Non-Profit Organisations In South Africa: Do These Structures Have The Capacity To Improve Service Delivery? The Case Of Ugu District In Kwazulu-Natal

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Abstract	Article Info
The Non-Profit Organisation Act, of 1997 provides a regulatory framework for NPOs in South Africa. The aim of the study was to investigate the factors that impede NPOs to comply with the NPO Act. Ugu District in KwaZulu-Natal was used as a case study. The research problem is located in the significance of Section 18.1 of the NPO Act requires them to register with the Department of Social Development and to submit annual returns to keep their registration status. Face to face interviews were conducted with 15 NPO managers and 15 coordinators. The study findings highlighted a lack of human resources, governance issues and lack of board or management committee capacity and capabilities to ensure compliance. The conclusions from the study indicate that NPOs suffer from Ineffective governance structures and lack of capacity to run the NPOs successfully. Training was recommended as a possible remedy to the identified problems.	

INTRODUCTION

The Department of Social Development introduced a number of policy frameworks aimed at regulating the work of Non-Profit Organizations (NPOs) in South Africa. Principal amongst these policies is the Non-Profit Organizations Act 71 of 1997 (NPO Act). The objective of the NPO Act is to encourage and support nonprofit organizations in their contribution to meeting the diverse needs of the population of South Africa. The achievement came through increasing the transparency and accountability of the organizations beyond their immediate role-plays (Department of Social Development, 2016). This accountability and transparency improves the governance of the organization's financial management and ultimately improve service delivery and reporting.

The overall aim of the study is to research the factors that impede small and rural Non- Government Organizations (NGOs) to comply with the NPO Act.

NPOs, especially Non-Government Organizations (NGOs), are important in the delivery of services to poor areas where Government resources cannot reach. According to Sibanda (2009), NGOs play a pivotal role in addressing issues such as poverty, HIV/AIDS, crime, violence, family dysfunction and numerous other social problems. However, compliance with the NPO Act appears to be a problem in small and rural NGOs. Non-compliance with legislation threatens their registration status and, therefore, access to Government funding. In addition to the NPO Act, King III report on corporate governance had several recommendations for NGOs (Institute of Directors, 2012).

The disturbing factor is how many small and rural NGOs are aware of these additional compliance requirements. In general, non-compliance with these requirements will threaten funding by international donors and Governments. Small and rural NGOs being away from urban areas and being vulnerable to lack of resources (financial and tertiary resources) seem to be at a disadvantage compared to urban, big and resourceful NGOs.

PROBLEM STATEMENT

NPOs play a vital role in the delivery of social services in South Africa (Sibanda, 2009). Section 18.1 of the NPO Act requires them not only to register with the Department of Social Development, but also to submit annual returns to keep their registration status (NPO Act, Act 71 of 1997, as amended). What bothered the researcher was that if the annual returns are not submitted, NPOs would be deregistered and therefore not able to operate. Recent evidence from the sector indicates that in 2013, 36 513 organisations were de-registered, 35 217 are on a warning (non-compliant) while only 29 019 are in good standing (registered), out of the approximately 85000 registered on the NPO Directorate database (NGO Pulse, 2017). This affects service delivery and subsidies these organisations get from Government.

NGO's are getting registered with the Department of Social Development on daily basis and at the very same time, a number of them are getting de-registered due to non - compliance. Organisations do not submit annual reports as expected by the ACT and therefore are not compliant, we are therefore asking, who is to be blamed for the deregistration of NGO''s (Tipfuxeni, 2017). The main problem is that while registration on the NPO register has been gaining importance in recent years, compliance with the NPO Act in respect of annual returns and other issues had not been emphasized. There is currently no evidence- based research conducted to ascertain the reasons for non-compliance. In relation to this study, the researcher will recommend the best solution to the problem that will be both theoretical and practical in nature.

THE ROLE OF NON-PROFIT ORGANIZATIONS AS CIVIL SOCIETY IN THE ADVANCEMENT OF DEMOCRACY AND SOCIAL UPLIFTMENT

In the context of this study, civil society and civil society organizations describe a collective of all types of NPOs. The draft NPO policy framework on the amendments of the NPO Act 71 of 1997 defines the term civil society as commonly embracing a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and power. Further the draft policy framework mentions that civil societies are often populated by organizations such as registered charities, development non-governmental organizations, community groups, women's organizations, faith-based organizations, professional associations, trade unions, self-help groups, social movements, business associations, coalitions and advocacy groups (DSD: Draft NPO policy framework, 2014).

