A POLICY ANALYSIS OF STATE-OWNED ENTERPRISES: THE CASE STUDY OF SOUTH AFRICAN NATIONAL ROAD AGENCY LIMITED (SANRAL)

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As the candidate's supervisor I have approved this dissertation for submission

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DECLARATION

I, Mnqobi Siphosethu Mtshali, declare that:

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Sindlala mbhede kuyosala kulale amasoka

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Contents

ABSTRACT

State-Owned Enterprises (SOEs) are regarded as essential lubricants for socio-economic advancement not only in developing countries, but developed countries too. In developing countries, their history dates back to the colonial period where the state was essentially perceived to be the only entity with the necessary capacity to engineer development. Since their inception, SOEs have undergone different forms of public sector reforms. The emergence of the New Public Management in the 1980s, for example, saw the introduction of several forms of governance to improve the effectiveness and efficiency in the public sector. The commercialization of SOEs is often seen as a plausible technique to make SOEs more profitable. SOEs are government's attempt to create state ownership in the economy, mobilizing private sector capital, reducing state debts and enhancing the capacity and competitiveness of the SOEs. On the other hand SOEs are criticized for their lack of accountability, transparency, poor performance and patronage. Research on SANRAL reveals that SOEs have the potential to bring about both positive and negative outcomes. The research on SANRAL further demonstrates that if properly managed, extraneous factors that limit positive outcomes of SOEs can be reduced.

ACRONYMS AND ABBREVIATIONS

BBBEE	Broad-Based Black Economic Empowerment
BOT	Build, Operate and Tranfer
DoT	Department of Transport
DPE	Department of Public Enterprises
ECA	Economic Commission for Africa
HSRC	Human Science Research Council
MFMA	Municipal Finance Management Act
MSA	Municipal Systems Act
NDP	National Development Plan
NPM	New Public Management
OECD	Organization for Economic Co-operation and Development
PFMA	Public Finance Management Act
PPPs	Public-Private Partnerships
PSRC	Public Sector Research Centre
SANRAL	South African National Road Agency Limited
SAPs	Structural Adjustment Programs
SAR&H	South African Rail and Harbor
SPV	Special Purpose Vehicle
SOEs	State-Owned Enterprises
SOCs	State-Owned Companies
UNDP	United Nations Development Plan

CHAPTER 1: INTRODUCTION

1.1 Background to the Study

State-Owned Enterprises (SOEs) throughout the world are regarded as a mechanism to improve or at least contribute to social and economic development (Fourier, 2012: 245). Moeti (2013) argues that SOEs play a critical role in nurturing economic growth not only in developing countries but developed countries too. There is no established theory on SOEs so the study draws on the literature on governance, state-owned enterprises and public sector reforms in order to establish a conceptual framework for analysis. According to United Nations Development Programme (UNDP), governance is seen as the exercise of economic, political and administrative authority to manage a country's affairs (UNDP, 1997: 9). Abdellatif (2003) stresses that governance

> "[E]ncompasses the functioning and capacity of the public sector, as well as the rules and institutions that create the framework for the conduct of both public and private business, including accountability for economic and financial performance, and regulatory frameworks relating to companies, corporations and partnerships" (Abdellatif, 2003: 5).

Over the years, SOEs worldwide underwent different restructuring processes. This is commonly referred to in the literature as public sector reforms. Public sector reform is a "program of financial and management reforms aimed at bringing about long-term productivity improvements in the public sector and better service to the community" (Scott, 1994: 5). NPM is a governance approach that supplements the traditional public administration with market related public management (Brinkerhoff, 2002). It draws management principles widely adopted in the private sector. As denoted by Hood (2002), SOEs received special attention with the emergence of the governance paradigm of New Public Management (NPM) which became popular in the 1980s. Commercialization was identified in NPM as a technique to make SOEs profitable. NPM proposed the adoption of market-related delivery methods in the public sector for the implementation of government programs. This, it was argued, would improve the effectiveness and efficiency of public services. (Osborne, 2000).

While there are benefits of SOEs in the advancement of socio-economic development such as transformation, job creation and skills development (Fourier, 2012; Moeti, 2013; Makuta, 2009), authors such as Bennier (2011) and Wenzel (2007) contend that SOEs erode transparency, accountability and public participation which they regard as key dimensions of good governance.

1.2 Objectives and research questions of the study

The objective is to provide an insight into the background of SOEs in South Africa, and develop an understanding by tracing the origins and rationale for SOEs; the current legislative policy framework of SOEs and the governance structures under which they operate in post-apartheid South Africa.

SOEs, sometimes referred as State Owned Companies (SOC), are legal entities established by government that often undertake commercial activities on behalf of government, (Balton, 2010: 17). The state can either have absolute ownership or partial ownership. The Department of Public Enterprise (DPE) is the custodian of SOEs and is the main government shareholder of South Africa's SOEs.

