, especially when addressing public policies.

**Table 3.1: Public policy communities**

Institution actor	Levels of policy influence
<b>PRIMARY CLUSTER</b>	
Presidency - generally	Powerhouse, clearing house of ideas, generator of initiatives to fill gaps, consider and recommend policy action in crises, design system of governance and policy-making.
President	The president (Mbeki) (now Zuma) is policy – in cooperation with Treasury, but power of Treasury is being scaled down.

Cabinet	Collective influences, with recognition that some individuals operate without fear of being challenged, occasionally bypassing ANC structures.
Cabinet office/Secretariat	Supportive influence – Cabinet committees, clusters and PCAS, ensures integration of government action, coordination of implementation of Government’s programme of action.
Department of Finance/Treasury	Crucial gate-keeping through medium term expenditure framework, later moderated by medium term strategic framework.
FOSAD	Processes ministerial initiatives and Policy Unit guidance, undertakes research for Makgotla.
Luthuli House	Directly linked to Presidency via President, weekly liaison and coordination – multi-faceted interface (not structurally regulated).
Presidential working groups	Ideas and coordination of initiatives often originate here.
<b>SECONDARY CLUSTERS</b>	
Alliance and labour in general	Privileged, despite on second tier, often overruled even if considered.
Business and international finance organisations	Strong influence, often direct, throughout process; also manifested in primarily cluster via special working groups (especially with regard to BEE action).
Parliament	Channel for indirect policy influence, often via ANC structures.
<b>Institution/actor</b>	<b>Levels of policy influence</b>
ANC study group in Parliament	Influence for enhanced implementation. Tendency to become more technical, e.g. in preparing for committee meetings.
ANC Caucus	Sounding board, affirmation mechanism – receptive, not in initiator
Provincial and Local Government	Crucial in implementing spheres, often as a restraining influence rather than cumulative progressive influence. Increasingly watched.

Spontaneous civil society	High levels of influence that is issues-specific. Influence mostly not directly acknowledge
Opposition political party	Influence not well acknowledged (thus indirect); mostly are too small or insignificant to make a difference
Organised NGO civil society	Hope for reinvigoration, but low-key consensual-white state progression

(Source: Booysen, 2006: 742)

Long standing concerns from MPs like Corne Mulder, in *Parliament since 1994 – Achievements and Challenges*, who, in his capacity as a Member of Parliament, advised that, “More is needed in terms of support, staff and research capacity to really make a decisive input” (Parliament of the Republic of South Africa, 2006: 105), when referring to insufficient policy support that Parliament receives. This is because of the perception that, Parliament operates in an overwhelming environment that is often hostile to honest and incisive technical analysis of policies. For Parliament to assert itself with visible contributions on policy deliberations – with profound policy knowledge and constructive inputs whilst depicting creativity and innovation – the way to go is, according to Heymans (1996) and Friedman (1995), for Parliament to augment its technical abilities, where policy analysts and researchers will not merely play a legitimising role, but a critical role where they will provide entrusted independent policy research and alternative, policy advice, analysis, and assist in shaping of national policy directions.

Therefore, it is for these reasons and concerns that Parliament decided to establish the Policy Management Unit, a parliamentary policy project envisaged to be among the core and a critical player in policy decision-making processes. An appropriate vehicle that will perhaps improve and enhance institutional governance and capacity building, a Unit ideally designed to realign policies of Parliament with the visions and goals of the entire political organisation. The formation of PMU by Parliament in April 2005 was intended to create a Unit whose role would be to intervene in macro-governmental policies. To

provide policy management capacity, to coordinate and facilitate the re-writing and refining of existing policies as contained in the Policy Directives and Implementation Procedures, and perhaps develop new internal policies (Parliament of the Republic of South Africa, 2008:19).

At the time of this research, the PMU had only five staff members, structured as follows:

**Head of the PMU**

Manages the Unit and gives strategic direction to the Unit

Manages financial and human resources of the PMU

Develops and writes policies

**Analyst: Monitoring and Evaluation**

Monitors the implementation of policy and evaluates its impact

Conducts advanced research and analysis

Develops monitoring and evaluation instruments

Provides analytical support on any other matters

**Policy analyst**

Provides policy research, advice and analysis to the PMU

Facilitates the development of policy

Provides advanced research and analytical support on any other matters

**Assistant: Policy development**

Conducts preliminary research and investigation on policy issues

Facilitates the development of policy

Assists the Head with budget monitoring and resource management

**Secretary**

Manages, facilitates and coordinates the affairs of the Unit on a daily basis.

The envisaged role of the PMU and the basis for its formation was to enhance the desired vision of reinforcing and building an efficient and effective Parliament that commands respect. The rooted foundation of the PMU was for it to be a tool that will augment cooperative policy management capacity, to improve institutional feasibility and governance, and to be a mechanism for adequate policy input and output. The PMU's formation was for it to provide;

“... research support and policy advice and analysis to the Secretary to Parliament on all aspects of policy development, coordination, implementation, and monitoring in line with the vision and strategic objectives of Parliament. As such the PMU has specific responsibilities which include; monitoring, assessing and evaluation that ideally would influence policy-making in the external environment. In particular, the PMU is responsible for the development and formulation of internal policies” (Policy Management Unit, 2008: 12).

The PMU's current role and function is to write or rather facilitate the writing of new institutional or internal policies. For example, the Policy on Leave of Absence, Policy on Cell Phones, Policy on Smoking, and Policy on Employee Conduct to name just a few; and to revisit existing internal policies to ensure that they are in line with Parliament's vision and mission. Theoretically, the role and responsibility of the Unit (PMU) is to conduct policy research, to provide and suggest policy alternatives, and to assist with key indicators in monitoring and evaluating macro-governmental policies. However, noted in the *Policy Draft Manual of 2008*, dealing with or assessing macro-governmental policies to gauge their effectiveness in achieving the aims and objectives of the government of the day will rather be a long-term focus of the PMU (Policy Management Unit, 2008: 14).

Supporting the formation of the PMU, academic institutions like UWC noted, “The School of Government, University of the Western Cape understands and appreciates that the immediate focus of the Policy Management Unit is to refine existing policies and develop new institutional policies where gaps exist” (University of the Western Cape, 2006: 6). The acknowledgement was driven by what was perceived to be an intellectual source of knowledge, skills and expertise for parliamentarians specifically on macro-governmental policies.

## 5.6 CONCLUSION

In giving a brief historical overview in line with difficulties that were/still faced by the new democratic government of 1994 in terms of institutional development, the chapter discussed functions and responsibilities of the South African Parliament as mandated by the Constitution of the country and electorates. The chapter noted that the structural conceptualisation of the apartheid regime made contributed to enormously in what is (after 1994 elections) perceived by many as ill-capacitated decision-makers. Initially, government in general was staffed by inadequately skilled managers and political officials. However, by setting and identifying its priorities, the Executive managed to address challenges and shortfalls in policy making processes.

Section 73(2) of the Constitution notes, a National Assembly member within his/her prerogative carries a mandate to propose or introduce a Bill to Parliament with the exception of the money Bill. This implies that Parliament's role is not only to decide on policy matters but also to make laws, in complimenting its oversight role. Under the auspices of the RDP, the new administration had to by all means, eradicate the legacy of deprivation through policy programmes (Rapoo, 1997: 16). The RDP with other subsequent policy programmes of the ANC government unavoidably posed challenges and obstacle to the new government. The fundamentals of those challenges relates to lack of technical skills, analytical capacity, and intellectual knowledge on public policy-making, particularly by legislators.

In elaborating and identifying existing institutional support mechanisms, the chapter mentions the support given by committees, who are described as the engine room of Parliament, noticeably enhancing the workings of Parliament in many ways, namely on its oversight role, by conducting research and providing content advice to parliamentarians. However, a fair practical assessment from various scholars indicates that the Executive is well resourced and capacitated sphere, and that it has been effective and efficient in public policy-making, thus perceived as having an upper hand in this regard, as a result creating a technical gap between the Parliament and the Executive.

The chapter discusses concerns from key actors including Members of Parliament that perhaps lead to the introduction of the PMU. The formation of this Unit was rather seen as a tool to address and advance policy management capacity; to enable legislators to intellectually and profoundly analyse and debate public policies. Nevertheless, the current PMU has, since its inception, become an administrative structure for internal policy analysis.



## **CHAPTER 6: FINDINGS**

### **6.1 INTRODUCTION**

The South African democratic Parliament of 1994 underwent a very critical and complex period, where it dramatically transformed from a separationist to a unitary Parliament. In the process it repealed old and enacted new policies that are people-centred and developmentally based. This chapter presents findings that emanate from the information gathered in the literature review, from direct observations, interviews, analysing questionnaires, and data gathered from both primary and secondary sources, including articles and other government documents.