The benchmark set by the King code on corporate governance in South Africa (King II and King III) ensured that South Africa's corporate social investments practices lead the pack internationally (IoDSA, 2012). The King report provided not only normative guidelines to report financial results but also how companies influence the economic lives of the community in which it operates (IoDSA, 2012). This brings one to the influence that companies though NPOs they fund have influenced the communities' way beyond the local economies. This section will look at literature in terms of how NPOs influenced and shaped the socio-political landscape.

This performance of this social watch role requires both transparency and accountability on the part of NGOs. The Government's second expectation is that NGOs will assist in expanding access to social and economic services that create jobs and eradicate poverty among the poorest of the poor. This requires cost effective and sustainable service delivery. NPOs adopt both community driven and needs-based approaches to development. This bottom-up approach necessitates powerful activists that will challenge the status quo with an objective of improving the lives of communities. Therefore, NPOs need to contextualise their relationship with corporate companies and Government in relation to the projects funded (Van Dyk and Fourie, 2015b).

One way that business-society linkages can be found and be exploited by an activist in ensuring that Government accounts are in the area of CSI is where business funds the development of the community in which they operate (van Dyk and Fourie, 2015b). In this way, activists can fight and force Governments to deliver services without worrying about the source and influence of funding from Government. According to Claeye and Jackson (2012) the NPO sector in South Africa is undergoing radical changes. Thus, as supported by the institutional theory which argues that uncertainty and ambiguity, resulting from, for example, sectoral changes, may encourage organizations to imitate models that are perceived to be more legitimate or successful (DiMaggio and Powell, 1983). Current changes in the donor community might explicitly or implicitly coerce NPOs to adopt certain ideas and practices to attract funding either from Government or the private sector (Claeye and Jackson, 2012).

There is no argument that contradicts the NPOs' important developmental and activist roles in communities and the fact that social capital resides in organizational networks operating in impoverished environments (van Pletzen et al., 2013). Therefore, these organizations shape policy and democracy in different ways. This is evidenced in the role played by the Treatment Action Campaign during the era of Government AIDS denialism and the subsequent change in policy.

According to van Pletzen, Zulliger, Moshabela and Schneider (2013), health-related NPOs in South Africa, and in particular their regional characteristics and partnership networks, are under-researched (van Pletzen et al., 2013). In 2011 the South African Government introduced policy guidelines on 're-engineering primary health care' and new arrangements for community-based care, which is silent on the nature, role and future of NPOs in health sector (van Pletzen et al., 2013).

While this could be a challenge at surface value, it also presents an opportunity for CSI and philanthropy funded NPOs to grab the space and thrive. Habib supports this view by arguing that NPOs or civil society by definition are not homogenous (Habib, 2003). This means that there are institutions within the civil society movement that reflect diverse and even contradictory political and social agendas that do not need to be defined in Government policies (Habib, 2003). The state-society relations must, therefore, reflect this plurality.

Historically, civil society in the form of community-based, national and international NPOs played an important role in counteracting and challenging the inequities of the apartheid socioeconomic system (van Pletzen et al., 2013). It was noticed, however, that many organizations ceased to operate post-1994 and donor funding was channelled into other areas of the new government's policy imperatives (van Pletzen et al., 2013). In the health sector during the HIV/AIDS denial debates NPOs played an important role in terms of provision of home-based care services where the state services are failing. A category of lay health workers was employed by NPOs to respond to the HIV/AIDS amidst the weakened health system in poor settings (Moshabela et al., 2013).

This provision ensured that communities receive decent service despite the failure of state services. The state–civil society relations and the failure of the state to provide services to underserviced areas meant the growth of the NPO sector. According to Moshabela et al. (2013), this could be viewed in two ways. On the one hand, it can be regarded as a positive development that closes the gap created by weak systems in underserviced areas, attract additional external resources and improve service delivery.

On the other hand, the increase in the number of NPOs can be viewed as establishing an uncoordinated and unregulated system of delivery in which NPOs and their founders are given free reign to implement their operations in the community (Moshabela et al., 2013). The second point is important for the state-civil society relations in that the state is enacting policies that regulate the civil society movements especially the international NPOs and those funded externally. The introduction of the NPO Act and its provisions is one of the measures the state introduced to regulate civil society.