South Africa's broad socio-economic policy strategic document that guide the country's development, namely The National Development Plan 2030 (NDP), identifies SOEs as central mechanisms to advance the national objectives through providing economic and social infrastructure (National Planning Commission, 2012: 438).

This study has been organized around a set of research questions. The broader research questions that relate to State-Owned Enterprises are:

- What is the rationale for the establishment of the State-Owned Enterprises?
- Where do State-Owned Enterprises originate from?
- What are the benefits/advantages of State-Owned Enterprises?
- What is the legislative policy framework for SOEs in South Africa?
- What are the governance requirements for SOEs?
- What are the critiques of SOEs?

The key research questions pertaining SANRAL are:

- What was the rationale for the establishment of SANRAL?
- What is the legislative policy framework for SANRAL?
- What are the objectives of SANRAL?
- What has SANRAL achieved since 1994?
- What have been some of the governance challenges facing SANRAL?
- What government interventions have been made at SANRAL since 1994?

1.3 Significance of the study

SOEs are essential lubricant to advance socio-economic development. However, the environment in which they operate present a number of challenges. SANRAL, for an example, is a statutory public company charged with maintenance of South Africa's national road network and has been cited as one of the world's leading road authority by the World Road Federation. However, Moeti (2013) and Bratton (2012) contend that SANRAL faces significant governance and institutional incapacity problems. This study aims to provide a conceptual analysis of SOEs and an examination of the challenges facing SANRAL in their endeavour to contribute to socio-economic development in South Africa.

As part of government's commitment to transform the public sector, SANRAL was established in April 1998 through an Act of Parliament to operate along commercial lines. As a SOE, it is legally obliged to generate revenue in order to finance, improve, manage and maintain South Africa's national road network (Companies Act, 1973). At this point in time, the media asserts that SANRAL finds itself in severe debt and is unable to generate enough revenue to carry out its legal mandate (Sunday Times, 2015). Means of generating revenue, such as tolls, are operating at a loss. The roll-out of the E-tolling system in Gauteng has been met with public resistance, and accusations of corruption and patronage have all impacted on SANRAL's ability to sustain its operations. Findings from this study could provide a deeper understanding of the governance of SOEs with specific reference to SANRAL.

1.4 Research methodology and methods

This study is a qualitative desktop study. Both primary and secondary data was collected and analysed. The secondary data was sourced primarily from journals, books, articles, and theses on the topic. Literature on governance and public sector reforms was examined in order to provide the conceptual framework of this study. Primary data included key legislative and policy document pertaining to South Africa and SANRAL. For example SANRAL's Declaration of Interest; the Constitution of South Africa, and various policy documents from the national Department of Transport, the national Department of Public Enterprises and the National Treasury were examined. The legislative policy framework for SOEs in South Africa was established by analysing government legislation and policy documents. Publication written by independent research institutions, such as Human Science Research Council (HSRC), were also analysed. A scan of newspaper articles provided insight into the ongoing public debate of SOEs in South Africa. The data gathered was then organized thematically based on this study's research questions.

1.5 Structure of the dissertation

This mini-dissertation consists of six chapters. Chapter 1 (this chapter) provides the objectives and research questions of this study and the research methodology adopted in this research. Chapter 1 also provides the outline and a brief summary of the chapters making up this mini-dissertation.

Chapter 2 examines the background of SOEs; the origins of SOEs; the rationale for the establishment of SOEs; and identifies the defining characteristics of SOEs. Moreover, the strengths and weaknesses of SOEs; the governance of SOEs; public sector reforms that have been adopted in SOEs (both in developed and developing countries) are identifies and discussed in this chapter.

Chapter 3 explores the history of SOEs in South Africa. In doing so the chapter highlights the policy and legislative frameworks for SOEs in South Africa and describes the role of the custodian of SOEs, namely the Department of Public Enterprises (DPE).

Chapter 4 presents a summary of the case study on South African National Road Agency Limited (SANRAL). It presents the background and history of SANRAL; some of its key public sector reforms, as well as its current governance structures.

Chapter Five presents an analysis of what is currently happening at SANRAL and what could be done (based on the conceptual understanding of the purpose of SOEs as described in Chapter Two).

Chapter Six concludes the study. It highlights the outcomes of the analysis of SANRAL from its inception in 1998 to date. The chapter also provide some recommendations that may gear this SOEs towards the achievement of some of the socio-economic developmental goals set by government.

CHAPTER 2: A CONCEPTUAL FRAMEWORK

2.1 Introduction

This chapter conceptualizes the term State-Owned Enterprises (SOEs). SOEs are often referred to as State-Owned Companies (SOCs) or Public Enterprises (PE), and are regarded as legal entities that may undertake social and commercial activities. SOEs are regarded as an essential lubricant that make socio-economic advancement possible not only in developed countries but developing countries too. This chapter will explore definitions of SOEs.