The existence of policy units is fundamentally necessary in advancing good governance, relevant and profound policies, policy management capacity, and national development. The study has discussed challenges faced by parliaments globally, with specific comparison or reference to Africa. The findings in this chapter will allude to responsibilities and abilities of the South African National Parliament as a politically designed body, with a constitutional mandate to represent the people, to make laws. These will be examined in relation to the Executive's capacity, which has been generally perceived as superior and technically efficient. Findings will reveal that, capacity building is a necessary exercise that seeks to improve institutional governance and effective input-output. Institutional and policy capacity building, it argued, has the ability to redress the legacy of the past, instilled by the apartheid regime.

Literature review promulgate what is argued as a consensual analysis, a common understanding, in describing public policy-making as a technically complex exercise that requires adequate inputs from qualified individuals, such as policy experts, policy researchers and analysts. Findings on the role and functions of the PMU are also discussed in this chapter.



## **6.2 FINDINGS ON THE CONSTITUTIONAL RESPONSIBILITY OF PARLIAMENT AS LAW MAKERS**

Parliaments, particularly in Africa, have a long way to go. Lessons learned from the literature review and from seminars attended by the researcher organised by the Human Sciences Research Council (HSRC) overwhelmingly indicated that, parliaments in Africa still lack a great deal of competency, and that there is less or no evidence of the existence of technical expertise, especially in public policy-making. Lack of capacity building, pose as a challenge to the entire continent, in realising good governance and more critically to the ability available in formulating relevant policies. This situation leaves the continent with little choice but to rely on expatriated skills, with external or foreign policy actors (see Edge and Lekorwe, 1998) as alternative policy professionals.

The drafting and adoption of the South African Constitution in 1996 was seen by many as a major step and a breakthrough for a better life for all, and perhaps, a progressive move towards a better state with appropriate capacity in place. Chapter Five explicitly reveals that, Parliament as a political institution, carries the mandate and the authority vested in it by the Constitution of the Republic of South Africa Act 108 of 1996, to “Consider, pass amend or reject any legislation before the Assembly ... and initiate or prepare legislation, except money Bills” (see Section 55(1)(a-b) of the Constitution). Theoretically and constitutionally, Parliament has and shares the right to introduce bills, despite the foreseen domination by the Executive to carry such. The study maintains that, it is Parliament’s constitutional prerogative through the Private Members’ Bill to introduce or initiate Bills, to deliberate upon, and to lobby for any policy proposal in advancing its political cause.

Contrary to its constitutional responsibility, the study reveals that, the National Assembly systematically relies heavily on the Executive, to initiate and introduce Bills, to research as well as draft policies, as a matter of problem solving. The study reveals that, it is the Executive that shape legislative debates and agendas. Thus, confirming arguments that seem to suggest that, legislatures are reactive instead of being proactive in their approach

to policy-making, in that depicting Parliament as an ineffective institute that rubber stamps Bills that are initiated by the Executive (see Hague et. al., 1993; Sebastian, 2008).

Nonetheless, it is appropriate to note that, the National Assembly has done relatively well in its oversight responsibilities over the Executive and other relevant stakeholders and by taking Parliament to the people (though there still some serious challenges on the latter). One of those challenges referred to, is the issue of opposition MPs complaining that, party allegiance affects Legislature's policy and oversight role, especially when it involves ruling party Members. In an interview with a presiding officer, who is also a senior Member of Parliament (ANC), the issue of party allegiance was examined. In that, the Member explained that the relationship between committee members and government departments needs more consideration. The Member also notes that, the existence of this obscure relationship between the two spheres of government is a case of concern, as it is rooted from a party political loyalty, therefore becomes a liability, especially during policy deliberations and examinations. This relationship according to the Member, leads to leniency especially when committees are suppose to execute their unbiased oversight duties over ANC officials from departments, thus defeating Parliament's role as an independent oversight body.

The shortfall though, has been that, so far Parliament has not been convincingly able to carry out its mandate, that is, to initiate and introduce Bills. Instead it reacts to Bills and policy proposals that are initiated and drafted by the Executive (see *Report of the Independent Panel Assessment of Parliament, 2009*). Interviews and questionnaires reveal the same sentiments, thus attributing the perceived leniency and re-activeness not only to political allegiance, but also to the issue of policy complexity and insufficient technical capacity within Parliament to equally engage and meeting the standard of the Executive on matters of policy policy-making. What was revealed in the interviews is that, some MPs claimed not to have sufficient time to generate, initiate and consider public policies, due to political duties and other activities of Parliament. The question emerging from the above is, does the latter justify the ineffective Legislature in becoming active instead of reactive in policy matters?

In the time of this research, a matter before Parliament was that of the Member in the Committee on Private Members' Legislative Proposals and Special Petitions, Mr M. Oriani-Ambrosini - an IFP MP - who had lodged an application with the Cape High Court, to challenge the decision of the Speaker of the National Assembly not to allow him to introduce the National Credit Bill, on the basis that it was unconstitutional. Mr Oriani-Ambrosini viewed the matter as urgent because it hampered his constitutional responsibility to initiate legislation ([www.pmg.org.za/report/20100810](http://www.pmg.org.za/report/20100810)) as an MP. Although some MPs (especially from the ruling party) are not moved with this action, it is a constitutional matter that requires policy and legal expert interpretation of the law. The matter is still *sub-judice*, therefore, the researcher can not elaborate much on the matter.

The Parliamentary Committees through their specific units, namely, the Parliamentary Research Unit, Legislation and Oversight Division, though with challenges, proved to be beneficial to Parliament's political mandate. One identified challenge relate to the fact that, the support provided by these support structures, is limited and specific to a particular matter as per Member's request. Hence, one would argue that, these structures do not provide broad technical policy knowledge, analytical skills and expertise needed to augment policy capabilities of parliamentarians.

In the course of attending parliamentary and committee sessions, the researcher observed that, deliberations on policies are sometimes a matter of Members scoring political points, where inputs are tedious and inefficient. This is self-demeaning, because it perpetuates carelessness and intellectual incompetence. Interviewees from civil societies and think-tanks also share the same perception, citing the root of the problem as insufficient training, lack of confidence, the growth in political careerism within Parliament. To poor academic credibility (which is fundamental for policy document analysis and interpretation), and inadequate support or improper use of capacity in relation to national policy priorities, and of course political party allegiance.

### 6.3 FINDINGS ON THE STRENGTH OF THE EXECUTIVE

The research found that, South Africa's policy empowerment strategy has been, for some years (since 1994), perceived as one-sided, that is, mainly concentrating its resources by elevating technical capacity of the Executive. What instigates such an action, it is argued, is the attitude of the Executive (from the Presidency to Ministerial departments) towards policy management capacity, as they collectively perceived this exercise as crucial and fundamental for better governance and good service delivery. Moreover, the existence of professional in-house policy units within the Executive is considered as prerequisite for feasible policy design, analysis, coordination, monitoring and evaluation in support of Ministers and managers. Adding to that, the research findings reveal that, government has established sound relationship with independent policy units or think-tanks, specifically to augment, draw, and share information on evidence-based policy research, findings, and recommendations.

The formation of two new ministries: the Department of Performance Monitoring and Evaluation, and National Planning Commission in the Presidency, with the South African Policy Coordination and Advisory Services (PCAS) as a technical support structure. Is clearly a sign of commitment by the Executive on public policy-making and strategic national planning. Such initiatives are evidently proving to be beneficial in advancing the technical capacity, expertise, policy knowledge and skills for President Zuma's administration. By placing and asserting the Executive as better equipped in policy matters, compared to their counter-parts, the Legislature, is a practical reality. The strength of the Executive's technical capacity in policy matters was once again revealed, when three Bills were passed by Parliament without thoroughly examining them. In January and February of 2009, former President Kgalema Motlanthe (head of the national Executive) referred, in terms of section 79(1) of the Constitution, three Bills back to Parliament: the **Broadcasting Amendment Bill, 2008 (The Bill); The Film and Publications Amendment Bill, 2008 (The Bill); The Competition Amendment Bill, 2008 (The Bill)** (see Appendix c), for further consideration. This unfortunate exercise exposed Parliament as inefficient, incapable and technically incapacitated as law-makers.

The above, represent a typical example of inequalities that exist between the Legislature and Executive. Therefore, authentically confirms views that seem to suggest that, Parliament rubber-stamps policies initiated by the Executive without properly engaging the government. This is widely attributed to poor or no policy support and advice available to Parliament.

