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**Making Parliament more Participatory? The Reinvention of Rituals in South  
Africa's Parliament**

## *Introduction*

Since the beginning of the new democracy, the South African parliament has been at the centre of the government's transformationist project. In line with this and its constitutional mandate, South Africa's parliament has strived to become a 'People's Parliament', by making significant changes to its rules, procedures, artwork, and formal ceremonies, as well as establishing public programmes such as the 'Parliamentary Millennium Programme', 'Taking Parliament to the People', 'Youth Parliament', 'Parliament of Traditional Leaders' and 'Women's Parliament'.

This paper looks at the effect of some of these changes upon parliamentary practice. More specifically, it examines the emergence of new rituals within the parliament of South Africa, in relation to the changes that have been made to the rules of the institution. The paper is interested in whether the internal practices of parliamentarians, reflect the new government's drive for an inclusive institution. The paper asks 'have the changes to the rules of parliament helped to create rituals that are participatory?'

In order to do this the paper will be divided into three sections. The first section will attempt to define parliamentary rituals, and will explore the relationship between rituals and rules both from a ritual theoretical perspective, and a more empirically derived rule-based perspective.

The second section of the paper will outline the theoretical framework of the paper, that conceptualises the parliament of South Africa in line with the normative ideals of Habermas's Public Sphere. In order to help apply theory to practice, the paper will draw upon one of Brown's three normative checkpoints, as a way to examine the new and emerging rituals of South Africa's parliament.

The final section of the paper takes an empirical focus upon the changes that have been made to the rules of the institution. Given that the most significant changes to the rules of parliament relate to the new committee system, and that the committee represents parliaments most significant sphere of deliberation, the paper analyses the rituals of this new system in terms of the normative checkpoint derived from deliberative theory.

The methodology of the paper stems from extensive fieldwork carried out in South Africa, which included participant observation, interviews with parliamentarians and officials, as well as archival research.

## *Rituals as Rules*

The concept of ritual first evolved through the disciplines of anthropology and sociology in their attempt to better understand the source and service of religion and religious practices within primitive society. From the outset there has been an intimate connection between rituals and rules, as rituals were seen as a reflection of either underlying 'social structures' (Durkheim, 1965, Radcliffe-Brown 1964, Evans-Pritchard, 1965), 'cognitive structures' (Levi-Strauss 1967 & 1969), or 'cultural patterns' (Turner 1967, Van Gennep, 1960, Gluckman 1963 & Geertz 1973). Through their respective lenses these social anthropologists studied the social world as though it presented a dichotomy between the internal world of the individual, and the external social world; between 'thought' and 'action'; or in Durkheimian terms, between 'sacred' and 'profane', 'real' and 'ideals' modes of behaviour (1965:51)

Dichotomizing social reality in this way established a hierarchy around which 'ritual' is seen to serve a specific function. Rituals were seen as 'profane' rules of conduct that stipulated how people should behave in the presence of the Sacred (Durkheim 1965). Rituals represented formalized acts that maintained symbolic communal identifications, that as such were seen as essential to the sustenance of social order. In this sense, the study of rituals was ultimately connected to the study of social rules or provisions for social order.

Thus despite the wider disciplinary disagreement as to how the word ritual should be used and applied, (Leach 1968, Goody 1961 & Lukes 1975), Lukes defines ritual as a, 'rule governed activity of a symbolic character, which draws the attention of its participants to objects of thought and feeling which they hold to be of special significance' (1975:4). Such a definition captures the inherent significance of 'rules' within ritual activity, and has also widened the scope and richness of understanding made available through 'ritual' as an analytical category. This is evidenced by various political research that viewed certain political practices as rituals, defining them as such in a variety of ways.

The first set of research defined political symbolism such as 'national elections' and 'political discussions' as rituals. It is the repetition and stylization of these political activities that is seen to enable them to draw collective civilian attention to their 'relatedness', 'promoting conformity and evoking a satisfaction in

that conformity' (1964:16). This research rests heavily upon the social integrative function of ritual as conceptualised within the early anthropological literature, and includes scholar such as Edelman (1964) Cohan (1979) Lane (1981) Gusfield & Michalowicz (1984) and Loader (1997). However the Durkheimian derived social solidarity thesis that underlies this research, is seen to undermine the depth and complexity of these political rituals, as well as their capacity to strengthen the more dominant group through the 'mobilization of bias' (Lukes 1977).

The second set of research, which includes scholars such as Abeles (1988), Crewe & Muller (2006), as well as Mann & Crewe (2006), views traditionally constituted activities such as the Opening of the Scottish Parliament, Presidential ceremonies and parliamentary procedures, as 'rituals' that are essential to the constitution and sustenance of modern political practice. The most relevant and applicable to this paper, is Crewe and Muller's (2006) study of the British parliament in which the institution is seen to produce its own brand of ritual, and one that is defined as a set of 'procedures or ways of organizing social behaviours, that are necessary for conducting parliamentary business, as much as they convey meaning both to parliamentary insiders and to the public outside the institution' (2006:185).