The chapter establishes a conceptual framework of SOEs by examining the literature on governance and public sector reforms. The chapter explores the background and rationales of SOEs in both developed and developing countries. It also identifies three key arguments as to why governments establish SOEs. The chapter concludes by discussing some of the weaknesses and benefits that have been levelled at SOEs.

2.2 Defining State-Owned Enterprises

SOEs are established as business entities which often undertake government functions on commercial lines (Moeti, 2013). Government can have either absolute ownership or partial ownership. Hence there are commercial and non-commercial SOEs depending on the rationale for their establishments. SOEs are largely defined by the United Nations (UN) as "publicly owned and controlled enterprises primarily engaged on financial activities that are oriented in economic advancement" (SNA, 1968: 78). From this broad definition Ferriera (1993: 08) described SOEs as legal entities established as business organization by government, either wholly owned or partially owned by the state, to carry out its commercial activities. He further argues that they ought to earn their revenues from the sale of goods, products or services they trade in (Ibid). From this account it follows that even if government financially assist SOEs but they still bear the duty of generating revenues in the sectors where they operate.

Moreover, Ferriera (1993: 15-16) acknowledges that it's not entirely a government responsibility to pump funding to influence positive operations, but it is part of the legal tasks of SOEs to generate revenues in the line of business they are involved in. According to Turner and Hulme (1997: 198) SOEs are described as state-owned production units that are directly involved in the market process and thus sell their output. They advance the idea that SOEs are established for the purpose of achieving a set of clearly defined set of public purposes and engaged in activities that are of business in character. They are often interpreted as instrument of socio-economic growth not only in developing countries but throughout the world, especially in the modern world (PSRC, 2015: 16). As established by OECD (2013: 7) there are cases where they are engaged in non-financial services, but very rare, which they provide to the public.

The IMF Manual on Governance Statistics defines SOEs as those public enterprises that are recognized as business that are;

> *"Independent of their owners (government) by virtue of legislation, administrative regulations and are generally expected to have complete profit and loss statements and complete balance sheet accounts on the financial assets and liabilities, as well as real assets involved in the business; however, they may also include government agencies which are mainly engaged in selling industrial or commercial goods to the public on a larger scale without maintaining this accounts".*

(IMF Cited in Gumede, 2012: 2-3).

Bernier (2011: 399) argues that SOEs have been an integral mechanism that enables the involvement of the state in the economy especially in the 20th century. He further proposed that defining ownership characteristic is merely one element of complex relations between an enterprise and its institutional environment which often requires coordination among various actors, board of directors or even servants (Ibid). In the 20th century in certain parts of the world, SOEs were used to face the global crisis which was grounded on traditional bureaucratic government (also referred to as the Weberain state) that had to do everything (Fortas, 2012: 8). The incapacity of traditional bureaucratic states to deliver on expectations created a need for reforms. Inevitably, the literature on SOEs lends itself on governance and public sector reforms hence it necessary to explore their key characteristics.

In any given state, SOEs are largely located within a legal framework which allows them to operate as business entities on behalf of government (Ferriera, 1993: 7). They often operate along commercial lines on behalf of the state. This is because most of them are established for transactional purposes as they are explained to be more business-like (Gumede, 2012: 12). SOEs are meant to serve public interest, at least in principle, therefore their mandate is characterized by public beneficiation. According to Magubane (1999: 24) they are often expected to generate revenues and profit in their area of practice, those established on commercial purposes. At the center of SOEs is determining the extent of state involvement and its distinctive legal framework. It is often government that provides the regulatory framework hence this depend on whether or not the state has absolute ownership (Marrez, 2015: 7).

Moreover, SOEs are aimed at reducing the burden on government. SOEs do not receive a 100% budget from government to carry out their public service operations (World Bank, 1993). They are often legally mandated by regulatory or administrative framework to generate revenues from sectors in which they operate under. According to Turner and Hulme (1997: 197) they are owned by government or at least 50% and more is under state ownership. This gives the state the public authority and right to make critical policy decisions in the national interest. There are systems of accountability that are often put in place to guide and maintain SOEs (Magubane, 1999). Public enterprises revolves around the basic idea of public investment and returns and services (Ibid).

2.3 History and Background of State-Owned Enterprises

In developing countries, SOEs date back to the colonial period as they were established to facilitate economic development by colonizers in their colonies (Turner and Hulme, 1997-196). They became a fundamental part of the colony's Weberian organizational governance structure and resembled colonial patterns of rule.

SOEs are regarded as key role players in cross-country infrastructural development (OECD, 2013). The debate on ownership of SOEs is part of a larger discourse on the priorities of these entities. Christiansen (2013: 16) argues that an essential question on SOEs is "why these companies need to be owned by the state". The literature points out that the Organisation for Economic Co-operation and Development (OECD) calls for the corporatization and commercialization of SOEs, has brought to the fore issues of state ownership. The argument for ongoing state ownership (as opposed to full privatization) contends that while SOEs may operate like a private company, they are expected to act in the interest of the public, whereas as the primary of private companies is to generate profits (OECD, 2013: 43).