#### **6.4 FINDINGS ON CAPACITY BUILDING**

As outlined in the *Procedural Development In The National Assembly, Second Session – Third Parliament (2005)*, Members of Parliament do attend training sessions. Training sessions are intended to empower legislators, so they can effectively perform their functions and responsibilities, enhance their abilities to better understand the meaning of good and poor governance, and to appreciate strategic and business plans of departments for effective oversight role. It is recorded that, in an attempt to address the issue of capacity development, in 2006/2007, legislators were provided with university certificate courses. The main purpose for such initiative was to enhance intellectual capabilities that would eventual compliment practical intellectual development in Parliament (see Parliament of the Republic of South Africa, 2008: 75). This research reveals that, there is a general degree of willingness amongst Members, to acquire policy and technical skills for institution building. Senior officials and politicians, who were interviewed, view capacity building as a necessity, suggesting that, it should be linked to policy-making process and be compulsory to all, experienced and not so experienced.

Although, the majority of respondents indicated that there was a need for a more technically capacitated policy analysis machinery, that should operate in support of the current Parliamentary Research Unit, political party study groups and party policy units for better policy output, exposure and authenticity. Data analysis interesting revealed that, most MPs are not informed about the existence, the role and functions of the PMU in Parliament.

An interview with Jonathan Carter, a senior research manager (HSRC) revealed that, although on a small scale, interventions by think-tanks and academic units do exist. They are specifically meant to provide policy management capacity and policy-making guidelines to parliamentarians, managers, and other institutional support structures within Parliament. Such interventions are instrumental for policy information, enhancing monitoring and evaluation abilities and for policy advise on internal and external policies. Carter states that, think-tanks provide, organise and facilitate workshops, seminars, training sessions, and accredited courses for official policy-makers for institutional development.

Appearances by think-tanks and academic research units before committees, to submit and share research findings, prove to be beneficial to Parliament. As they provide empirical research and knowledge on subject of national importance, at the same breath, augmenting their abilities for future profound policy debates and implementation.

Operating in a politically compelling environment, with different conflicting political ideologies, and faced by substantially demanding expectations and tasks. It is said that, Parliament has not shown any drastic improvement in terms of being an assertive, pro-active and influential key player, particularly in initiating national policies. Questionnaires and interview results illustrate the need for a capacitated Legislature, not just in the oversight role, but also when deliberating on macro-governmental policies. Capacity development for Members of Parliament has always been a crucial issue within and outside government. One factor identified as an inevitable set-back in acquiring and maintaining capacity, is the term of office that parliamentarians are subjected to serve. The five year term of office, though legally and politically justifiable, is perceived as having a direct impact on comprehensive, systematic, sustainable capacity development.

Theory and fieldwork results reveal that, the majority of current parliamentarians were previously political activists with little or no experience in the workings of Parliament. Some with minimal academic credentials; thereof, leaving them in an unfortunate situation where they are unprepared and overwhelmed by the type and the work load

assigned to them. Which, include among others; constant reading, deliberating and analysing procedural, internal and external policy documents. My observation is that, Parliament still suffers the humiliation of being an ill-capacitated, poorly resourced sphere, with no strategic purpose of instilling intellectual ability to fully execute its role as policy or law-maker.

## **6.5 FINDINGS ON THE ROLE OF THE PMU**

As previously discussed (in Chapter Three), the US Legislature has for many years, successfully enjoyed multi-disciplinary in-house support in public policy-making. Members of the Congress are receiving independent policy advice from policy professionals and analysts, from within the Congress's institutional framework, and from those outside the formal political framework, namely, the academic policy and research units, independent policy units and think-tanks.

In relation to the role of the PMU in the South African National Parliament, the research found that, the PMU itself contains necessary skills, ability and knowledge to execute and deliver accordingly. To mention the Unit's role again:

“The PMU is responsible for providing research support and policy advice and analysis to the Secretary to Parliament on all aspects of policy development, coordination, implementation and monitoring in line with the vision and strategic objective of Parliament. As such, the PMU has specific responsibilities regarding the monitoring, assessment and evaluation that ideally would influence policy-making in the external environment. The PMU is also responsible for providing an analytical support service to the Secretary to Parliament (as a reference unit). In particular, the PMU is responsible for the development and formulation of internal policies” (see *Policy Manual for the Development of Internal Policies*, March 2008).

As indicated before, responses from MPs indicated that, Members have either never heard or have little information about the existence of the PMU and its role and functions. Understandably so, this is because the Unit does not offer any services to legislators, who are supposedly their immediate customers.

Another challenge facing the Unit is the quantity of its personnel, five staff members are employed in the Unit, which is arguable not sufficient for this sector to realise its role as an influential multi-disciplinary in-house support mechanism. That intends to build institutional capacity, and serve Parliament by providing technical support on internal and external policies.

### **6.5.1 PMU as policy developers and advisors**

Established in 2005, the study reveals that, the involvement of the Unit in policy-making and assessment is limited to internal policies only. As policy developers and advisors, personnel in the Unit, design procedural policies and thereof providing policy advice to managers and Parliament's Business Unit. In collaboration with the Policy Analysis Team (see Draft Policy Manual, 2008), the PMU is able to assess, examine, and draft existing policies. After following appropriate steps and procedures in identifying the need for new policy or re-examining existing policies, the Unit then involves relevant stakeholders in Parliament (office-bearers) for further advice. It is therefore, the prerogative of the PMU to advise (during and after drafting of a particular policy) key actors accordingly, these being the Policy Advisory Forum (PAF), Human Resources, and Division Managers, making the Unit accessible for more clarification and guidance. In a nutshell, the role of the PMU as policy developer and advisor is to provide technical support only in relation to administrative and human resources matters for the functioning of Parliament.

Acknowledging the fact that this is a relatively new Unit, interviews with senior members of the National Assembly Division, and with analysts in the Unit, reveal that proper conceptualisation of the Unit as a support mechanism in providing policy advice was never done appropriately. Complementing each other, participants' views in this regard are that, the formation of the PMU was clouded with poor or lack of sufficient planning, improper conceptualisation and no academic study to support its existence. As a result the Unit's mandate was minimal and poorly referenced.



### **6.5.2 PMU as policy analysts**

The findings reveal that, to provide socioeconomic comparative analysis on legislative activities or proposals is not a function of the current Unit. An interesting finding from MPs, who participated in this study representing different parties in Parliament, is that Members have no idea of what the PMU is, whether it exists or not in Parliament.

During the course of this research, it became evident that, although working under challenging circumstances with limited resources. The Unit do possess the necessary skills and intellectual abilities to, if appropriately utilised and mandated, analyse and scrutinise both internal and external policies. A researcher in the Research Unit and an analyst in the PMU share the same sentiments in this regard. Further elaborating that, the capacity and knowledge that exist in the Unit are not appropriately explored, sufficiently exploited and effectively channelled. The theory thus informs the study in defining the role and functions of the policy unit, which is among others, to provide technical and analytical support on internal or external policies. In this context, the researcher can conclude that, the Unit does not completely or fully represent and therefore reflect the core business of Parliament, and because there is no correlation between the macro-governmental policies and the PMU, policy analysts in the Unit could be intellectually unchallenged resulting to frustration.

### **6.5.3 PMU on monitoring and evaluation**

The PMU has a qualified and experienced monitoring and evaluation (M&E) expert. The role of the Unit's M&E analyst is to monitor the implementation of existing and new internal policies and their impact, and thereafter provide advice for further review. In giving a perspective to the fundamental role that the Unit plays in relation to monitoring and evaluation and policy review, an analyst specialising in monitoring and evaluation indicated that the Unit, appropriately so, does not implement policies (internal) but provides and develops instruments for respective departments to carry on the

implementation. As a result, the existence of the Unit has gained consent and momentum from stakeholders in Parliament, namely managers, staff members, and unions.

Monitoring and evaluation promotes good conduct, performance, harmony, and professionalism by support staff members in Parliament. The analyst in the Unit monitors and reviews administrative policies, for example, policies on smoking, acceptance of gifts, benefits, and cellular phones, to name just a few. This research reveals that constant monitoring and evaluation of administrative policies, is to a large extent, demoralising and undermining the meaningful role that the M&E specialist and other analysts could play in the core business of Parliament. Moreover, it could also undermine their intellectual ability, knowledge, and academic credentials.

#### **6.5.4 PMU as policy researchers**

The role of a policy unit in general, is to empower parliament with relevant evidence-based policy alternatives. It is to provide non-partisan policy research findings and recommendations for effective and confident policy decision-making.

Fieldwork research in this study reveals that, analysts in the PMU provide internal policy research if and when requested, so as to facilitate procedural and operational matters in Parliament, particularly matters arising from administrative departments or institutional support structures. This depicts the terms of reference of the Unit as that of providing direct technical research assistance to the support staff and managers (as explained by Mintzberg, 1983). This particular finding explains the current immediate customers of the Unit, and consequently, where all resources (human and otherwise) and expertise of the Unit are being channelled to.