The counter argument is that there is a danger that poorly regulated "pluralism" of NPOs that Habib refers to may increase competition and ultimately become a battle for power and access to scarce resources, with household needs and service delivery becoming secondary goals (Moshabela et al., 2013). There has been rapid emergence of NPOs across in South Africa in the recent past as evidenced in the NPO register which means Government needs external support or intensified systems to monitor their activities which in itself could be subject to intense debate. Moshabela further supports the point that while the expansion of NPOs could serve to close the service delivery gaps, open up employment opportunities and create a platform for societal transformation, literature suggests that plurality of NPOs may grow into a source of concern (Moshabela et al., 2013)

One of the scholars in the NPO/civil society field asserts that liberal scholars highlight the important role played by the NPOs in the process of democratisation. This is partly due to their close proximity to the communities they serve and their role in raising public awareness and supervising the hegemony of the state (Geng and Meijs, 2016). Conflict in this instance is inevitable.

This is also supported by the public rational choice theory, which states that the Government is a self-benefit maximising bureaucrat that adopts different strategies to keep society under control (Geng and Meijs, 2016).

MODELS AND APPROACHES OF THE NPO SECTOR

This section will give a brief perspective on the models and approaches that characterise the NPO sector. These models and approaches include, amongst others, managerialism approach, agency approach, postcolonial approach and the mimicry approach. It will also attempt to show a link between the agency approach and the mimicry approach within the broad postcolonial approach.

THE INTERNATIONALIST APPROACH

This internationalinalist approach calls for strong sustainability and symmetrical stakeholder relations coupled with the integrative and ethical theoretical perspectives (van Dyk and Fourie, 2015b). This integrative model views businesses as part of society just like the sustainability model according to which businesses also depend on society for survival, and the ethical model which views corporate social investment as an ethical obligation to the society in which the organization operates (Garriga & Melé, 2004 cited in van Dyk and Fourie, 2015b). These models or approaches have attracted the attention and scrutiny of NPO scholars (Claeye and Jackson: 2012).

Claeye and Jackson (2012) observed the application of the term managerialism in the NPO sector which used concepts such as "accountability, transparency, participation, and efficiency, as well as practices like double-entry bookkeeping, strategic planning, Logical Framework Analysis, project evaluation, and organizational self-assessment" and "has been shown to be pervasive in NGOs' operations" (Claeye and Jackson, 2012: 603). These terms and concepts are reflective of the management models used and have been borrowed from management practices of funders. This further shows the influence that funders have over the NPOs they fund (Claeye and Jackson: 2012).

Claeye and Jackson (2012) also observed that literature on NPOs reveals that these managerial terms and concepts are used on the NPOs day to day management in both developing and developed countries (Claeye and Jackson: 2012). It, therefore, follows that management practices in NPOs are influenced by the institutional context of international aid and what can be called the myth of aid effectiveness.

The Human Agency Model

The human agency model for NPOs presents an alternate view of how NPOs operate and are managed. According to Clegg (2010), the human agency model argues that institutional order in NPOs is always fragile, negotiated and open to disruption by people who either do not know or willingly do not adhere to the rules

(Clegg, 2010). This model demonstrates that the NPOs could be led by management practices that are disruptive and challenge the status quo in various ways.

Mishra and Hodge (1991) argue for the postcolonial theory which they describe as a loose conglomerate of scholars focusing their attention on the problem of the 'Other' who is often located in developing countries, and his or her representation in Western or developed countries' discourse (Mishra and Hodge, 1991). They further assert that this relationship is characterised by issues of power and knowledge, which are central to this representation, and understanding of the categories of 'Self' and the 'Other'. These scholars argue on the relationship between centre and periphery by building on the concept of hegemony or domination by consent (Mishra and Hodge, 1991).

The Mimicry Approach

Bhabha (1984) introduced the approach of mimicry in trying to understand how NPOs operate. The notion of mimicry is defined as "a complex strategy of reform, regulation, and discipline, which 'appropriates' the other as it visualizes power" (Bhabha, 1984). Ashcroft et al (2007) explain it better by arguing that the colonial subject or the colonised is encouraged to 'mimic' the coloniser, by adopting the coloniser's cultural habits, assumptions, institutions and values (Ashcroft et al., 2007). This means that the practices of the NPOs in the colonised country are encouraged to mimic the practices of the coloniser with an aim of harmonising these practices between the two countries (Claeye and Jackson, 2012).

In the case of South Africa, it means that the local NPOs are encouraged to adopt practices and values of the NPOs in the United Kingdom as the previous coloniser. This has translated into other countries and defines the relationship between the NPOs and funders such as The German Technical Cooperation/Gesellschaft Technische Zusammenarbeit (GTZ) now transformed into Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), an international development company funded by the German Government. This approach of mimicry explains the concepts of domination and hegemony very well (Claeye and Jackson, 2012). Around the global village that is the world today, various authorities, governments and societies are increasingly acknowledging the pivotal role of NPOs in dealing with social needs from basic poverty, health and sustainable environments (Zulkhibri, 2014).