According to Harding (1990: 34) state ownership is necessary as it prevents public enterprises from foreign ownership. He further observed that the private sector views the state as an uninvited guest in the market. Where the priorities of an SOE is entirely non-commercial, such activities are mostly carried out by government departments or autonomous institutions (Cassesse, 2011). Christiansen (2013: 65-66) argues that the incorporation of non-commercial activities is highly premised on efficiency grounds. It is argued that non-commercial activities of SOEs are guided by corporate social responsibility commitments to deliver public goods and services.

At the center of SOEs is governance. Governance according to Abdellatif (2003: 5) "encompasses the functioning and capacity of the public sector as well as the rules and institutions that create the framework for the conduct of both public and private businesses, including accountability for economic and financial performance, regulatory framework relating to companies, corporations and partnerships". The literature on SOEs suggest that well improved corporate governance could potentially play a critical role in maintaining SOEs and this can also enhance other objectives rather than commercial ones (Bernier, 2011: 46-47). This is because, as established earlier, they can be viable economic policy instruments hence this depends on the form of government. Governance is at the center precisely because it is a crucial element towards achieving socio-economic development.

Mistrust of the private sector and private sector's reluctance to invest was the government's justification for participating in market activities (Ibid). The British colonialists turned government departments into SOEs in some of its colonies such as Nigeria. When India became independent in 1947 it had more SOEs than its former colonial power, Britain (Moeti, 2013). The ideological clash of the world superpowers made no difference because both ideological stances made room for public ownership of the means of production (Gumede, 2012). The French government established several public enterprises after the Second World War in its colonies such as Algeria, Morocco and Senegal (Andreu et, al. 1987).

The decade of independence from 1960s towards 1970s experienced an unexpected expansion of SOEs, particularly in developing countries (Poxy and Sicherd, 1981: 24). This is because government was perceived as the only entity with the necessary capacity to drive changes that will lead to development (Fourie, 2011). The increasing number of SOE in the 1960s indicated a desire of extending state involvement (Turner and Hulme, 1997: 199). Most developing countries during this period embarked on nationalization which entailed transferring key private developmental enterprises into state-owned enterprises (SOEs). Private and colonial ownership was removed and replaced with local or indigenous ownership (Ibid). Hence the state increased SOEs, but these were governed based on the system of Weberian rule which was highly centralized and fully state-owned.

After independence in developing countries, state ownership of private enterprises was justified by economic theories that promoted central control and planning to engineer development (Agesa, 2000: 41). The idea of central planning was premised on the need for government intervention in economy in order to strike a balance between the public and private sector (Radas, 2015). The establishment of SOEs was aimed not only at filling gaps in the economy but to create a profit for the public sector which in turn would lead to capital investment (Turner and Hulme, 1997: 189). As a result SOEs flourished and the number of government employees increased. However, governments started to spend more, running up government deficits in the process whilst revenues lagged behind, so much so that governments incurred massive financial losses. To assist financially needy countries , the World Bank stipulated conditionality attached to their loans such as the Structural Adjustment Program (SAPs) which prioritized the privatization of SOEs as a response to growing government debt (Agesa, 2000: 44). SAPs recommended public sector reforms such as the privatization of SOEs. In line with NPM, it advanced the notion of using private sector methods in the public sector and called for less state ownership (Ibid). The World Bank (1987) argued that any objective of SOEs that were not fiscally oriented should be dropped and as a result the economic performance of such enterprises would improve.

2.4 State-Owned Enterprises in developed and developing countries

Meggison and Netter (2001: 3) observe that there has been a significant growth in the use of SOEs throughout the world especially after the Second World War. They are an influential force globally and remain as an enduring feature of the economic landscape (Public Sector Research Centre, 2015: 4). This section discusses the role of SOEs in developed countries and developing countries in the light of socio-economic development advancement.

The literature suggest that SOEs in developed countries play a constructive and developmental role. Developed countries often use SOEs to better position themselves for the future global economy given the rising competitive market (Public Sector Research Centre, 2015: 6). The argument is that although SOEs often compete with the private sector, they are established for distinct purposes, mission and objectives related to public services and social outcomes leading to competitive markets (Ibid). In Ireland in 2008, SOEs accounted for a huge share of the country's economic activities and held a significant purchasing power in the domestic economy (Fortas, 2012: 17). Fortas reported that in 2008, SOEs accumulated 9.5% of the country's GDP and played a key role in setting salary standards. In the light of generating national capital, SOEs continue to play a crucial role in shaping the country's development trajectory for the future.