Since 1994 the make-up and composition of such rituals in the parliament of South Africa, has been drastically altered by the large turnover of members of parliament, parliamentary staff and officials, in addition to the procedural changes that have been made. In fact in many ways the rituals of South Africa's parliament are just beginning to emerge and embed themselves. This makes the task of identifying 'rituals' as a discrete practice, significantly more challenging. As a consequence discerning parliamentary rituals becomes a question of observing parliamentary behaviour, as well as listening to the accounts of members and officials, as a way of identifying those practices that are seen by them to be as significant in ways other than in relation to the conduct of parliamentary business alone.

In terms of the relationship between rituals and rules, what emerges from anthropological research is a theoretical understanding of rituals as both 'rule-constituted' and 'rule-constitutive'. On the one hand, rituals are seen to have originated out of a set of social rules, that at given occasions, prescribe a particular set of social behaviours. However on the other hand, and in line with Austin's illocutionary speech act (1968), the very act of performing a ritual is in itself seen to constitute a set of social rules, norms or structures. A third dimension to the complex

and iterative relationship between rituals and rules may be added by switching from a ‘rituals based’ perspective, to a ‘rules based’ perspective. In other words to shift from looking at the way rituals relate to rules; to see how rules relate to rituals.

At first, taking a rule-based perspective places an inevitable focus upon the ‘rule-constituted’ end of the iterative binary, that emphasizes the role of rules as the foundation of ritual practices. Indeed according to May, ‘parliamentary rules govern the conduct expected of its members in the discharge of their parliamentary duties’ (May, 2004:482), which reflects the wider literature on parliamentary practice that emphasizes that rules ‘should have a mandatory effect upon those persons or parties to which they relate’ (Rhyle, 1989:173).

In the case of South Africa, the rules of parliament are to ‘set the framework within which the various different parties operate, and engage with each other in order to get through the business of government. In ideal terms they provide an agreed platform for participative debate’<sup>1</sup>. In addition to this, as a constitutional democracy the rules of parliament must also codify a style of procedure that adheres to the constitution.

The connection between the rules and parliamentary practice is made evident by South Africa’s parliamentary ‘Guide to Procedure’. This is meant to provide members with ‘the constitutional and rules basis to the established practices and conventions of parliament’, in order to support them in overcoming the often ‘mystifying’ and ‘disempowering’ effect of parliamentary procedure (Parliament of the RSA, 2004).

Yet the link between the formal rules and the formal and informal practices of parliamentarians, is not necessarily clear and direct. In fact, in between rules and their application is interpretation and political will. In the first instance interpretation is seen to depend upon the extent to which a member has been institutionalized within the particular culture of the institution, and the levels of training they’ve received. In this sense institutionalisation represents the foundation upon which rituals develop. However in 1994 most members of South Africa’s parliament were new to the institution. Secondly the strength of the connection between rules and rituals is seen to also depends on the Speaker and other Presiding Officers, whose interpretation of

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<sup>1</sup> Interview conducted with senior parliamentary official on the 8<sup>th</sup> June 2009

the rules plays a key role in monitoring, managing and thereby determining the behaviours of parliamentarians at the formal level.

In terms of political will, the degree to which the rules of parliament are seen to affect parliamentary behaviour, seems to depend firstly upon their impact on the desired political/legislative outcome. For example in order to push through the passage of a controversial bill, the African National Congress (ANC) suspended the 3-day rule, which provides opposition parties time to prepare any amendments to a proposed piece of legislation. Secondly it also depends on the size of the political party. The rules of parliament are often relied upon by the smaller parties to ensure they get their views across within the dominant party system. As one member of the African Christian Democratic Party (ACDP) claimed ‘all these little rules are very interesting to protect and promote a multi-party democracy’<sup>2</sup>. In fact the former secretary to the National Assembly admitted to inviting smaller parties to go to him at the start of a new parliament, to talk through the rules as a way of empowering them within the parliamentary process<sup>3</sup>.

While the impact of rules upon parliamentary behaviour may vary, and depend upon factors such as the above, the rules of parliament set the parameters within which these factors are negotiated. In the House of Commons, the code of conduct is seen to provide ‘a framework within which acceptable behaviour should be judged’ (2004:482). Similarly in the case of South Africa, a senior official noted that ‘what develops around the rules is the application or interpretation of those rules, but secondly, practices develop. A culture develops on those rules as a foundation’<sup>4</sup>. As a consequence the rules of parliament are seen to either directly or indirectly set the boundaries around which all formal or informal parliamentary practices emerge. Overall by providing the regulative framework within which members judge their behaviour as well as that of others, the rules of parliament act as the conduit through which meaning is given to parliamentary practices, out of which rituals then emerge.