However, research from China and Netherlands indicate that states tend to apply a range of strategies (e.g., political restrictions and financial instruments) in order to assimilate NPOs into the developmental planning of the government, for example., by stimulating the economic functions of NPOs while weakening their democratic functions in intangible ways (Geng and Meijs, 2016).

RESEARCH DESIGN AND METHODOLOGY

The study adopted a design that describes the factors that impede NPOs from complying with the NPO Act by examining critical organizational behavioral factors consistent with good governance. The study, therefore, implemented a descriptive research design as it facilitated the smooth sailing of the various research operations, resulting in making research as efficient as possible yielding maximal information with minimal expenditure of effort, time and money (Mouton et.al, 1997).

The population in the research includes all NPOs that are located in the UGU District of the KwaZulu-Natal province. A database of NPOs in the district compiled by the office of the Premier under the programme "Sukuma Sakhe" and published under the heading "Integrated Community Caregiver Directory of Services Ugu District" was used as a source of all NPOs in the Ugu District. In this database there is a total of 166 NPOs listed.

In this research study, the researcher has drawn inferences about all the NPOs in the Ugu District (population) as the sample was a representative of the population. Further, with a structured interview, the researcher gained in-depth knowledge of the NPOs in the Ugu District through the NPOs in the sample. Thirty face-to-face interviews were conducted to NPO managers (called Directors or Executive Directors). These are managers who link the day-to-day operations of the NPO with the Board, which is a governance structure. In addition to these face-to-face interviews, 15 interviews were conducted with Coordinators who understood the day-to-day operations of the NPO being studied.

MAJOR FINDINGS

Main Objectives Of The Npos

The study discovered that 40% of participants came from organizations that are working with children while 20% of participants came from organizations working with youth and adults. The majority of participants, i.e. 40% work in drop-in centers for orphans, provide lunch and residential care for abandoned, orphaned and vulnerable children. One of the main priorities of Government Programme of Action especially outcomes 2 and 7 that refer to "a long and healthy life for all South Africans" and "vibrant, equitable and sustainable rural communities with food security for all" respectively, prioritize projects linked to children.

Core Business of the NPOs

The main business activity of the majority of organizations in the study was social development and child welfare, child services and day care. Both social development and child welfare, child services and daycare each comprised 26.67% of the organizations in the study. This result corresponds with the result in the previous section and reflects the importance of the child services and youth in the country.

Year of Establishment

Year of the establishment is important in the study as it indicates the level of maturity for the organizations. The longer the organization in operation, the more mature it should be and the opposite is true. In the study, 25% of organizations were established in 2002 as compared to 16.67% that was established in 2011. This means that 25% of organizations were more matured in their development as compared to the 16.67% who were less mature. It is therefore expected that the 25% more matured organizations who have been in operation longer have more knowledge and experience of compliance with the NPO Act.

Factors that Relate to Governance

Just over 53% of participants were satisfied that members of the Board or management committee both individually and collectively understand what the NPO Act expected of them while 6.67% were more satisfied. In the same vein, just over 33% of participants were less satisfied while 6.67% were absolutely not satisfied. It is significant that 40% of participants in the study were either less satisfied or absolutely not satisfied (sum of 33.33%, less satisfied and 6.67% absolutely not satisfied) while either 60% is satisfied or more satisfied (sum of 53.33%, satisfied and 6.67% more satisfied).

The knowledge gap at Board and management committee level is critical and has governance implications. This means that if members at governance level do not understand what the NPO Act is expecting of them, it would be difficult to put systems in place to ensure good and effective governance.

FACTORS THAT RELATE TO CAPACITY AND CAPABILITIES

Just over 46.15% of participants reported that they were less satisfied that their Boards or management committees have taken steps to review and understand the terms and provisions of the NPO Act, while the same percentage i.e. 46.15% reported being satisfied. NPOs that were absolutely not satisfied accounted for 7.69%. This question refers to the capacity of the Board in terms of knowledge and understanding of the provisions of the NPO Act.

It is significant that an over 46% were not satisfied which indicates that Boards do not have the necessary knowledge base, capacity and capabilities to execute their functions effectively and efficiently.