SOEs have been essential elements of State intervention in the economy of countries such as Italy, Germany and France (PSRC, 2015: 22). Most of developed countries regard SOEs as crucial because of the increasing expansion of the private sector and SOEs ability to contribute to a country's GDP. Marrez (2015) argues that SOEs increase the potential of the country's economy and reduce risk of government budgets as they ought to generate revenues. SOEs are often granted substantial autonomy which, it is argued, will facilitate efficiency and flexibility for commercial activities (Burner, 2011). Autonomy is relatively essential. However, Burner (2011) observes that regardless of the social motives of state intervention, where the State is involved more than is needed, such SOEs often produce limited results. Cassesse (cited in Osborne, 2000) describes how French SOEs would have been more efficient with less State control because it stifled entrepreneurial initiatives. He argues that too much control resulted in confusion about the role of the State in SOEs. SOEs enable the State to intervene in the economy to ensure that social needs of the people are being met, and economic profitability is not the primary objective. SOEs can also integrate or align national social development objectives. In Canada, for example, where there were no regional development policies, government relied on SOEs as an economic instrument to integrate the national and sub-national governments' development agendas (Ibid).

SOEs play a crucial role in improving government performance in delivering public goods and services. (OECD, 2013). SOEs were formed in response to the increasing demands for specialized services in government departments (Fortas, 2012: 245). According to Marrez (2015) SOEs in Romania are used to deliver national and local government services. The OECD (2013) noted that SOEs have received overwhelming attention of policy makers' agenda in the global economy because they coexist with the private sector companies. It is further argued that this is because policies for business sector are fashionable to the advanced economies.

Not all SOEs are nationally owned but some are locally owned, such as at a municipal level (Ibid). In Sweden, out of 74% of the total number of Swedish SOEs, 34% was owned by sub-national governments and contribute 40% of total revenue collected (Bernier, 2011: 135). In Germany, 89% of all SOEs in the country are owned by municipalities, contributing 62% of revenue income (PSRC, 2015: 8-9).

SOEs have witnessed the introduction of performance-based schemes and permission of non-state investment in government-controlled units (Khan, 2008: 3). The Public Sector Research Centre (2015: 24) argues that by 2030, China will be the largest economy and there is a conceivable possibility of India challenging the USA in the 2050s. In Singapore, SOEs serve to lay foundation for industrialization, spearhead development and enhance economic growth in different sectors with the objective of creating jobs (Moeti, 2013: 267). Moreover, Moeti (2013) observed that SOEs also play an active role in building strategic alliances with foreign companies to invest in Local Economic Development (LED) initiatives.

The OECD (2014: 10) observed that developing countries are more likely to rely on SOEs. The top ten SOEs in China since 2010 have contributed 16% of total revenue from the list of 114 SOEs in the member states of the OECD (Public Sector Research Centre, 2015: 13). It is further observed that China's SOEs that are among the biggest companies in the world. According to Chinese Premier Li Keqiang's statement in 2014, he announced that China is working on new strategies to help their SOEs compete effectively in the global market (New York Times, 2014). A study conducted by Chandler and Chandler (2012: 47) found that the top eight countries with biggest SOEs shares collectively accumulated to about 20% of international trade. They also observed that China accounted for more than 10% of international merchandize in 2010. Among the proposed policy strategies in China is the consolidation of selected SOEs to establish a huge and efficient international champion (Public Sector Research Centre, 2015: 14). One of Chinese largest SOE (Sinopec) came as a result of consolidation of Southern and Northern Rail which is now producing steel that is supplied throughout the world (Ibid).

It is important to note the expansion of SOEs in developing countries followed their independence in the period of 1960s and 1970s (Mostert, 2002: 13). This is because newly independent states were oriented in state ownership of the economy and their first impulse was to nationalize the economy. Most of these countries were faced with limited financial resources. This often led to the centralization of economic power (Balton, 2010: 55). This has serious implications for policy implementation and has created a need to review the role of SOEs (Christiansen, 2013: 8). Binza

(2010) argues that Foreign Direct Investment (FDI) from other enterprises abroad influence the trajectory of a country's socio-economic development (Binza, 2010). Hence while SOEs play a pivotal role in the developmental agenda of states through corporate governance (Makuta, 2009). Makuta (2009) further argues that the key component in understanding corporate governance is the separation of ownership and control in companies. This is because corporate governance becomes important if the ownership is shared by the state and non-state actor.

In Nigeria, Mercy (2011: 49) traced the post privatization of SOEs in the light of their productivity and profitability. The study found that corruption led to low levels of productivity towards achieving policy objectives. Ayodele (2004) argued that SOEs in developing countries were established to be mechanisms through which government intervenes in the economy as opposed to allowing the free market to detect which areas of development are viable. Ayodele (2004) holds that the state was trying to prevent private monopoly of economy. Interestingly, when reflecting to Turkey, Mexico and India, Adeyemo (2005) observed that the creation of SOEs in these countries were motivated by addressing the countries' economic development challenges. Although scholars believe that SOEs enable government to pursue social equity goals, Ugorji (1995) argues that in most developing countries many SOEs were often used for political reasons. SOEs enabled the ruling elite to employ huge numbers of staff in SOE. This resulted in a system of patronage. He further noted that, as a result, many of the key decisions taken in SOEs were more politically motivated and not always in the interest of socio-economic development. Christiansen (2013: 8) notes too that in many developing countries, SOEs are linked to family-ownership.