Yet there is another aspect to the rules of parliament, which brings forth a rule-constitutive view of the relationship between rules and rituals. Section 57 of the constitution, states that the National Assembly may (a) determine and control its internal arrangements, proceedings and procedures; and (b) make rules and orders

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<sup>2</sup> Interview conducted with member of parliament on the 26<sup>th</sup> June 2009

<sup>3</sup> Interview conducted with senior parliamentary official on the 16<sup>th</sup> February 2009

<sup>4</sup> Interview conducted with senior parliamentary official on the 8<sup>th</sup> June 2009

concerning its business (Parliament of the RSA, 1996) This means that the rules of South Africa's parliament are devised by the members of parliament themselves, bound only by any constitutional principles they have to apply. In the Canadian parliament this is seen to allow the house to develop its own practices and to become the master of its own proceedings (Marleau & Monpetit, 2000:260). Similarly as noted in the parliament of Westminster;

Procedures are servants, not masters. Procedures once applied, must be followed, but if they do not work well, or produce results unacceptable to those whose operations are conditioned by them, they can and should be changed (Griffith & Rhyle, 1989:172)

With this in mind the rules of parliament are also a product of the conventions, practices, or rather, the rituals of the institution. As certain practices emerge and embed themselves within parliamentary milieu, the rules are meant to be revised and updated to reflect the reality of parliamentary procedure. However in South Africa certain practices exist that have yet to be formally recognised. For example, that a member may not cross the line between the member speaking and the presiding officer; cross the line of the floor or walk down the aisle where they might cross that visual line, or enter the chamber after the bells have stopped ringing at division time, are all unwritten rules that have given rise to certain plenary rituals.

From both a rule and ritual-based perspective, a close and complex relationship is seen to exist between the rules of parliament and the rituals of the institution. With such a relationship in mind, the rules of parliament provide this paper with an interesting point of access into the emerging rituals of the South African parliament.

### *The Theoretical Framework*

Habermas's deliberative democracy provides the theoretical framework through which this paper will examine the new and emerging rituals of South Africa's parliament.

'Deliberative democracy' also referred to as 'procedural democracy' stems from Habermas's vision of social coordination and development. A deliberative democracy centralises communication, argument, challenge, demonstration, symbolism and bargaining in the provision of equal representation and power within a democracy

(Warren 2001:143). In doing so, it decentres the universal and economically active citizen of a liberal democracy, and reconfigures the republican focus on integrating shared interests as the respective channels through which to attain and establish equality of representation. Rather than universalising the 'citizen' or their 'interest', a deliberative democracy instead attempts to universalise deliberative modes of communication, by promoting the establishment of deliberative forums and procedures in and through which 'public opinion and will formation' can be channelled, articulated, challenged and 'reasoned', both democratically and to democratic effect (Habermas, 1996:267). Deliberation in this sense represents the infusion of state and society through the discursive dynamics of reasoned argumentation. On a more conceptual level, deliberation represents an intersubjective space in which normative understandings are realised through the expression, contestation and validation of subjective ideas, as the necessary precursor for social integration (Habermas 1996:296).

This 'public reason-making process', fosters normative intersubjectivity between state and society, and in doing so establishes a shared foundation of understanding upon which social action may be coordinated (Habermas 1996:297). However a deliberative democracy differentiates between consensus and understanding, with only the latter as integral to the deliberative objective. The significance of institutionalising public opinion and will formation within state infrastructures is underlined by Habermas' social theory of modernity. Within this theory, Habermas identifies the manner in which social order is established within an increasingly complex and highly differentiated, modern, post-conventional society. Accordingly, social order and coordination pivots between the logic of communicative action and that of instrumental reason, that is, between the speech act and calculated modes of judgement respectively (Habermas 1984).

Underlying these two streams of action coordination are Habermas' Lifeworld and System, as two distinct spheres in which communicative action and instrumental reason originate and coordinate society (Habermas, 1984). The Lifeworld refers to the unregulated sphere of individual subjectivity, in which the individual's horizon of understanding is captured, configured, and reconfigured through the medium of language, acts of communication and intersubjectivity. Put simply, the Lifeworld denotes an individual's background knowledge and assumptions that are open and subject to gradual revision during speech acts, thereby providing a platform for social

integration. In contrast, System refers to established patterns of instrumental behaviour that structures, stratifies and thereby facilitates social action. This binary balance between Lifeworld and System filters into a ternary sub-system within post-conventional society, as 'money', 'administrative power' and 'solidarity' provide the channels through which communicative action and instrumental reason structure and coordinate social action (Habermas, 1994).

Acknowledging the significance of communicative action in the constitution of a deliberative democracy, points towards a key area of interest within Habermasian thinking. Referring back to the conceptual balances that underlie Habermas' deliberative democracy - previously outlined as state and society, System and Lifeworld, communicative action and instrumental reason - a deliberative democracy posits a pathway to bridge the ends of each binary, through which public opinion and will formation may be filtered. In Habermasian terms, this pathway may be referred to as a public sphere, when defined as 'a network for communicating information and points of view', (Habermas, 1996:345) that acts as an intermediary between the public realm of the state, and the private interests of the individual. More concretely, a public sphere denotes 'those social institutions that allow for open and rational debate between citizens in order to form public opinion' (Edgar: 2006:124).

Interrogating the dynamics of a public sphere even further, Habermas refers to 'communicative action' and 'discourse ethics' to ascertain more specifically the internal discursive mechanisms through which this deliberative space supports the articulation, contestation and validation of public opinion. However, discourse ethics and communicative action are distinct, in that discourse ethics refers specifically to the dynamics of discursive interchange in which claims to validity are issued and challenged by a speaker and listener respectively. According to Habermas' set of 'idealising pragmatic presuppositions', the ethics of this interchange revolve around the claimant attempting to validate their statements through an appeal to either 'truth', 'rightness' or 'sincerity'. Alternatively, communicative action refers to the illocutionary effect of this discursive interchange, that is, as the speech act fosters recognition and acceptance of validity claims it establishes the foundation for social action and coordination. As effective public and will formation as well as 'communicative action power', rests upon these dynamics of deliberation, so too is the success of a public sphere also seen as contingent upon the mechanics of these discursive processes.

