

https://dspace.org/

Legislative Committees and Deliberative Democracy: the Committee System of the South African Parliament with Specific Reference to the Standing Committee on Public Accounts (SCOPA).

Obiyo, Robert Egwim

2007-03-02T11:26:11Z
http://hdl.handle.net/10539/2197

Downloaded from a DSpace repository. https://dspace.org/

Abstract

This thesis examines the status and role of parliamentary committees in democratic theory with a view to critically assessing the performance of one such committee, the South African version of the PAC, SCOPA. It advances a *pluralist* theory of popular sovereignty according to which there is no single institutional complex or site, which exclusively expresses the will of the people. The latter is the case in monist theories, which reduce democracy to its practice in a single site. Rousseau and Weber are critically examined in this connection. In the pluralist notion advanced in this thesis the popular will is expressed and realized in a plurality of institutional sites and modalities of exercise. On this perspective parliamentary committees perform a function vital to the constitution of popular sovereignty itself. They are indispensable to the formation by the people of an accurate perception by it of what the Executive is doing in its name. Their investigative work is thus constitutive of the formation of a democratic subject and will. Parliamentary committees are thus central to the satisfaction of the conditions of the *deliberative* dimension of democracy. On this definition, parliamentary committees must in addition themselves conform to the principles of deliberation in their own practice. This specifically deliberative conception of democracy is then further delineated by distinguishing it from the aggregation – majoritarian perspective and defending it against a variety of criticisms, including that of Chantal Mouffe.

With this conceptual and normative framework in place, the British and American committee systems are examined in order to establish some reference points in terms of the institutional practice of parliamentary committees. The focus then shifts to the parliamentary committees of the South African Parliament. The constitutional and legal foundation for parliamentary committees (in the South African system) is examined with particular reference to SCOPA itself and the first five years of the new parliamentary committee system identified as a period during which several South African parliamentary committees, including SCOPA, effectively exercised their “oversight” function. Once the Government’s SDP entered the scene all things changed. This thesis examines the formation of the JIT, paying particular attention to the exclusion of the HSIU and the interventions of the Speaker, Hon Frene Ginwala. It identifies in close

detail all the flaws in the SDP procurement process as well as the contradictions and lacunae in the final JIT Report itself. These are of such a magnitude as to render *unreasonable* any claim to the contrary and in endorsing the Report SCOPA thus clearly failed in its essential function. The notion of a threshold concept of reasonable adequacy is introduced as limiting the conditions under which committee decisions can legitimately be taken *via* majority voting. The argument is advanced that these were clearly not met in the case of the SCOPA decision under discussion. The implications of this "collapse" of SCOPA for South African democracy more broadly are then identified and discussed in terms of deliberative democratic theory.

Keywords

Democracy; Deliberation; Decision-making; Popular Will; Parliamentary Committee System - Public Accounts Committee - the Standing Committee on Public Accounts; *Sarafina 2,* the Strategic Defence Procurement Packages - *Arms Deal;* Ministerial Responsibility; Accountability; Oversight; Transparency.