Neither were they necessarily efficient nor effective. He maintains that SOEs debt-to-earnings ratio is higher than the private sector. Marrez (2015: 7) too observed that SOEs in developing countries are far less profitable compared to privately owned peers. Besides being less profitable, SOEs were reported to be over-staffed. This account concurs with Ugorji's argument of undue political influence over SOEs particularly when SOEs are key job providers, and provide employment opportunities to those closely linked to the political elite. (Ugorji, 1995: 23).

According to the World Bank (1991) most of SOEs in developing countries suffers grossly from the issue of mismanagement which often lead to inefficiency in the use of capital for productive outcomes, which consequently compromise the government's ability to carry out its functions efficiently. Ayodele (2004) argues that in African countries, the conditions of the SAPs required public sector reforms, such as privatization or downsizing the public sector. This resulted in massive job losses. This is affirmed by a study on privatization in Nigeria, conducted by Adewale (2011) which concluded that the common outcome of privatization was job losses in Nigeria.

In principle, SOEs are established to advance socio-economic development and generate revenues. Hence the OECD (2014: 15) states that the lack of transparency of decision-making, corruption and the lack of accountability impedes improvement of SOEs in developing countries. The literature suggest that there is a dire need to improve governance in SOEs. The NPM techniques are drawn from private sector and it holds that private sector methods should be applied in public sector to enhance efficiency and effectiveness (OECD, 2014: 23-15)There is a need to clarify the role of state involvement in the economy and role of SOEs in the developmental agenda.

Hence the preceding literature does not necessarily suggest that SOEs in developing countries are inherently incompetent but they also play a constructive role. According to Radas and Barac (2015) SOEs are critical vehicles for the delivery of public goods and services which can then be attributed to the goal of sustainable economic growth of developing countries. There is an increasing relevance of SOEs in emerging economies after the failures of over-privatization to operate in strategic sectors with responsibility of provisions of services (Faku 2004, Mapumulo 2014, Fin24 2014). According to Khan (2008: 4) SOEs in this countries are used to "address market deficits, capital shortfalls, promote economic development and/or ensure national control over the overall direction of the economy".

Zambia according to Ferriera (1993: 6) created economic structures that relied on extensive state-ownership and government intervention in almost every aspects of the economy. When comparing SOEs in developed and developing countries, it appears that in developed world the establishment of SOEs is proactive oriented whereas in developing world such establishment is reactionary. As denoted by Gumede (2012) in developing countries SOEs are responding to the demands of markets or people but in developed countries SOEs establishes markets for the people as demonstrated above in the case of China and Singapore.

2.5 Arguments for establishing State-Owned Enterprises

There are various arguments for the establishment of SOEs. However, not all will be relevant to every country, nor are they regarded as equally important. This chapter discusses three key arguments in favour of establishing SOEs, as postulated in the literature, namely that:

i. SOEs improve socio-economic development.
ii. SOEs improve governance.
iii. SOEs improve infrastructural development.

2.5.1 State-Owned Enterprises improve socio-economic development

SOEs can be used as economic policy instruments to advance socio-economic development objectives (Bernier, 2011). Marrez (2015: 2) argues that SOEs play an active role in a country's economic growth. They contribute decisively, he argues, to job creation. SOEs contribute to socio-economic transformation through the creation of jobs and skills development (Makuta, 2009: 45). Certain countries, especially in Southern Africa, have and continue to rely on SOEs as a remedy for economic market failures and improve development strategies (OECD, 2013: 65). In Romania, for example, SOEs employ approximately 4% of the country's workforce (Marrez, 2015: 3). In undertaking government's commercial activities, they provide employment and transfer of skills which are crucial elements for development (Mostert, 2002: 5).

The Public Sector Research Centre (PSRC) (2015: 15) observed that SOEs influence economic development and industrialization through job creation in various sectors of economy. One of the primary goals of SOEs, particularly those serving commercial activities, is to generate revenues for the state to improve its operations and respond to the needs of the people (Megginson and Netter, 2001). Megginson and Netter (2001) also observed that SOEs often contribute decisively to a country's Gross Domestic Product (GDP). In Romania, SOEs employ over 20,000 people and generate a revenue turnover of 260 million euros (Marrez, 2015: 4). SOEs play an important role as a sector on its own in providing high-quality services. They promote economic efficiency by competing with the private sector to deliver public goods and services, (OECD, 2013: 17).