About 66.6% of participants were less satisfied with the Board member's skills, experience, time and resources to undertake their duties. This is in contrast to 26.67% of participants that reported to be satisfied. A proportion of 6.67% participants reported that they were absolutely not satisfied with the Board member's skills, experience, time and resources. Further, a proportion of 73.34% participants were either less satisfied or absolutely not satisfied looking at the skills, experience, time and resources of Board members. Skills base, especially at Board and management level, is important for well-functioning organizations.

The statistic that 66.6% of participants reported, that they were less satisfied is worrisome as skills, experience, time and resources are necessary for NPOs. The independent code of good practice for NPOs supports this statement by stating that an NPO was constituted to benefit the public and thus its actions and decisions must

be motivated by the intention to achieve this purpose. It, therefore, follows that if there are no skills, experience, time and resources in the NPOs the goals of the organization will not be realized.

A proportion of 53.33% of participants indicated that they do not have enough human resources to ensure submission of financial and non-financial reports to Department of Social Development annually while 46.67% of participants indicated that they have adequate human resources to ensure submission of these reports. The issue around adequate human resources were linked to skills in the organization.

These are areas of capability and capacity of organizations. It is significant that over 50% of participants indicated that their organizations are not adequately resourced. This lack of human and other resources hamper service delivery and ultimate reporting to the Department of Social Development. Drawing up of financial and non-financial reports is prescribed in Sections 17 and 18 of the NPO Act.

LACK OF LEADERSHIP AND MANAGEMENT SKILLS

Possession of an up to date registration certificate by NPOs is a requirement of the Non-Profit Act, as amended. Leaders and senior managers need to take charge of this important requirement. 60% of NPOs had an up to date certificate of registration while 40% did not have an up to date certificate of registration. Respondents who indicated they did not have the up to date certificate of registration were probed further as for why they did not have one. Replies varied ranging from "don't know (sic)" to have received the certificate of registration upon first registration.

From the above lack of knowledge or provisions of the Non-Profit Act, as amended, impede respondents from compliance. While the Non-Profit Act, as amended is available to read and apply, the Department of Social Development has the responsibility to ensure that NPOs are fully conversant with the Act that governs their activities. One of the respondents indicated that they are far from Department of Social Development offices. This is true for most rural NPOs and poses a resource problem. The Department of Social Development, therefore, needs to be proactive and decentralize their service provision more including mobile services to remote parts of the country.

Lack of Understanding of Importance of Financial Records and Reporting

73.33%, indicated that they keep records of income, expenditure, assets and liabilities in their organizations while 26.67% of respondents indicated that these are not kept in their organizations. Sections 17 (1) (a) and (3) of the Non-Profit Act, as amended requires NPOs to keep and preserve accounting records and supporting documentation for the prescribed period. The worrying factor, in this case, is the 26.67% who do not keep records and thus do not comply with the Non-Profit Act, as amended. Interviewers probed these respondents further to determine the reasons why records of income, expenditure, assets and liabilities are not kept.

Preparation or drawing up of financial reports at the end of the financial year is not only good practice in business irrespective of its size but is a requirement of the Non-Profit Act, as amended. 46.67% of respondents mentioned that their organizations do draw up annual financial statements while 53.33% mentioned that their organizations do not draw up annual financial statements.

This is a worrying statistic as they are not only non-complying with the Non-Profit Act, as amended but also are out of line with accepted business practice. When these respondents were probed as to why their organizations were not drawing annual financial statements, they put the blame on the board and lack of knowledge. Some even blamed the lack of funds for hiring appropriately qualified persons.

The Non-Profit Act, as amended is specific in the period for the drawing up of financial statements after the end of the financial year. Of those organizations who draw financial reports, just over 33% (of 46.67%) produce these statements within 6 while the same percentage of respondents said they take more than 12 months to produce financial statements after the end of the financial year.

Further, the figure also reveals that 6.67 % (of 46.67%) and 13.33% (of 46.67%) take 3 months and 9 months respectively to produce financial statements. Finally, a proportion of 13.33% (of 46.67%) of respondents said their organizations take 12 months to produce financial statements.

Section 17(1) (b) of the Non-Profit Act, as amended gives NPOs a period of 6 months after the end of the financial year to draw up financial statements. Respondents who reported taking 9 months and more (59.99%) to draw financial statements were asked the reasons for taking that long. Most respondents mentioned the lack

of appropriately skilled human resource, lack of resources, lack of funding to hire appropriately skills persons and lack of knowledge.