Interviews with policy researchers' reveals absolute need for a professional relationship and consistent collaboration between researchers within and outside Parliament, where research knowledge and expertise would be shared amongst each other. However, this is foreseen by some as practically impossible for those policy researchers working in the

PMU, as they are perceived as administrative oriented. The PMU's mandate automatically isolates policy researchers in the Unit from the mainstream of public policy research, and from the political dynamics of the country.

Views from participants in regard to the limited mandate of the PMU (which is unfortunately confined to human resource matters, codes of conduct, and administrative issues) refers to poor conceptualisation and institutional arrangements as the main reasons for the ineffective and inefficient PMU. The Unit is not a politically designed policy advisory support structure as it was initially established to be, this is evidently indicated in the current organisational framework of Parliament. The researcher concludes that, the PMU is corporate in design, with little or no research input and output on the actual socio-economic and political matters affecting the country.

#### **6.5.5 The role of the PMU in internal policies**

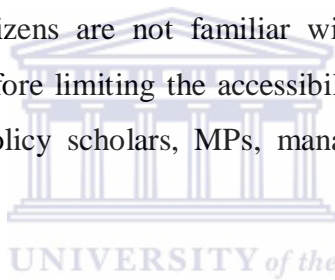
As mentioned before, internal policies refer to a combination of procedural rules and administrative aspects of an organisation. Internal policies include, among others, utilisation and maintenance of personnel, employee conduct, and institutional management, hence they (internal policies) are being equated to human resource policies. The findings revealed that, the main role of the current PMU is to manage (research, write develop, analyse, advise, monitor and evaluate) internal policies, to design and review the above. However, in conducting itself an internal policy designer, researcher and in monitoring and evaluation, the Unit has received greater recognition and applause, specifically from the support staff, who are the immediate clients of the Unit (with of course minimum grievances). The achievements of the Unit are attributed to its participatory mechanisms and its ability to analyse, monitor and assess, and investigate opportunities, challenges, and legalities regarding administrative or internal policies.

Theory does associate policy units with internal or administrative policies (see Bernstein et. al., 1979; Fox et. al., 1991; Cloete et. al., 2006). In that, one can not completely marginalise the PMU's current mandate of designing, interpreting, monitoring and

evaluating internal policies. An analyst from the PMU mentioned that, one need to consider the fact that this is a new Unit. It is a Unit with a minimal or rather insufficient amount of personnel to actually become the life-blood of the National Assembly in terms of public policy-making, and therefore, the conditions only permits the Unit to focus, in the short-term, that is on internal policies.

## **6.6 FINDINGS ON THE ROLE OF THINK-TANKS**

Understandably and justifiably so, the USA has a large number of effective and influential think-tanks that continues to advance and advocate what is believed to be intellectual support, adequate policy management capacity, and policy knowledge, based on non-partisan and independent thinking. In the case of South Africa as a new democratic state, ordinary citizens are not familiar with the existence, the role and functions of think-tanks, therefore limiting the accessibility to these independent policy units mainly to academics, policy scholars, MPs, management in Parliament and the Executive.



With regard to capacity building, the findings reveal that think-tanks do embark on programmes (though on a minimal scale) that aim to capacitate MPs in SA for better policy decision-making. For example, the Human Resources Research Council (HSRC) – Policy Analysis Unit, represented by Jonathan Carter as the senior research manager, has provided training, workshops, seminars and of course consultations (sharing knowledge with committees) with Parliament and management, with the objective of offering policy knowledge and intellectual support, to advance the cause of a constitutional and institutional governance mandated by official policy-makers.

Highlighted in *The White Paper on the Transformation of the Public Service (1995)*;

“Responsibility for developing the creative energies and talents of South Africa's diverse communities does not lie exclusively with the state. For this reason the government foresees that a variety of social forces and institutions will become its active partners in building capacity for

good governance. These will include community organisations, private sector agencies and institutions of tertiary education”.

In realising the above, the involvement of The University of the Western Cape, School of Government-Executive and Consultancy Unit, and the Law Faculty in training, and empowering managers, political elites (MPs and MPLs), and researchers from Parliament in various courses prove to be beneficial in many ways. As a result, such initiatives are positively positioning the institution as an active partner in building capacity for good governance, providing financial technical skills and on public policy-making.

Feedbacks from Jonathan Carter (HSRC), Thomas Wheeler (SAIIA), Christina Teichmann (DDP/KAS), and other parliamentary officers from civil societies (unions) explains the existence, and the functions of think-tanks as policy centres that offer analytical, intellectual, and capacity support to Parliament and the Executive on both national and international policies. The participants alluded to the fact that, think-tanks are a vital support tool to Parliament in many ways, providing, among others: scientific evidence-based policy research, analysis, guidelines, interpretation of policy submissions and alternatives, and policy advice. As well as sharing the merits of their research findings and recommendations, with committees for adequate policy decision-making. This active approach by think-tanks is based on the premise that Parliament, in particular, does not have sufficient time and adequate capacity to do such.

Despite the necessary efforts to improve content in public policy-making, the perception is that, think-tanks in South Africa are somehow ignored or undermined by official policy-makers. It is said that think-tanks are facing unnecessary hostility from official policy-decision maker. Ranging from; the existing poor relationship between policy-makers and think-tanks; irrelevant policy research topics by policy units; unwillingness to accept constructive criticism by elite politicians; fear of change; ignorance or lack of knowledge; and the typical overarching power-play by official policy-makers. These are some of the challenges faced by policy units, which they are trying very hard to overcome. Another frustrating challenge mentioned by one participant, is that of

systematic shelving of policy research findings, submissions and proposals by departments and politicians, as a result demoralising these institutions of policy intellect.

Public policy as a discipline is by its nature a complex political exercise, such that it presents challenges to many think-tanks as they (because of the environment they work under and the eventual intended recipients of their policy activities), have to be cautious and vigilant in their interface. Whilst maintaining a professional and independent approach to national and political policy ideologies. The understanding is that, it is every think-tank's goal to influence official policy decision-makers, and to strategically create relevant channels by positioning themselves to gain access to top-level decision-making (as it is suggested by Dror, 1988), ultimately with direct or indirect contributions to official public policy-making.

The dilemma faced by think-tanks particularly in South Africa, lies with the relationship they have or seek to create with government and Parliament as official policy-makers. The findings of this research reveal that, in most instances, the relationship between Parliament and think-tanks is through committees. This is presented in different forms, including consultation, where think-tanks present policy submissions based on the agenda set by Parliament or based on their organisational interest. The unfortunate situation is, because they want to influence and maintain a good relationship with policy decision-makers. Think-tanks somehow lose their objectivity when conducting policy research, thus pointing astray their independent thinking for the sake of remaining in good terms with official policy-makers. The researcher found that, in South Africa for an example, there are policy units born out of resistance and liberation movements, as a result attracting unwarranted dilemma in wanting to maintain their independence as non-partisan policy advisors, and their allegiance to the Mass Democratic Movement. For example, the Centre for Education and Policy Development (CEPD) established in 1993 as a result of the Mass Democratic Movement, spearheaded by the ANC. While forging itself as an autonomous policy unit, the CEPD holds 'strategic relationship' with government and perhaps the ruling party (CEPD, 2009).

Financial dependency is a major challenge to policy centres. Their viability depends on funding, since they are not profit driven. This can create a sense of desperation, where they may be inclined to sacrifice objective conduct and independence in order to access funding. This finding suggests that, whilst there is a need to preserve the existence of autonomous policy centres, financial dependency on the state may undermine their intellectual ability to produce objective findings, with unbiased recommendations.

With foreign funding, there are always terms and conditions attached to the money offered by international donors, which in turn affects the credibility and focus of think-tanks. It is argued that, “Those who pay the cost of research often control the research agenda” (International Social Science Council, 2010: 6).

The issue of brain-drain, is viewed as detrimental to the cause of policy advocacy and independent policy analysis, and is somehow described as pandemic to the future of think-tanks. The findings are that, policy centres continuously witness the exodus of credible expertise and competent individuals to the state and government departments, where analysts accept positions as ministerial advisors in endeavours to strengthen the Executive and its policy units.

## **6.7 CONCLUSION**

Findings in this study overwhelming reveal that, though the PMU is performing well in their narrow mandate as internal policy advisors. The Unit’s role as external policy providers is nonexistence, with no input at all in macro-governmental policies. Hence, the PMU is unknown to legislators and to independent policy units or think-tanks. The direct and indirect effects of the above is that, Parliament still lacks sufficient policy support, thus overshadowed by the Executive in this regard. In a nutshell, research findings depict a picture about the eminent and crucial role policy management units could play. as providers of policy research, guidelines, policy alternative, policy designers and analysis. Policy units are capable of providing policy management capacity for parliamentarians, in both internal and external policies while maintaining their non-partisan principle.