Not all SOEs are established for commercial activities. Other objectives of establishing SOEs are oriented in responding to the social needs of the people and life improvement through delivering the expected quality of services (World Bank, 2010). SOEs are often established to provide relevant and essential services that are vital to the competitiveness of the economy such as energy and transportation.

The OECD argues that it is crucial to strike a balance between commercial and non-commercial priorities. Some SOEs pursue their commercial activities alongside public policy objectives (OECD, 2013). Jijiki (2011: 7) observed that SOEs form the largest sector in the global economy. As denoted by Gumede (2011: 9) given their strategic position, SOEs can play a critical role in catalyzing the socio-economic transformation. He further argued that they contribute to rural development and poverty eradication through skills development and ultimately employment. In Zambia the economic structures of the country were built based on SOEs with government intervention and control in almost every aspect of economy (Ferriera, 1993). In South Africa, the then National Party-led government used SOEs to "contribute to the process of industrialization and economic growth by direct intervention in the economy" (Ibid). Interestingly, Khan (1993: 5) observed that SOEs often produce essential public goods at a lower cost.

2.5.2 State-Owned Enterprises improve governance

The way in which SOEs act and the decisions they take, differ from the private sector (Christiansen, 2013: 67). Governance refer to how government exercises its power in order to manage a country's economic, social, political and resources (World Bank, 1992). The concept 'good governance' is currently regarded as an essential element to achieving socio-economic development. Good governance is centered on principles of accountability, transparency, the rule of law and public participation (Ibid). Since SOEs are locally owned, supervised and managed by government, the argument in favour of SOEs is that government has the power to enforce good governance. Marrez (2015: 3) contends that government is obliged to be transparent in decision-making processes. In addition, public ownership will make the decision-making process more inclusive, and in the interest of the public at large.

The failures of privatization to address pressing socio-economic issues brought to the fore the difficulties of monitoring and ensuring service delivery (Ferriera, 1993: 34). In Romania, the government passed corporative legislation in 2011 which enabled it to implement good governance in SOEs (Marrez, 2015). One of the conditions of the World Bank and the International Monetary Fund (IMF) for countries seeking financial assistance, particularly the newly independent states, is good governance (OECD, 2013). In principle, SOEs allow government to hold its managers accountable through ministry departments which is crucial for governance or good governance.

In Canada, government use SOEs to manage, for example, the country's use of mineral resources (Fourie, 2010). The goals of the SOEs are clearly defined, and they can be evaluated accordingly. If the SOE in question fails to achieve the stipulated goals, public managers are held accountable (Ile and Ike, 2009: 22). Countries often establish a dedicated government department tasked with overseeing the operations of SOEs. This enables government to hold SOEs managers accountable (Bernier, 2011). Governed as such, SOEs strengthen mechanisms of coordination with various actors that they often compete or partner with (Cassesse, 1994: 22). As per the New Public Management paradigm, SOEs draw on the innovative methods of the private sector. As such, SOEs can enhance efficient and effective service delivery which is a key objective of good governance (Christiansen, 2013: 5).

2.5.3 State-Owned Enterprises improve/contribute to infrastructural development

Christiansen (2013: 6) argued that SOEs are key actors in large cross-border infrastructural developments which is fundamental to economic development. SOEs play a pivotal role in many countries in establishing the country's infrastructure.

In developing countries SOEs are predominantly used to provide infrastructure that is needed by developing industries and expand them to strengthen government support (Mostert, 2002: 67). SOEs, according to (Gumede, 2012: 16) play a crucial role in providing economic infrastructure and capacity building which in turn promotes economic growth. SOEs in developing countries are often subsidized by government to enable SOEs to provide large-scale infrastructural development. According to Turner and Hulme's study of 14 countries in newly independent states, SOEs accounted for an average of 25% of total capital investment in infrastructure. (Turner and Hulme, 1997: 176).

In some developed countries, like Ireland, SOEs are used in monopoly industries to provide cost-efficient infrastructure (Fortas, 2012: 6). They maintain that there is a need to ensure that investment in infrastructure is prioritized in the policy framework under which SOEs operate.

Bernier (2011: 62) has noted that SOEs here continue to be most prevalent in strategic economic sectors such as energy, water, waste, transport services, and network connection.

2.6 State-Owned Enterprises and public sector reforms

The Weberian state refers to the traditional bureaucratic state premised on top-down, rule-driven and state-centered governance (Economic Commission for Africa, No date). Max Weber was a German sociologist that believed in the importance of a centralized rule-and-command system of governance (Weber, 1948). SOEs were structured in this vein with the state enjoying monopoly of legitimacy (Mostert, 2002: 14). These Weberian or traditional bureaucratic structures, according to Turner and Hulme (1997: 183), emphasized rules, control, routines and hierarchy. SOEs under this configuration lacked a proactive orientation and as a result could not cope with the ever changing socio-economic environment. Driving agencies of SOEs were often prevented from implementing policies which could enhance performance because of political decisions at the expense of business decisions (Ibid).