Relating these insights back to the paper, conceptual and normative connections may be drawn between this ideal and the South African parliament. First in ideal terms South Africa's parliament represents the conceptual tenets of Habermas's public sphere, as an institution that stands at the critical crossroad between civil society and the state; a deliberative forum in which intersubjective understanding is meant to be made between the representatives on behalf of the represented. Second, through the development of various programmes and initiatives, the new South African parliament has made strident efforts to normatively align itself with Habermas's deliberative ideal. In fact reviewing parliament's own discourse relating to its role and function, draws attention to a vision of itself that closely reflects a Habermasian public sphere.

For example according to parliament's own Mission and Vision statement, it seeks to, 'build an effective people's Parliament that is responsive to the needs of the people; that provides a national forum involving the people of South Africa in its processes and acting as their voices; that positions parliament as a public space (...) to playing a critical role in the creation of an open society based on the will of the people' (Parliamentary Communication Services, Parliament of the RSA, 2007). Indeed parliament claims that 'the voices of the people of the country are heard through their elected representatives' (Your Guide to Parliament: How Democracy Works, Parliament of the RSA, 1995:4); 'the elected members represent the views of the people (...) they therefore listen to what people have to say, ensure that these views are taken into account when laws are being made, and to report the decisions of parliament to the public' (Your Guide to the Parliament of South Africa, 1996:11).

Whilst this parliamentary discourse may apply different words to those found within procedural theory, such as 'public space' or 'the will of the people', rather than 'public sphere' or 'public reason', the meaning it conveys is the same. As such Habermas's procedural theory seems well placed to frame this study of the institution of parliament. However whilst 'rituals' are central to this paper, what the theory lacks is a consideration of how rituals of parliament might affect the deliberative process. Such an understanding may be derived from anthropological research into primitive ritual activity.

Anthropological research uncovers two key areas of understanding relevant to the Habermasian framework. Firstly by figuratively capturing and conveying the values, culture and structure of their respective society (Van Gennep 1960, Gluckman, 1960,

Durkheim, 1965, Radcliffe-Brown, 1964, Evans-Pritchard, 1965, Geertz, 1973 & Turner 1967 & 1969), primitive rituals represent a distinct medium of communication. In Habermesian terms, these rituals are seen to have the 'communicative capacity' to foster normative intersubjectivity, helping to sustain and renew social cohesion within the referent society. What anthropological insight implies, is that to focus on the impact of parliamentary ritual, is to focus upon the way that parliamentary business is done; the form that parliamentary practice takes. With this in mind whilst parliamentary rituals may take a significantly different shape and form, less overt and obvious to both performer and spectator, such institutionalized rituals nevertheless ought to be read in terms of their 'communicative capacity', and their impact upon the public reason-making process.

Acknowledging this prompts a critical consideration of what constitutes a 'speech act' within a deliberative democracy. Accordingly Young has argued for an 'expanded conception of democratic communication', to include various other speech acts such as greeting, rhetoric and storytelling in addition to conventional modes of political discussion (Young, 1996 & 2002). As Young reasons the universal equality assumed by the deliberative model, has exclusionary implications as it tends both to overlook the effect of social power upon deliberative performance, as well as suppress cultural differences within the deliberative forum (Young, 1996:123). In other words, the language subscribed to by Habermas's ideal befits a Western and agonistic style of debate, that privileges certain dominant linguistic styles whilst excluding other, non-normalised forms of communication. As Young expands deliberative politics to communicative politics so as to privilege all forms of communication equally, (Young, 1996:125), 'rituals' as a distinct medium of communication may be added to Young's expanded notion of a speech act.

Secondly the individual represents a key figure within all primitive ritual activity. Without the individual a ritual has no communicative power. Yet through the individual a ritual performatively inculcates desired and prescribed identifications, at both the individual and social level (Bourdieu, 1977:90, Bell 1992:98). What is suggested by this is that the individual subject as well as questions of identity, be central to any deliberative analysis of parliamentary ritual. This is all the more important given that, as a regulative ideal, the effectiveness of a public sphere is seen to depend upon the individual's capacity to participate discursively. Indeed Habermas' deliberative democracy depends upon discourse, which in turn rests upon

an individual's capacity for articulation. Yet seen in poststructuralist terms, the individual's capacity to articulate is also contingent upon the nature of that very same discourse. Triangulating the deliberative process in this way, suggests that the notion of a deliberative democracy represents a reflexive process that takes place between the individual and the speech act, the individual and language, the individual and discourse. What a ritual perspective implies, is that this reflexive process also include a consideration of an individual's 'performance' within deliberation enactments.