## CHAPTER 7 CONCLUSIONS AND RECOMMENDATIONS

### 7.1 SUMMARY OF FINDINGS

The creation of an adequate socio-political environment, followed by the redesigning and adoption of new and relevant policies representing every citizen, has been a critical exercise for the new democratically elected administration. The making of appropriate policies and laws that will serve and favour those who were previously disadvantaged, (without excluding those who benefited from the exclusive apartheid system) proved to be a challenge to the new government, especially for Parliament. The transfer of political power to those who were previously seen as terrorists by some posed serious questions. Questions as to whether the new regime has the ability and quality to better govern the country, to provide and formulate working and feasible policies that meet the required standards, not only of South Africa, but of the world, taking into consideration the ever changing dynamics of global politics.

In a parliamentary democracy, the constitution, as the supreme law of the country, should explicitly stipulate, with authority and decree that, parliament is the legislative authority, with constitutional legitimacy and mandate to design and decide on the laws of the country. Constitutions of countries like Malaysia, Brazil and the USA unambiguously mandate parliament to make, pass, and amend existing federal laws, and such is practised. This allows parliament to practically propose policies, whilst examining (oversee) government's policies, whilst preserving and upholding the constitution.

From that, this study concludes that, in practical terms, the current situation suggests that parliaments, especially from the developing world (the South African National Parliament included) lack the motive, capacity, knowledge, and technical qualities to independently initiate and profoundly make and decide on the laws of the country in question. Thus, coinciding with arguments advocating that, parliaments are a debating forums, rubber-stamping policies that are initiated by the well resourced, technically equipped and intellectually capacitated Executive.



The existence of the South African Policy Coordination and Advisory Services (PCAS), the formation of the Department of Performance Monitoring and Evaluation, and of National Planning Commission, with their ability to provide quality support. Allows the Executive to supersede the capacity and the technical support that the Legislature have and is receiving. Thus, exposing Parliament as an ineffective political institution, that lacks technical capacity to analyse and deliberate on public policies. If policy management capacity development is neglected, Parliament as an institution will slowly decline and its effectiveness and relevancy will fade with time. The Executive's growing power in public policy-making and implementation might as well make them (the Executive) untouchable and thus able to dictate macro-governmental policy inputs and outputs.

For the South African National Parliament to be more effective in terms of policy inputs, outputs, and outcomes. It should first accept that the world is changing and it should change with it; and secondly, it should empower itself with all the necessary and available resources to make its presence efficient and sound. The study advocates for policy advisory machinery that will support and enable the Legislature to asset itself in policy analysis, formulation, research, monitoring and evaluation, and providing policy advice and alternatives. Policy support structures that are properly designed and conceptualised will keep MPs informed about policy challenges and opportunities that exist locally and globally.

This study concludes by highlighting the urgent need and demand to address, review and perhaps seal the gaps that exist as a result of insufficient policy management capacity, between Parliament and the Executive.

Informed by theory and research findings, this study affirms that, the PMU is not at all playing a meaningful role in macro-governmental and legislative debates happening in the country, leaving Parliament vulnerable in this regard. Parliament with no doubt, requires access to intellectual capacity, technical support from able policy advisors, analysts, and policy researchers who will be mandated, not only to develop human

resource policies, but to respond appropriately and empirically to socio-political, economic, and cultural challenges affecting the country, Parliament and citizens.

It must be understood that, the basis for the formation of the PMU was in the main, to strengthen, harmonise, balance or coordinate, and to promote public policy-making in the Legislature. The emphasis and highlights of the findings reveal and suggest that, without a clearly conceptualised Policy Unit designed to support Parliament on both internal and external policies, Parliament will definitely and slowly lose its eminent mandate. That is to make, pass and reject laws, due to no or lack of sufficient in-house technical support and personal abilities positioned next to the parliamentarian for policy decision-making.

## 7.2 RECOMMENDATIONS

The role and function of the South African National Parliament as a law maker can improve if the following recommendations are considered.

### **Recommendation 1: The role of the Policy Management Unit**

With a theoretical perspective in mind, the role of the Policy Management Unit in the South African Parliament should be to provide a cross-cutting, multi-disciplinary support service to Parliament. The PMU's role should be to provide the Legislature (National Assembly) with technical support, including policy advice, policy research, providing policy alternatives, assisting with monitoring and evaluation. Whereby, legislators as clients are able to debate with confidence, and contribute adequately to policies proposed by the Executive. The main objectives of the Unit should be to transform Parliament into a respectable political institution that functions with efficiency. To assist Parliament technically to assert itself whilst upholding its role and responsibilities; and to ensure that the law-making processes are adequately informed and realised accordingly. Considering the fact that policy units in general constitute in-depth policy knowledge, skills, and intellect. The above statement should be sufficient to motivate politicians to adequately reconfigure the Unit's role with a clear political mandate as its main point of reference.

In that, making the PMU's role as to provide policy management capacity, provide technical support, advice, analysis and policy directives, and to assist with monitoring and evaluation, and provide evidence-based policy research. This will, presumably, put Parliament in a better position when deliberating on issues of public policies, therefore closing the existing technical gap between Parliament and the Executive. This is the type of Policy Management Unit recommended and envisaged by this study, a Unit that will mainly serve Parliament as its immediate customer.

### **Recommendation 2: Internal policies versus external policies**

This study acknowledges that internal or administrative policies are part and parcel of institutional policy development, where at some point they (internal policies) will be assigned or mandated to the Policy Unit for advanced modification or analysis. However, this study advocates that, the above cannot be the primary and sole role of the PMU. It is unprecedented and unfortunate to see qualified analysts, on a day-to-day basis, spend their valuable time assessing and developing administrative and procedural policies and nothing else. Policy analysts are a multi-disciplinary human resource, technically qualified and trained to offer meaningful support, primarily on national and international policy agenda. The current PMU should be providing authoritative policy research on legislative related issues, offering policy analysis and advice to all political parties in Parliament on education, health, housing, rural development, safety and security, international matters, climate change and others.

### **Recommendation 3: PMU as a policy support mechanism**

As outlined in Section 55 (1)(b) of the Constitution, the role of Parliament is to consider, pass, or reject any legislation before it, and to initiate or prepare legislation except the Money Bill. Based on the above decree, it is therefore recommended that Parliament's institutional support mechanisms be expanded and enhanced so as to allow for an in-house, non-partisan Policy Unit which serves this political institution in law-making activities. This Unit should empower legislators on a one-to-one basis through a

consultative model, and as a group through seminars, workshops, and through formal and informal training. Fieldwork results reveal that, it is detrimental for Parliament to continue functioning without the technical expertise of an in-house policy unit. Supporting arguments suggesting that, policy and law-making as an exercise, is a complex process requiring more than just a political will. This recommendation advocates for an ultimate injection of qualified policy knowledge within the parameters of Parliament is necessary.

#### **Recommendation 4: Debating the existence of the PMU**

The study recommends a debate, so to understand the need for a relevant and effective Policy Unit to exist within the political framework. A debate of this nature would be a positive step towards proper conceptualisation, realignment, and reconfiguration of the current PMU. Such a debate will also enlighten policy decision-makers about the actual role and functions of the PMU, as a supporting tool in national policy debates. The anticipation is that, debating the existence of a properly conceptualised Unit will certainly bring back the respect that Parliament deserves, where debates will emphasise a need for legislative expertise, policy analysts, professionals and researchers to exist. This underlies therefore, specific and direct strategic interventions in the coordination and management of policy input-output and outcome, to support the policy analysis and research needs of legislators.

#### **Recommendation 5: Institutionalisation of the PMU**

The study recommends that the PMU should be structured so it can fully address both international and domestic legislative agendas. A reconfigured PMU that is politically framed and driven, and compelled to non-partisan operation, is what the study recommends. Such a PMU will then have to account and report to the Speaker of the National Assembly as the political head of Parliament. It will be a Unit that is accessible to all Members of Parliament, irrespective of party political affiliations. The study recommends and advocates for a Unit that is and should be a cross-cutting division, set to

provide objective policy analysis beyond party political lines. A Unit that will present itself as professional or adequate source of information, that will not legitimise what is already known and desired by politicians. This study recommends therefore that, Parliament should institutionalise the PMU to benefit politicians so to realise and perform efficiently in their national and political mandate. The study also recommends that, Parliament should consider re-establishing the PMU under an Act of Parliament. By such it (Parliament) will ensure that any services provided to MPs by the PMU will be subjected to confidentiality, and that the Unit does not operate in a vacuum.