Lack of Human Capital for Reporting
The Non-Profit Act, as amended prescribes the kind of reports and timelines for the submission of these reports to the Department of Social Development. One of the prescribed reports is the narrative report that must be prepared and submitted after drawing financial statements. 73.33% of respondents affirmed that their organizations prepared a written or narrative report within 2 months of drawing financial statements. A worrying factor is the 26.67% of respondents who responded to the negative.

Section 17(2) of the Non-Profit Act, as amended requires NPOs to arrange for an accounting officer to compile a written report within two months after drawing up its financial statements. The aim of the written report is to, amongst others, confirm that the financial statements are consistent with the accounting records, the accounting policies are appropriate and applied, and that the organization has complied with the financial reporting requirements of the Non-Profit Act, as amended. Organizations that were noncompliant were asked to give reasons and mention was made of the lack of knowledge, the board not taking responsibility and governance issues.

Submission of a narrative report of the activities of the NPO is one of the key sections of the Non-Profit Act, as amended. 53% of respondents mentioned that they submitted the narrative report to the Department of Social Development while just over 46% of respondents said their organizations did not submit a narrative report to the Department of Social Development. This is a worrying high statistic (46.67% who did not submit) as section 18 (1)(a) of the Non-Profit Act, as amended mentions that NPOs must submit to the Department of Social Development a narrative report together with its financial statements and the accounting officer's report within nine months of the end of its financial year.

Clearly, just under 50% of respondents mentioned that their organizations were not compliant. In an attempt to find the reasons for non-compliance, respondents were probed further and they mentioned reasons ranging from lack of leadership, misunderstanding of the Non-Profit Act, as amended, lack of facilities to prepare and submit reports, lack of communication from local Department of Social Development offices and lack of funding.

Issuing a compliance notice is one of the prescriptions of the Non-Profit Organizations Act that informs the Non-Profit Organization when it is in violation of the Non-Profit Organizations Act. 60% of respondents have received a compliance notice from the Department of Social Development while 40% of respondents have not received the compliance notice. Section 20(1)(a) of the Non-Profit Act, as amended requires that the Director for Non-Profit Organizations in the Department of Social Development must send a compliance notice to a registered Non-Profit Organization if the organization has not complied with its obligations in terms of sections 17, 18 and 19 and any other provision of the Act.

The 60% respondents who mentioned that they received the compliance notice means that they do not comply with the Non-Profit Organizations Act, as amended, and have been warned and given timelines to comply. In rural areas where Non-Profit Organizations offer much-needed service, this is a worrying statistic.

CONCLUSIONS
Non-profit organizations make a significant contribution to the socio-economic development of local communities as they often play an intermediary role within society and have the ability to provide particular goods and services where markets have failed or where government falls short. A good spread of Non-Profit Organizations participated in the study, which is a cross section of the services that Non-Profit Organizations provide in rural areas.

As mentioned in the literature review section of this study NPOs had played a significant role on challenging the injustices of the past and addressing the needs of vulnerable communities. Looking at the core business and main objectives of the NPOs participating in the study one can deduce that they deal with vulnerable communities and try to better their lives. In classifying NPOs Moshabela et.al, gives the first classification as small community based organizations organised at local level and led by local members of the community (Moshabela et.al, 2013). Organizations that participated in this study fits this classification.

The study had a research question that relates to objective one to find the factors that contribute to NPOs not complying with the NPO Act. From the results of the study, the following themes have emerged:

Ineffective governance structures – The study revealed that most organizations suffer from ineffective governance structures. This refers to Boards and management structures. These crucial structures make decisions and give direction to the organization. Therefore, they are critical for the functioning of the organizations.

Lack of accountability – Issues around accountability and lack thereof were revealed by the study. The study discovered that this stems from lack of understanding of the NPO Act and its provisions. Data in the study also revealed lack of awareness of the spirit of the NPO Act and why certain provisions were put in place.

Lack of experience, time and competent resources to carry out important compliance tasks – This feature is critical to achievement of the aims and objectives of the NPO. The study discovered lack of competent resources especially human resources in NPOs in the study as the main driver contributing to non-compliance with the NPO Act. While the NPO assessment study conducted by Department of Social Development blamed the "one size fits all" outlook of the NPO Act, it is clear from the study that NPOs do not have the necessary human capital to understand the provisions of the Act and its provisions.

General lack of knowledge – The study discovered general lack of knowledge amongst NPOs in the study that lies behind the non-compliance with the NPO Act.

This general lack of knowledge is additional to the lack of experience, time and competent human resources discussed above.