This expanded theoretical framework, which now includes a focus on 'form' as well as 'performance' within deliberative acts, may now be applied to the question of whether the new rituals of South Africa's parliament are participatory. As a way of helping to bridge the gap between theory and practice, Brown (2008) has identified three normative principles derived from deliberative theory, that serve as a criterion against which to assess deliberation in practice. Brown finds that 'if we unpack the various discussions on deliberation and deliberative democracy, it becomes possible to discern three normative principles that are meant to underpin a deliberative constitutional process in practice' (2008:4). The first of these normative 'check-points' relates to the way that '*individuals* should have reasonable opportunities to affect decisions that affect their lives, and / or to have meaningful opportunities to contest the arbitrary exercise of power'. The second principle indicates that 'these deliberative opportunities should in some sense be *equal opportunities* so that individuals, representatives and / or governments, can engage in meaningful debates of public reason, regarding collective action problems'. The final principle claims that 'public decisions can be seen by participants as being the result of a legitimate process of public reason, in that the process of deliberation and the actions taken thereafter, can be seen as *acceptable by all* stakeholders involved' (2008:4). As the second of these principles focuses specifically on the actions of representatives, it is this normative checkpoint that will be used to examine the emerging rituals of South Africa's parliament.

### *Rituals of the New Committee System*

This section of the paper takes an empirical focus on the amendments made to the rules of South Africa's parliament, as a way of reflecting upon the new rituals of the institution. For a number of reasons the paper focuses upon the changes that were

made to the rules of the new committee system. Firstly the most substantial set of rules changes related to South Africa's legislative process. In fact in 1994, the new parliament formally adopted the old rules of parliament as interim rules, with only a few amendments. The first set of amendments were to account for the structural difference between the Tricameral parliament and the new parliament, moving from a three chamber house to a two chamber house . The second set of amendments related to the trimmings of parliamentary procedure, namely dress codes, terms of address and the parliamentary prayer. All of which were updated to accommodate for the variety of individuals making up the new parliament. Yet a final and significant amendment was made to rule 44, to stipulate that the committees of parliament would now ordinarily be open to the public. With the completion of the new constitution in 1996, the Joint Rules Committee set up a subcommittee to re-write the rules of parliament entirely. Whilst this process is yet to have been completed<sup>5</sup>, all rules relating specifically to the legislative process were drastically altered in accordance with the new constitution, the new committee system, and the different kinds of bills to be dealt with.

Secondly by constituting the largest set of amendments, these rule changes in particular reflect the effort of the new government to transform the institution, and not least because they relate directly to the openness of parliament to the public. As formally adopted in 1997, the new rules prescribe an expanded procedure that allows for public input at given stages of the legislation making process<sup>6</sup>. In terms of the committee system the new rules built upon the amendment made to rule 44, to allow for an open and transparent process for the consideration of bills. Rule 152 stipulates that meetings of committees and subcommittees be open to the public, and that the member presiding may not exclude the public (Rules of the National Assembly, Parliament of the RSA, 2008:55)<sup>7</sup>. Whilst rule 157 stipulates that all documents

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<sup>5</sup> Due to disagreements within the ruling party, the rules relating to the conduct of members have yet to be updated and are the same as those of the tricameral and pre-tricameral parliaments. Rules relating to plenary sittings, were however slightly updated to accommodate for the size of the new legislature. Most notably this led to the introduction of a Speaker list, that allocates speaking time according to the size of the political party. Later in April 2000, some significant changes were also made to parliamentary questions, which were formally instated in June 2002.

<sup>6</sup> For example, rule 241 (c) and 243 (a) stipulate that a bill may only be introduced in the Assembly once it has been published in the *Gazette*. (Rules of the National Assembly, Parliament of the RSA 2008:90-91)

<sup>7</sup> Except when the committee is considering a matter that is (i) of a private nature that is prejudicial to a particular person (ii) protected under parliamentary privilege (iii) confidential in terms of legislation (iv) of such nature that its confidential treatment is for any other reason reasonable and justifiable in an

officially before, or emanating from a committee or subcommittee are also open to the public (Rules of the National Assembly, Parliament of the RSA (2008:57). This specific drive to transform and open the institution, provides a useful empirical benchmark against which to assess the new and emerging practices of parliament, in addition to the conceptual checkpoint outlined earlier.

Finally as the paper focuses upon deliberation, evaluating the emerging rituals of the committee system seems appropriate given that it is within committee meetings that the most effective deliberation is seen to take place. According to Calland (1998), South Africa's new committee system reflects a wider acknowledgement of the complexity of the policy making process, which makes it increasingly difficult for the legislator to affect policy outcome through traditional modes of deliberation (Calland 1998:7, Olson & Mezey, 1991:3). Thus whilst Bagehot may have described the plenary as 'the grand inquest of the nation' (Bagehot, 1963:152), plenary debates are no longer the 'most effective way to reach decisions' (Calland, 1998:7). By firstly expanding the role and power of the committee, and secondly upholding the principle of public presence, it is these two rule changes in particular that has helped to re-classify the significance of these two deliberative sphere's of parliament.

It is also these two rule amendments that have had the most impact upon the nature of committee practices, and the types of rituals that are emerging within this area. First the expansion in the role and power of committees has established a whole new set of working practices, relating to the fact that each government department is now assigned a portfolio committee, that is responsible for writing, reviewing and providing oversight for any legislation or report specific to that department. In practical terms this means that the nature and diversity, as well as the significance of committee activity has increased dramatically since 1994, and in many ways is still evolving as the number of committees and committee members has since been revised. The newness of the committee system; the practices that have emerged within this area, as well as the sheer spread of diversity within and between the various different committees, makes it very difficult to discern 'rituals' as a discrete practice.