### **Recommendation 6: Realigning the PMU to the core business of Parliament**

A working synergy between the existing institutional support structures, including the PMU, will definitely promote knowledge, so to advance adequate input when responding to the ongoing needs of legislators on issues pertaining to public policy-making, analysis of legal matters and evidence-based policy research. This study recommends for the re-conceptualisation of the current Unit, so to exist along or rather have close working relationship with the already established institutional support structures in Parliament, such as the Parliamentary Research Unit, Legislation Office, and the Bills Office, to name just a few. Moreover Parliament should take steps in restructuring and realigning the PMU to support such units.

### **Recommendation 7: Building relationships with think-tanks**

The study recommends and envisages that the PMU is able to share policy knowledge and information with other key actors, whilst preserving professionalism in executing its duties. This recommendation proposes a working relationship between the PMU (as the in-house policy unit) with independent (or outside of the official political framework) policy units, where they will develop a common understanding in domestic and international policy issues. As indicated before, think-tanks around the world are perceived as fundamental role players in critical policy issues. This is based on the understanding think-tanks understand ‘better’ and engage more with ordinary citizens.

Such a strategic relationship will therefore directly and indirectly assist both the Unit and Parliament in levelling and communicating national policies effectively and efficiently.

Think-tanks contain and produce sufficient and credible policy intellectuals who advocate, lobby, shape, and influence policy agendas. For that, it is worth recommending the existence of a coordinated and properly managed relationship between the PMU and think-tanks. The motive for such a relationship is to improve trust, cooperation, and cross boundary communication, to scientifically explore various facets of public policies, and to advance the facilitation of mutually consensual training and strategic planning in public policy-making. A systematic cooperation should, if and when necessary, include joint facilitation of periodic workshops and seminars, as a way of complimenting the role that each player contributes for better informed public policy alternatives and guidelines.

### **Recommendation 8: Policy management capacity**

Literature review and findings reveal that, Parliament's role and functions come with complications and challenges, particularly when it comes to matters relating to law and public policy-making. There is a compelling demand to create a synergy between capacity building, evidence-based policy research, and public policy-making, so to promote or uplift the confidence of the elite in policy decision-making. This study reveals that, lack of capacity building leads to poor policy debates, resulting in irrelevant and inappropriate policies. For that, the study recommends that, the South African National Parliament should come up with innovations and interventions that will assist to integrate quality policy researchers and analysts into the main stream of national politics, as transmitters and sources of intellectual and technical abilities. Parliament should embark on a search for policy professionals who meet the standards of good quality policy researchers; advisors, analysts, monitors, and evaluators. Who will understand the effects of the external environment and the importance of evidence-based policy research. These individuals should be included in the PMU considering the size of the current Unit. A properly conceptualised PMU should have the capacity and the mandate to work close

with independent policy units, and academic institutions in developing capacity building programmes (workshops or seminars) for the benefit of legislators.

### **Recommendation 9: Developing a new generation of policy analysts**

This study recommends that, for an effective and vibrant Parliament to exist, you need a policy and research unit that is sufficiently incapacitated in terms of quality and quantity of its human resource. Hence, Parliament should develop a system where necessary skills are recruited and retained for, and within, the institution. A developmental strategy, where new upcoming analysts, researchers, monitoring and evaluation students, are encouraged to take part in internship programmes within Parliament, should be designed.

### **7.3 AREAS FOR FUTURE RESEARCH**

It is recommended that further research be conducted on:

- Case studies of policy management units in other parliaments.
- The development of a feasible model of an in-house policy unit that will provide external technical policy analysis in support of parliament.
- Possible ways in designing working relations between the policy units in parliament, political parties and the state in general with think-tanks.
- Political and intellectual interconnectivity or approach needed to create, implement and monitor appropriate political policies.
- Challenges and dynamics in monitoring and evaluating public policies.
- Public participation in public policy making processes.

Emerging from the discussions with Professor John Bardill, School of Government, UWC. Recommendations for future research were made, which includes:

- The commitment or political will by legislators in enabling the PMU to play a broader role in terms of policy advice and support.
- The effects of a dominant party system with the overwhelming majority for the ruling party, as the main reason for ineffective and inefficient parliamentarians in policy deliberations, profound decision making and oversight.

#### **7.4 CONCLUSION**

The primary objective of this study is to investigate the role of policy management units, including the PMU in the South African National Parliament in particular. The secondary objectives seek, among others, to provide a theoretical perspective on the role of policy management units and to record and develop a case study of the PMU in Parliament.

The researcher has been able to effectively collate relevant and appropriate literature in support of the view that, policy units are generally and specifically the providers of evidence-based policy research. They are multi-disciplinary service providers, thus constitute professional policy experts. As revealed by literature review, the prerequisite of a policy unit is to provide policy analysis, policy advice, policy alternatives, evidence-based policy research, policy advocacy, monitoring and evaluation, and policy management capacity on macro-governmental policies. Also of note, policy units do provide administrative or internal policy support to parliaments.

According to the Constitution, Parliament is required and expected to be an important law-making organ, to be directly involved in legislative matters by initiating, considering, passing, amending, and of course rejecting legislation. Parliament's role also include



monitoring, with much emphasise on accountability through its oversight duty over the Executive. As this study shows, Parliament is regrettably faced with lack of technical ability, policy management capacity, and confidence to initiate, deliberate, interpret and analyse public policy issues. For this reason, the research recommends and concludes that, the South African National Parliament Policy Management Unit has to be realigned, encouraged, and augmented to perform its actual duties as a political structured Unit. The PMU should provide timely technical support and advice, and to assist with monitoring and evaluation, for good governance and better service delivery for all South Africans.

The study has systematically argued that, policy management is, and has been a complex discipline with substantial implications particularly to key and core policy actors. Parliaments, in the Africa continent, including the African Union, and the Pan African Parliament, as shown by the study, need to develop a conceptual framework and understanding on the role and functions of policy management units in relation to governance and policy development in Africa. A proper diagnosis of adequate public policy making in Africa depends on institutional capacity.

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If appropriately utilised, policy units, could assist in consolidating the development of public policies, democratic governance, monitoring and evaluation, socio-economic and the political growth for Africa, and South Africa in particular. Growth, stability and democracy shall only be maintained if and when Africa reconciles political power and activities with expert knowledge.

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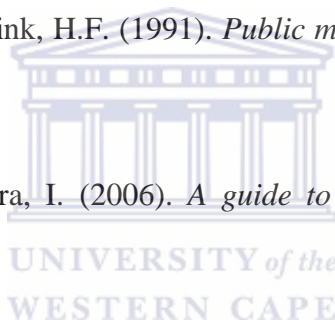
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## **APPENDIX A: LIST OF PARTICIPANTS**

Dr Nazeema Ismail, Undersecretary: Research and Parliamentary Practice, National Assembly Table, Parliament of the Republic of South Africa

Fezela Mohamed, Registrar of Members' Interests, Parliament of the Republic of South Africa

R. J Tau, MP. House Chairperson: Oversight & Institutional Support National Council of Provinces, Parliament of the Republic of South Africa

Regina Mohlomi, Undersecretary: Table Administration, National Assembly Table, Parliament of the Republic of South Africa

Ekhsaan Jawoodeen, ISS Research Unit, Senior Researcher, Parliament of the Republic of South Africa



Dumisani Mngadi, Analyst: Monitoring and evaluation: The Office of the Secretary, Policy Management Unit - PMU, Parliament of the Republic of South Africa

Andile Mphunga, Policy Analysts: The Office of the Secretary, Policy Management Unit -PMU, Parliament of the Republic of South Africa

Dr Andra le Roux-Kemp, Department of Criminal Justice & Procedure: Faculty of Law, University of the Western Cape

Dr Thomas Wheeler, Research Associate: South African Institute of International Affairs

Jonathan Carter, Senior Research Manager: Policy Analysis Unit, Human Sciences Research Council

Christina Teichmann, Project Manager, Cape Town: Konrad-Adenauer-Stiftung (KAS), South Africa