Other drivers revealed by the study include:

1 Lack of understanding of the provisions of the NPO Act -
2 Board interference in operations
3 Lack of compliance or administrative incompetence from the Director of NPOs in the Department of Social Development
4 Poor/ lack of management and staff capacity to implement the NPO Act
5 Lack of sustainable sources of funding affecting the sustainability of the organization
6 Lack of forums for sharing, learning and networking

The study also discovered that while registration in terms of the Non-profit Organizations Act is a voluntary exercise, for some organizations in the study, it has become practically compulsory. It came out of the interviews that those setting up and operating an NPO must register and maintain registration so that they will be eligible for funding. Banks also insists on registration certificates for NPOs to open bank accounts. Government departments and some donors require registration in terms of the Non-Profit Organizations Act as a condition for funding, while others believe it contributes to increased organizations' transparency and credibility.

The study therefore discovered that instead of registration being voluntary in reality it is compulsory for NPOs. It was demonstrated earlier in the study that in areas such as strategic planning, fundraising and business plan, NGOs are reliant on the Transfer Payment Agreements signed by the Department of Social Development (DSD, 2015). For these transfers to be possible registration in terms of the NPO Act is mandatory. This leads to another conclusion that the word "NGO" in this case is a misnomer as there is Government support implied. Winston argued that sources of funding for NPOs is important in that they dictate what the NPOs will do with the funds and how they report on the funds they get (Winston, 2002).

The study revealed that submission of financial statements and narrative reports to the Department of Social Development on an annual basis for small and community based NPOs is an impediment. The NPOs that participated in the study indicated a rural backwards in some developments, lack of infrastructure and resources as contributing factors to poor submission of these legislated documents. Distance to Department of Social Development's offices also contributes. The timelines that these reports should be drawn up by and submitted suites be restructured for the advantage of medium size to large NPOs who have the necessary resources. These need to be revised for small and community-based organizations.

The study concludes that inefficiencies within the NPO directorate in the Department of Social Development also lie behind the non-compliance of NPOs with the NPO Act. The NPO Act requires that the Department of Social Development issue a compliance certificate to those NPOs that are not complying, however, this is done

sporadically. Therefore, the Department of Social Development and specifically the NPO directorate need to be hands on and follow through all non-complying organizations.

RECOMMENDATIONS

Based on the findings and conclusions made in the study the following recommendations are made:

The State Should Build a Conducive Environment for NPOs to Operate and Thrive

As part of ensuring effective democracy and democratic values, it is important that the state to build an environment that allow civil society to thrive and operate freely. This strengthens democracy in the country. The promulgation of the NPO Act was a start in that direction but more needs to be done. This can be achieved through reviewing the impact of the NPO Act to small, rural and community based NPOs, as the "one size fits all" approach of the Act seems to have compliance limitations.

In addition to the review, organizing workshops and mentorship programmes is another priority. The state also needs to speed up the payment to NPOs in rural areas to ensure the flow of resources. The state can also link up NPOs to the Small Enterprise Development Agency (SEDA) an agency of the Department of Small Business Development to access structured mentorship programmes and access mentors. It is also recommended that the NPO Directorate in the Department of Social Development needs to make itself visible by assisting NPOs to forge partnerships with other Government departments and agencies as they work across sectors and departments.

Building Capacity

Building of capabilities as organisations is based on its capacity, development and justice that have been discovered in the study as the core values of NPOs. To achieve these NPOs must conduct regular workshops to build capacities and capabilities in different sectors. This approach is recommended because it is based on two normative notions that are closely linked to the work that NPOs do.

These are first, freedom to achieve well-being is of primary moral importance, and second, freedom to achieve well-being is to be understood in terms of people's capabilities and their real opportunities to do and be what they have reason to value. This can be achieved by linking small and community based NPOs with retired managers in the area to build their capabilities and link NPOs with local and regional authorities to end the silo operations. These can be initiated by NPOs themselves.

Foster Partnerships, Cooperation and Mimicry Amongst NPOs

This promotes the link up of small and community based NPOs with large and possibly international NPOs to learn from them. Partnerships with big national and international NPOs can boost the management abilities of the smaller and community based NPOs. They can actually deliver services on their behalf and become local and strategic partners. Urban based, large and international NPOs have the capacity and infrastructure to contribute staff and developmental expertise to the management of NPOs in rural and community based and pass on these skills especially those relating to governance, Government policies and guidelines.

The Mimicry theory advanced by Bhabha and others and described earlier could be turned around to the advantage of the NPOs. Private companies with well-established and conceived corporate social investments can request as part of their partnerships with NPOs to mimic their governance, efficiencies, financial and administrative measures to the benefit of all. They can agree on a mentorship programme that will build structures that are conducive for small and community based NPOs to mimic the large and smooth running NPOs.