However a common ritual may be observed by taking a more general perspective of the practices of parliamentarians within a committee. One of the most notable general patterns of committee behaviour, relates to the way in which members

of parliament engage with the work of the committee. In general members spend long hours applying themselves to a particular committee, to the extent that it constitutes the most significant aspect of their parliamentary activity.

This general pattern of engagement may be seen as a ritual owing to the significance that is given to it. For example members tend to draw upon their experiences of the committee in such a way so as to emphasize the amount of work that goes into it and how important it is to them. In a ten year review of their experiences of parliament, members seem to share a vision of committees as the ‘engine of parliament’, in which ‘there is a strong emphasis on work’ (Parliament of the RSA, 2006:99&100). Carrying out the work of the committee in such a way seems to appeal to the normative principle of collective engagement. As such when viewed as a ritual, a member’s engagement with the committee seems to signify the importance of the committee process; the individual parliamentarian and the institution in general. Thus as a general ritual it supports the status quo by maintaining a vision of the parliamentarian as integral to the legislative process.

For smaller parties the significance of this ritual is compounded by their minority position within the wider work of parliament. From question time to plenary debates, opposition parties are heavily restricted in the amount of time they are allocated to participate, as all parliamentary activity is divided proportionately according to the size of the party. Yet whilst a small party like the Independent Democrats (ID) represents just 1% of the National Assembly, in the committee they can represent 1 out of 13. As such, for small parties, rituals of engagement offer the opportunity to both influence the legislative outcome, as well as signify their value under majority rule. For the ANC as the dominant party, to engage in an expanded committee system is to engage with other perspectives. As the former speaker Dr Ginwala once noted, within committees her members ‘didn’t know that they weren’t supposed to agree’ (Parliament of the RSA, 2006:99). With this in mind rituals of engagement seem to be a way of communicating a consensual and consultative approach to the decision-making process.

In theory then, this general ritual of the new committee system ought to support the provision of; ‘a deliberative opportunity that’s equal to the extent that all members can engage in meaningful debates of public reason’ (Brown, 2008:4). In practice this is seen to be the case in a number of ways. First as members engage themselves in the work of the committee, the committee is seen by some to represent

an environment that is collegial and inclusive (Parliament of the RSA, 2006:99). This collegial and inclusive tone is reflected by the way in which members refer to each other within committee meetings, which has changed over time. For example, whilst previously the ANC referred only to their fellow ANC members as ‘comrade’, creating a clear distinction between themselves and the other member, all members of parliament now tend to refer to each other as ‘honourable’. It is also reflected in the strong cross-party relationships that form, the light conversations between members, and the sense of humour that characterises many of the committees.

Secondly, with this atmosphere in mind parliamentary officials as well as committee monitors, have compared committee practices to the African ‘Indaba’. As a customary African meeting in which each person is given an equal opportunity to speak before the Chief, a former official of parliament claims that ‘funnily enough, in committees it [*the Indaba*] works, and the views of the opposition parties often carry a huge amount of weight’<sup>8</sup>. This egalitarian vision of committee practice is shared by some opposition members who claim that, ‘when you make a point as an opposition party the majority party will often say it’s a good idea, and you get something changed on the bill’ (Parliament of the RSA, 2006:100). One member of the ACDP explained how he was able to exert great influence on the Child Justice bill, just by talking ‘a lot, a lot’<sup>9</sup>. This is similar to the claim made by another member that by ‘being engaged’, he was able to ‘persuade the [*the ANC*] that it is in the nations interest to do something’<sup>10</sup>.

Finally ANC members often admit to finding the inputs of others useful, or even in some cases, invaluable to the passing of a bill. In fact one ANC member claimed that cross-party relations within his committee improved once they actually listened to what opposition members were saying. Accordingly he argues, ‘sometimes the devil lies in the detail, and once you’ve gotten the detail there’s really no devil anymore’<sup>11</sup>.

What is suggested by all of this is that rituals of engagement have helped to create an egalitarian environment in which public reason is made. However whilst this

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<sup>8</sup> Interview conducted with senior parliamentary official on the 18<sup>th</sup> February 2009

<sup>9</sup> Interview conducted member of parliament on the 26<sup>th</sup> June 2009

<sup>10</sup> Interview conducted member of parliament on the 26<sup>th</sup> June 2009

<sup>11</sup> Interview conducted with member of parliament on the 17<sup>th</sup> June 2009

may be the case, a members capacity to form part of this general practice, seems to vary according to a number of factors.

The first of these factors relates to the individual parliamentarian and questions of identity, which as noted within the previous section refers to an individuals capacity to 'perform' a particular ritual. In the case of the new South African parliament, the question of individual capacity is complex owing to the divergence of individuals within the institution. Yet in general the connection between the individual and committee rituals, revolves around two key issues. Firstly the individual's level of education is seen to greatly effect their capacity to partake in the committee process. As a result of years of racial and socio-political discrimination, low levels of education is seen to have the most impact upon ANC members and particularly in the first parliament.