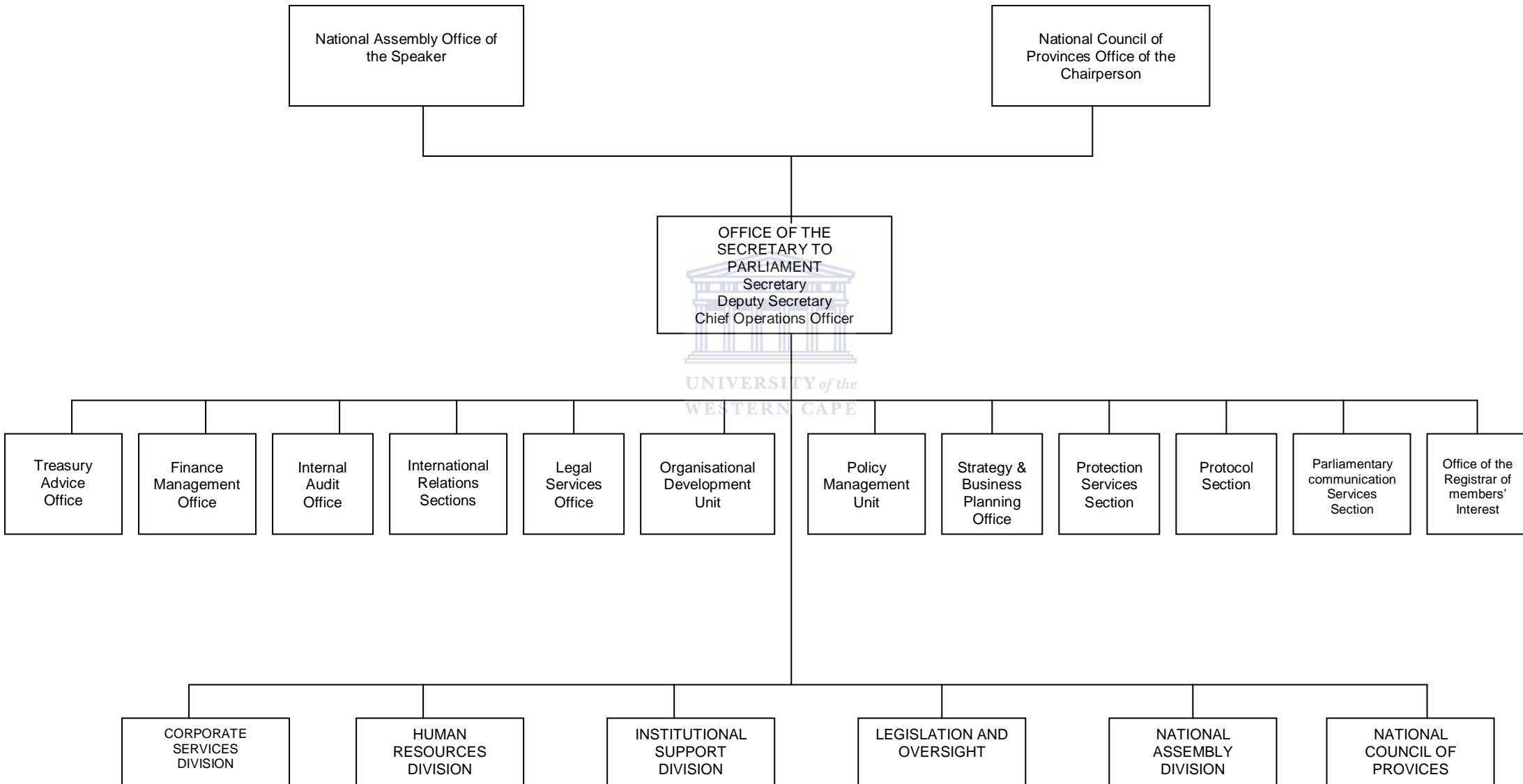
Dr Gape Kaboyakgosi, Research Fellow: Botswana Institute for Development Policy Analysis, Botswana.

Llewellynn Claassen, Deputy Chairperson, Parliament Branch, National Education Health and Allied Workers Union (NEHAWU), Parliament of the Republic of South Africa

Prakashnee Govender, Coordinator: Parliamentary Office. Congress of the South African Trade Unions (COSATU)



## APPENDIX B: South African Parliament Organisational Structure



## APPENDIX C: Reconsideration of Bills

No 11—2009] SIXTH SESSION, THIRD PARLIAMENT

**PARLIAMENT**  
OF THE  
**REPUBLIC OF SOUTH AFRICA**

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**ANNOUNCEMENTS,  
TABLINGS AND  
COMMITTEE REPORTS**

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FRIDAY, 30 JANUARY 2009

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**National Assembly**

**The Speaker**

**1. Reconsideration of Bills**

(1) The Speaker received a letter dated 27 January 2009 from the President of the Republic informing her that he had reservations about the constitutionality of the following Bill:

**Films and Publications Amendment Bill [B 27D—2006]**

**(National Assembly—sec 75)**

and that, in terms of section 79(1) of the Constitution, he was referring the Bill back to the National Assembly for reconsideration. The President's letter reads as follows:

*Friday, 30 January 2009]* 136



27 January 2009

Dear Madam Speaker

**REFERRAL OF THE FILMS AND PUBLICATIONS AMENDMENT BILL, 2008 (THE BILL) TO THE NATIONAL ASSEMBLY**

I have received the above Bill from the Secretary of Parliament for me to assent to and sign into law.

I have received submissions from interested and affected parties, who requested that I should not assent to nor sign the Bill, because of the perceived unconstitutionality of certain provisions of the Bill. The submissions are attached herewith for your information and consideration. The concerns raised in the submissions can be summarised as follows:

- Objection against the constitutional validity of clause 29 of the Bill, which inserts, amongst others, sections 24A(2) and (4) in the Films and Publications Act, 1996 (the Principal Act): it is submitted that subsection (2) of clause 24A has a "chilling effect" on constitutionally protected freedom of expression, and is thus inconsistent with section 16 of the Constitution of the Republic of South Africa, 1996 (the Constitution), in a manner which cannot be justified in terms of section 36 of the Constitution. It is argued that, clause 24A(4) of the Bill, improperly prohibits the right of freedom of expression contained in section 16(1) of the Constitution in a manner that is manifestly overbroad .

- Objection against the constitutional validity of clause 29 of the Bill, to the extent that it inserts section 24A(3) in the Principal Act : It is submitted that clause 24A(3) of the Bill, which prohibits, subject to certain exceptions, the exhibition, sale, hire or advertisement for sale or hire any film, game or publication which, although not classified, would have been classified as "X18", had it been submitted for classification. It argued that the scope of prohibition in clause 24A(3) violates the rule of law, that requires a law to be certain, clear, stable, accessible and ascertainable in advance so as to be predicable.
- Objection against the constitutional validity of clause 29 of the Bill, to the extent that it inserts section 24B(2) in the Principal Act: it is submitted that this clause would arguably compel journalists engaged in legitimate activities to disclose or reveal sources of their information.
- Objection against the constitutional validity of section 29 of the Bill, to the extent that it insert section 24(2)(a) in the Principal Act: It is submitted that the subsection imposes upon internet service providers who operate chat-rooms accessible to children an obligation which is impossible to fulfil. It is contended that such an obligation will have a chilling effect on the fundamental rights of service providers to free expression.

I have also been favoured with a legal opinion which deals with the issues raised in the submissions. The legal opinion is also attached for your attention. The legal opinion concluded that, the provisions of the Bill that may not survive constitutional scrutiny are the following:

- Clause 29 of the Bill, in as far as it inserts sections 24(A)(2)(c) and 24A(3) in the Principal Act, which separately create prohibitions,

accompanied by criminal sanction, in a manner that is inconsistent with the rule law, and

- Clause 29 of the Bill, in as far as it inserts section 24A(4) in the Principal Act, which is irrational insofar as it creates a prohibition based on consideration which do not have any rational connection to the system of classification provided in clause 19 and 21 of the Bill.

I have perused the Bill accordingly, however, I am concerned that clause 29 of the of the Bill, may not survive constitutional scrutiny, in as far as it inserts sections 24A(2), 24A(3) and 24A(4) in the Principal Act.

The Constitution requires that the President must assent to and sign the Bill referred to him by National Assembly. However, in terms of section 79(1) of the Constitution, if the President has reservations about the constitutionality of the Bill, he may refer it back to the National Assembly for reconsideration.

In terms of section 79(1) of the Constitution, I hereby forward the attached Bill to the National Assembly for reconsideration.

Yours sincerely



**KGALEMA MOTLANTHE**

Ms G Mahlangu-Nkabinde, MP  
Speaker of the National Assembly  
P.O. Box 15  
**CAPE TOWN**  
8000

cc Minister of Home Affairs  
Leader of Government Business: Deputy President B Mbete

(2) The Speaker received a letter dated 27 January 2009 from the President of the Republic informing her that he had reservations about the constitutionality of the following Bill:

**Competition Amendment Bill [B 31D—2008] (National Assembly—sec 75)** and that, in terms of section 79(1) of the Constitution, he was referring the Bill back to the National Assembly for reconsideration. The President's letter reads as follows:

PRESIDENT

REPUBLIC OF SOUTH AFRICA

27 January 2009

Dear Madam Speaker

**REFERRAL OF THE COMPETITION AMENDMENT BILL, 2008 (THE BILL) TO  
THE NATIONAL ASSEMBLY**

I have received the above Bill from the Secretary of Parliament for me to assent to and sign into law.