These could be extended to other areas such as tendering and writing effective funding proposals that are attractive to donors.

REFERENCES

Ashcroft, B., Griffiths, G. & Tiffin, H. 2007. Post-colonial studies: the key concepts. 2nd edition. Routledge. London

Bhabha, H. 1984. Of Mimicry and Man: The Ambivalence of Colonial Discourse
Vol. 28, Discipleship: A Special Issue on Psychoanalysis (Spring, 1984), pp. 125-133).

Claeyé, F. and Jackson, T. (2012) 'The iron cage re-revisited: institutional isomorphism in non-profit organizations in South Africa', Journal of International Development, 24(5), pp. 602–622. doi: 10.1002/jid.2852.

Clegg, S. (2010) 'The state, power, and agency: Missing in action in institutional theory?', Journal of Management Inquiry, 19(1), pp. 4–13. doi: 10.1177/1056492609347562.

Department of Social Development, (2016), 2014/15 State of South African Registered Nonprofit Organizations issued in terms of the Nonprofit Organizations Act 71 of 1997, Pretoria, Republic of South Africa

DiMaggio, P.J. and Powell, W.W. (1983) 'The iron cage revisited: Institutional Isomorphism and collective rationality in organizational fields', American Sociological Review, 48(2), p. 147. doi: 10.2307/2095101.

DSD. 2014. Presentation to National NPO summit (2012) Draft Policy on the NPO legislative framework. Available at: http://www.dsd.gov.za/npo/index2.php?option=com_docman&task=doc_view&gid=129&Ite mid=39 (Accessed: 3 February 2017).

Geng, C. and Meijs, L. (2016) 'The democratic implications of NPOs and the control strategy of the state', The China Nonprofit Review, 8(1), pp. 3–26. doi: 10.1163/18765149-12341303.

Institute of Directors (2012). The King Code of Corporate Governance for South Africa, The Institute of Directors in Southern Africa Available at: http://www.ngopulse.org/blog/2015/08/31/dsd- funding-strategy-creating-plethora-ngo-minime%E2%80%99s (Accessed: 8 June 2016).

King, M. (2003) 'Establishing a corporate governance code of best practice: Some guidelines', South African Journal of International Affairs, 10(1), pp. 95–101. doi: 10.1080/10220460309545412.

Mishra, V. and Hodge, B. (1991) 'What is post (-) colonialism?', Textual Practice, 5(3), pp. 399–414. doi: 10.1080/09502369108582124.

Moshabela, M., Gitomer, S., Qhibi, B. and Schneider, H. (2013) 'Development of non-profit Organizations providing health and social services in rural South Africa: A Three-Year longitudinal study', PLoS ONE, 8(12), p. e83861. doi: 10.1371/journal.pone.0083861.

Mouton, J., Marais, H.C., Prinsloo, K.P., Rhoodie, N.J. and Mauer, K.F. (1997) Basic concepts in the methodology of the social sciences. Pretoria: Human Sciences Research Council.

NGO Pulse (2013) The South African NPO Crisis - Time to Join Hands, available at http://www.ngopulse.org/article/south-african-npo-crisis-time-join-hands, accessed 21 march 2018

Republic of South Africa, (1997), Non-Profit Organizations Act, Act 71 of 1997

Sibanda, J :(2009), How funding affects service delivery among non-profit organizations in Johannesburg, unpublished Masters Dissertation, University of Witwatersrand

van Dyk, L. and Fourie, L. (2015) 'Challenges in donor–NPO relationships in the context of corporate social investment', Communication, 41(1), pp. 108–130. doi: 10.1080/02500167.2015.1022563.

van Pletzen, E., Zulliger, R., Moshabela, M. and Schneider, H. (2013) 'The size, characteristics and partnership networks of the health-related non-profit sector in three regions of South Africa: Implications of changing primary health care policy for community-based care', Health Policy and Planning, 29(6), pp. 742–752. doi: 10.1093/heapol/czt058.

Winston, M. (2002) 'NGO strategies for promoting corporate social responsibility', Ethics & International Affairs, 16(01), pp. 71–87. doi: 10.1111/j.1747-7093.2002.tb00376.x.

Zulkhibri, M. (2014) 'Regulation governing non-profit organizations in developing countries', International Journal of Law and Management, 56(4), pp. 251–273. doi: 10.1108/ijlma-10- 2012-0035.