Levels of education are seen to determine whether, and to what extent, a member may contribute to the deliberation, as well as the nature of that contribution itself. For example, a member of the ID's claimed that 'you'll find there's a great deal of inequality around people's knowledge of the subject, and so you'll find that at times it gets dominated by one person, or you'll get stupid questions being asked that don't probe into the real issues'<sup>12</sup>. As a consequence, an individuals levels of education is seen to affect the equality of opportunity to engage, moreover the public reason making process.

The second issue relates to this, as the language of the individual is also seen to play a role in determining the degree to which a member engages in the committee process, and particularly at times when complex or and highly technical language is being used<sup>13</sup>. This is underlined by the fact that the lingua franca of committee is English, given that it would be financially unviable for parliament to provide 11 interpreters at each committee meeting<sup>14</sup>.

The second factor seen to affect a members capacity to engage is the chairperson of the committee. In many ways the committee chairperson determines the flow of participation within a committee, as well as the manner and the degree to

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<sup>12</sup> Interview conducted with member of parliament on 9<sup>th</sup> June 2009

<sup>13</sup> This is still seen to be the case in spite of the governments 'plain language initiative' which stipulates all legislation would be drafted in a more accessible form.

<sup>14</sup> The official languages of the Republic are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa, and isiZulu (6 (1) of the Constitution of South Africa)

which it's various members are able to engage. Some members claim that committee chairpersons are 'very fair'<sup>15</sup>, and argue that in general 'there's not a bad relationship between the members and the chairperson'<sup>16</sup>. In fact one member claimed to have been 'overwhelmed' by their chairperson's acceptance of him as a white opposition member with an Afrikaans surname<sup>17</sup>. Whilst such a relationship is seen to allow these members to freely express their arguments, other members claim that some chairpersons 'don't like to be interrupted, and don't like the opposition to appear to dominate anything'<sup>18</sup>, which hampers their ability to engage as a consequence.

Thirdly the size of the committee, and the system of allocating committee membership proportionally, affects the diversity of engagement and the range of voices being heard. For example in a committee of 13, the ANC will typically have 8 seats, leaving 5 seats to be divided amongst the remaining 15 parties. This means irrespective of whether the opportunity to speak is equal, not all those represented in parliament are represented in the committee. This is underlined by the fact that each member has a constituency of approximately 35,000 people. Further, despite the rule that permits any member to attend and make contributions in any committee meeting, this is rarely seen to happen given that typically 3 or 4 committees sit simultaneously. Instead the remaining 15 parties tend to choose which other committees to attend, depending on the issue under discussion. Yet doing so adds to the unequal distribution of voices within and amongst the various different committees, as certain committees such as Social Development or Health, are seen as more important than others.

However the degree to which these factors impact upon the member, is to a large extent determined by the nature of the legislation under discussion. Whether or not the legislation is socially and politically divisive, is seen to have a decisive impact upon the practices of all parliamentarians. In the first and second parliaments the majority of committee work revolved around reversing the legislation of apartheid, which as noted by a member of the opposition at the time, 'is why such a large proportion of legislation is supported by all parties in parliament' (Parliament of the RSA, 2006:102). However since then committees have had to deal with a number of socially and politically divisive legislation. Such legislation tends to affect the level of

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<sup>15</sup> Interview conducted with member of parliament on 26<sup>th</sup> June 2009

<sup>16</sup> Interview conducted with member of parliament on 17<sup>th</sup> June 2009

<sup>17</sup> Interview conducted with member of parliament on 26<sup>th</sup> June 2009

<sup>18</sup> Interview conducted with member of parliament on the 17<sup>th</sup> June 2009

difference between the perspectives of members, and as a consequence, their styles of engagement and the ease with which they are able to reach consensus or establish public reason.

For example, it would seem that the more sensitive the legislation is, the less likely it is that the ANC will take on board alternative perspectives. The often cited example is the Health Committee in 2003, in which despite the efforts of all opposition members, not to mention various civil society experts and the public in general, members of the ANC supported their minister's recommendation of olive oil and garlic, rather than anti-retroviral drugs in the treatment of HIV/AIDS. Other such examples exist where members claimed to have spent long hours arguing their case, and making 'important amendments' which they claim to have been 'in the interests of all South African's', only then to be told that an instruction has been given by Lithuli House, to have the bill passed in its original form<sup>19</sup>. At the centre of this is the ANC's centralised political culture. As noted by one member, 'in the ANC it is very clear that you are there to execute the policies of the party, which comes from a decision taken at a conference or congress'<sup>20</sup>.

However the fact that a bill may be controversial or politically divisive, does not necessarily mean that 'public reason' cannot be generated. For example in the highly politicised National Prosecuting Authority Bill in 2008, whilst the bill was still passed, opposition members testify to being engaged in the committee process to the extent that they were able to influence the ANC into making some critical concessions. Under such circumstances, the effectiveness of engagement rituals is usually seen to depend upon the relationship between the chairperson and the executive, as well as their power and status within the ruling party.

Nevertheless in terms of Brown's normative principle, what this highlights is the way that socially sensitive pieces of legislation are seen to politicise the practices of parliamentarians, or rather, their rituals of engagement, and as a consequence the public-reason-making process. This politicalisation is compounded by the second key amendment that was made to the new committee rules, which allows the public virtually unrestricted access to committee meetings. Whilst it is beyond the remit of this paper to analyse the public's contribution to the deliberation, what is of interest is the effect that this public presence has upon the practices of the parliamentarians.