I have received submissions from interested and affected parties, who requested that I should not assent to nor sign the Bill, because of the perceived unconstitutionality of certain provisions of the Bill. The submissions are attached herewith for your information and consideration. The concerns raised in the submissions can be summarised as follows:

- Introduction of complex monopoly provisions: it is submitted that clause 4 of the Bill, which introduces "complex monopoly" is vague and in conflict with the rule of law principle enshrined in section 1(c) of the Constitution of the Republic of South Africa, 1996 (the Constitution). It is argued that the introduction of "complex monopoly" concept may outlaw four party payment schemes, such as MasterCard's. It is further argued that, the introduction of this concept would compel the operators of such schemes either to restore their businesses radically to the detriment of South

African consumers and merchants, or even to withdraw from South Africa altogether.

- Compliance with public participation: It is submitted that none of the interested parties and stakeholders was afforded an opportunity to comment on the second revised Bill, before it was passed by the National Council of Provinces (NCOP) and National Assembly (NA).
- Criminal liability for directors and individuals holding management authority: it is submitted that clause 12 of the Bill, violates the right to a fair trial guaranteed by section 35(3) of the Constitution, in that it “reverse onus”.

I have also been favoured with a legal opinion which deals with the issues raised in the submissions. The legal opinion is also attached for your attention. The legal opinion concluded that, the only aspect of the Bill that may not survive constitutional scrutiny is the “reverse onus” provision in clause 12(5) of the Bill.

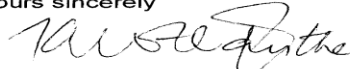
However, it has also concluded that, the Bill may be constitutionally challenged, if the stakeholders had not been given an opportunity to comment on the second Revised Bill, before it was passed by the NCOP and NA, as alleged by MasterCard International Incorporated.

I have perused the Bill accordingly, however, I am concerned that clause 12 of the Bill may not survive constitutional scrutiny.

The Constitution requires that the President must assent to and sign the Bill referred to him by National Assembly. However, in terms of section 79(1) of the Constitution, if the President has reservations about the constitutionality of the Bill, he may refer it back to the National Assembly for reconsideration.

In terms of section 79(1) of the Constitution, I hereby forward the attached Bill to the National Assembly for reconsideration.

Yours sincerely



**KGALEMA MOTLANTHE**

Ms G Mahlangu-Nkabinde, MP  
Speaker of the National Assembly  
P.O. Box 15  
**CAPE TOWN**  
8000

cc **Minister of Trade and Industry**  
**Leader of Government Business: Deputy President B Mbete**



UNIVERSITY *of the*  
WESTERN CAPE

**PARLIAMENT**

OF THE

**REPUBLIC OF SOUTH AFRICA**

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**ANNOUNCEMENTS,  
TABLINGS AND  
COMMITTEE REPORTS**

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## ANNOUNCEMENTS

### National Assembly

#### The Speaker

##### 1. Reconsideration of Bill

(1) The Speaker received a letter dated 5 February 2009 from the President of the Republic informing her that he had reservations about the constitutionality of the following Bill: *Broadcasting Amendment Bill [B 72B—2008]* (National Assembly—sec 75) and that, in terms of section 79(1) of the Constitution, he was referring the Bill back to the National Assembly for reconsideration. The President's letter reads as follows:





05 February 2009

Dear Madam Speaker

**REFERRAL OF THE BROADCASTING AMENDMENT BILL, 2008 (THE BILL) TO THE NATIONAL ASSEMBLY**

I have received the above Bill from the Secretary of Parliament for me to assent to and sign into law.

I have received submissions from members of the Inkatha Freedom Party, the Democratic Alliance and the Freedom Front, who requested that I should not assent to nor sign the Bill, because of the perceived unconstitutionality of clause 3 of the Bill. The submissions are attached herewith for your information and consideration.

Clause 3 of the Bill (hereinafter referred to as section 15A) seeks to insert section 15A into the Broadcasting Act, 1999 (Act 4 of 1999) (the Principal Act), and to amend the existing section 15 of the Principal Act. The main issue raised in the submissions is about "procedural fairness".

- It is submitted that "the constitutional issue at stake in the Bill is the absence in section 15A of any express reference to the requirement of a procedurally fair enquiry preceding the National Assembly's recommendation to remove all the members of the Board".

- It is further submitted that “the absence of an express reference to a preceding enquiry in clause 15A(1)(b) is inconsistent with the right to just administrative action”.
- It is contended that “the absence in sections 15A(1)(b) and (2) of any requirement of procedural fairness is intentional, and the legislature has specifically sought to exclude such right when the National Assembly recommend the dissolution of the Board”.

I have also been favoured with a legal opinion which deals with the issues raised in the submissions. The legal opinion concluded that the Bill is not unconstitutional.

I have spent some time deliberating on this matter. However, my difficulty is that clause 2 of the Bill which seeks to substitute section 15 of the Principal Act, makes specific provision for a “due enquiry” by a committee of the National Assembly when the removal of an individual Board member is considered, but the Bill is silent on the process to be followed with regard to the removal of the entire Board.

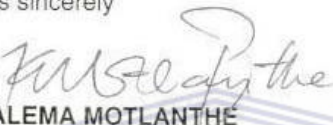
Whilst I believe that in exercising powers contemplated in section 15A(1)(b) of the Bill, the National Assembly will be guided by the standards and principles enshrined in the Constitution of the Republic of South Africa, 1996 (the

Constitution), I still have reservations about the constitutionality of clause 3 of the Bill.

The Constitution requires that the President must assent to and sign the Bill referred to him by National Assembly. However, in terms of section 79(1) of the Constitution, if the President has reservations about the constitutionality of the Bill, he may refer it back to the National Assembly for reconsideration.

In terms of section 79(1) of the Constitution, I hereby forward the attached Bill to the National Assembly for reconsideration.

Yours sincerely

  
KGALEMA MOTLANTHE

Ms G Mahlangu-Nkabinde, MP  
Speaker of the National Assembly  
P.O. Box 15  
**CAPE TOWN**  
8000



UNIVERSITY of the  
WESTERN CAPE

cc Minister of Communications  
Leader of Government Business: Deputy President B Mbete

**APPENDIX D: Questionnaire**

1. Please indicate your role in the South African National Parliament.

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2. Which issues are the biggest impediments to Parliament being able to play its role as a law-making body?

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3. In your opinion what are the key missing skills that the Parliament needs to continue making adequate input on socioeconomic issues?

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4. In your opinion what is the role of the Policy Management Unit (PMU) in the South African National Parliament?

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5. Would you recommend for a more capacitated PMU that will technically assist Parliament by providing policy advice, policy analysis and research for better deliberations, amendments, passing and rejecting the proposed and existing Bills?

Agree	Do not agree	I don't know
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6. Section 55 (1)(b) of the Constitution stipulates that, “The National Assembly may initiate or prepare legislation, except the money Bill”. To realize such an in-house Policy Unit with full technical expertise is necessary.

Agree	Do not agree	I don't know
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7. How do you think Parliament can be better equipped to make evidence based policy decisions?

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8. Do you think MPs require extensive skills, training on legislative issues? Please explain.

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9. Public policy making is a complex exercise. What mechanisms should be in place to prepare parliamentarians to deal with the highly intensive, challenging and complex policy matters?

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10. Do you think that good working relationship and sharing of policy research information between Parliament as a decision maker, with non-official policy makers (independent policy institutions) is necessary and essential? If yes, how do you go about building this relationship? Please provide example[s] of existing relationships.

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**THANK YOU FOR YOUR TIME AND COOPERATION**

## APPENDIX E: Permission to conduct research a Parliament's Policy Management Unit

Friday, 9 October, 2009 15:16

**From:** "Gail Dyers" <gdyers@parliament.gov.za>  
**To:** pqwakalol@yahoo.co.uk  
**Cc:** "Sindisiwe Mthembu" <smthembu@parliament.gov.za>

Dear Mr Qwaka,

As discussed. Please be informed that the Secretary to Parliament has granted permission for you to conduct research as part of your studies in our Policy Management Unit.

For further enquiries, you may contact the Secretary to the Policy Management Unit, Ms Sindisiwe Mthembu on 021.403.2781.

Thank you and regards



Gail Dyers  
Administrative Officer  
Office of the Secretary  
Parliament of the Republic of South Africa  
P.O. Box 15, CAPE TOWN, 8000  
direct tel: (021) 403.2509 / fax: (021) 403.2604  
e-mail: [gdyers@parliament.gov.za](mailto:gdyers@parliament.gov.za)  
website: [www.parliament.gov.za](http://www.parliament.gov.za)