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<sup>19</sup> Interview conducted with member of parliament on the 17<sup>th</sup> June 2009

<sup>20</sup> Interview conducted with member of parliament on the 24<sup>th</sup> June 2009

Similar to the way that increasing the role and significance of parliamentary committees, is seen to have created a new set of committee related practices, amending the rule of public access is seen to have created a new set of deliberative spaces in which ‘real’ decisions are taken. For example, each political party within a committee now forms its own study group, which meets each week to discuss the broader policy issues relating to the committee. Any decisions taken are then later played out in the actual committee meeting. As put by one member of the ANC, ‘members of the committee when they go into the meeting know where the opposition are, know what the party lines are, know what their position should be’<sup>21</sup>. This has led to the common impression amongst committee monitors that members are simply ‘going through the motions’<sup>22</sup>.

In addition other such deliberative mechanisms exist as chairperson often set up closed subcommittees, technical subcommittees or task teams that meet outside of committee hours and away from the glare of the public. Other less formal channels also exists such as the strategic use of tea breaks, or the slipping of notes during a committee meeting. As such, the presence of the public seems to challenge the degree to which members ‘can engage in meaningful debates of public reason’, as members continuously cross-reference their positions with that of their party. In this way whilst the first rule amendment may have helped create engagement rituals, the second rule amendment challenges the sincerity of such rituals by blurring the division between ‘engagement’ and ‘performance’.

However the degree to which this impacts upon the sincerity of a members engagement, is seen again to depend on the nature of the legislation, as not all meetings generate public interest. Further, closed cross-party deliberative spaces such as technical subcommittees, task teams, or tea breaks may even provide an additional ‘opportunity for members to engage in meaningful debates of public reason’. As noted by one chairperson ‘we find that people are more likely to meet consensus if they are not playing to the gallery’<sup>23</sup>. As private exchanges, these deliberative opportunities are less politically charged, which is seen to allow the member to provide a more honest account of their interpretation of the particular issue under

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<sup>21</sup> Interview conducted with member of parliament on the 24<sup>th</sup> June 2009

<sup>22</sup> Interview conducted with committee monitor on the 16<sup>th</sup> February 2009 & 23<sup>rd</sup> February 2009

<sup>23</sup> Interview conducted with member of parliament on the 17<sup>th</sup> June 2009

discussion. So whilst at the public level a members ritual of engagement may be compromised, in deliberations that are private this ritual may be more effective.

Nevertheless this second rule amendment is seen to challenge members engagement at the formal level, to the extent that it may also challenge the sincerity of the 'public reason' that is made.

### *Conclusion*

This paper has looked at the changes that were made to the rules of parliament, as a way of examining the new and emerging rituals of the institution. It's central question was whether the new rules of parliament, have helped to create rituals that are participatory?

In order to address this question the paper first explored the relationship between rituals and rules, from both a ritual theoretical perspective and an empirical perspective, which made claim to their being a clear yet complex relationship between the two.

The paper then drew upon deliberative theory to view the parliament of South Africa as a public sphere. In order to measure deliberation 'in practice', the paper applied one of Brown's three normative checkpoints which states that 'deliberative opportunities should be equal opportunities so that representatives can engage in meaningful debates of public reason' (Brown, 2008:4).

Taking an empirical focus the paper found that the most significant rules changes relate to the new committee system. In particular two key amendments that first expand the role and significance of the committee, and second provide for virtually unrestricted public access, are seen to have had the most impact upon the practices of parliamentarians.

The first amendment is seen to have given way to the emergence of an expansive set of practices, which make it difficult to discern rituals as a discrete practice. However looking at committee practice more generally, draws attention to the way that members engage themselves in the work of the committee and do so in a way that emphasises their role and significance as a legislator.

In various ways this ritual is seen to allow members an equal opportunity to make meaningful contributions. For a start the engagement of members is seen as conducive to significant levels of participation, to the extent that such meetings have

been likened to the African 'Indaba'. In many cases members perspectives of their own practices supports this impression, as both majority and opposition party members, value this practice as egalitarian and effective. In this sense amending the role and power of committees, has helped to create a general ritual that is seen to enable members to engage in meaningful debates of public reason.

However a members capacity to perform this ritual depends upon a number of factors. A member's level of education and first language is seen to impact the equality and 'meaningfulness' of members engagement. Whilst factors such as the committee chairperson and the size of the committee is seen to affect the flow as well as the range and diversity of engagement within the committee. Most significant however is the impact of socially sensitive legislation upon the practices of parliamentarians. Such legislation is seen to impact the degree to which opposition arguments are seen to contribute to the public reason-making process.

The politicisation of parliamentary behaviour is compounded by the second key rule amendment, to allow public access to committees. Whilst in theory this amendment should bring forth a more lively discussion of public issues, 'other' deliberative spaces are used that allow members to deliberate and take decisions in private. Doing so challenges the sincerity of members engagement at the formal level, which in terms of Brown's normative checkpoint, may also challenge the sincerity of the 'public reason' that is made.

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