SOEs in the Weberian state or in traditional bureaucratic arrangements failed to deliver on their socio-economic mandates. (Turner and Hulme, 1997: 1976). Turner and Hulme further observe that although government was at the center, but instead of providing the expected profit and investment capital, government wasted their limited resources and created severe national debts (Ibid). Many countries faced financial losses due to the underperformance of their SOEs. Developing countries, in particular, operated at a loss and even the moderate success attributed to some SOEs happened at a higher cost or could have produced better outcomes had the resources been used more efficiently (McGregory, 2012). There are various explanation for this poor performance presented in the literature. McGregory (2011: 493) argues that one of the reasons was because of poor structures of accountability which meant that management of SOEs could not be held accountable.

Moreover, SOEs were reactive and lacked a proactive orientation (Osborne and Gealbear, No date). Hence much of their revenues generated were spent on reactionary measures instead of searching for revenue generating opportunities (Balton, 2010: 62). This was largely because government itself was not anticipatory, partially due to unskilled bureaucratic management. As a result, SOEs were unable to prioritise business decisions over political decisions (Fortas, 2012).

Inevitably, there was a need for restructuring of SOEs and rethink the role of the state as the driving agency for socio-economic development (Turner and Hulme, 1997).

The emergence of the New Public Management (NPM) in the 1980s saw the introduction of several forms of governance to improve the effectiveness and efficiency in the public sector. The NPM is a management culture that replace the traditional model of organization with a market-based public service management (Economic Commission for Africa, No date). The NPM shifts the emphasis from traditional public administration to public management. In a nutshell, it entails that adopting private sector methods in the public sector may increase effectiveness and efficiency (Ibid).

Most governments in developed and developing countries, as established earlier, have undertaken a process of public sector reforms. Public sector reform is a "program of financial and management reforms aimed at bringing about long-term productivity improvements in the public sector and better services to the community" (Scott, 1994: 5). Scott (1994: 5) also argues that public sector reform is about moving from an ineffective bureaucratic organization to a more market related government to respond to the market flaws that characterised government of the 20th century. According to Osborne and Gaebler (No date) public sector reforms should be motivated in the interest of more efficient and effective service delivery. Osborne and Gaebler also emphasized the difference between government rowing and steering. This analogy refers to their call for government to steer (which refers to government making and monitoring service delivery) as opposed to rowing (which refers to government do it all by themselves).

PPPs also gained momentum in NPM paradigm as a tool of governance and it was recommended for its flexibility and responsiveness which in a long run improve efficiency and effectiveness of government services (Delmon, 2011: 241). Hence while NPM has experience debates about the public versus private provisions of public goods and services. There are agreed standards that enhance contractual partnerships that ought to be considered.

Turner and Hulme (1997: 199) argue that crucial to efficiency is a competitive market that leads to innovation. This entailed, among other things, a revision of financial policy regarding to what extent the state should subsidize its SOEs. Hood (2002) points out that SOEs received special attention in the NPM approach. According to the Economic Commission for Africa (ECA) key components of NPM are "emphasis on managerial improvements, organizational restructuring and emphasis on market and competition".

The 21st century proposed a shift away from traditional bureaucratic arrangements of SOEs to SOEs that are market related enterprises; efficient; effective, proactive and anticipatory. The World Bank suggested that because SOEs had demonstrated extremely poor performance, SOEs should be privatised (Ahirley and Nellis, 1992) and that government had far less justifications of maintaining full ownership (Burner, 2011). The literature suggest that the initial impulse was privatizing public enterprises because of the success of the private sector. However, according to Ariyo and Jarone (1999: 201-213) previous studies paid no detailed attention on identifying and addressing factors affecting outcomes of SOEs reforms in Africa. Naya (1990) too, argues that the problem is not that of state ownership but how the state intervenes and manages its SOEs . He further notes that whereas some functions could perhaps be better executed by the private sector, there are certain economic functions that only the state should/can perform (Ibid) The general consensus, however, was that there was a need for public sector reforms which included reforming SOEs. This reaffirms Shiva (2002) argument that the issue became one of how to reform SOEs.

2.6.1 Forms of public sector reforms

The four most common public sector reform approaches that have been proposed are:

(1) Privatization
(2) Outsourcing
(3) Management reforms and good governance
(4) Public Private Partnerships (PPPs)

2.6.1.1 Privatization

Privatization refers to the transfer of control and responsibilities for public service delivery from government to the private sector (Mostert, 2002: 1). According to Meggison and Netter (2001: 321) privatization became popular under the administration of Britain's Thatcher government in the early 1980s. They further observe that it became the most crucial element of the global phenomenon of the increasing use of market to allocate resources. Proponents and critics alike demonstrate that by the end of the 20th century, privatization was a common public sector reform instrument across the globe (Mostert, 2002: 1).

Privatization became popular in certain countries because people were dissatisfied with how government provided goods and services. People complained about the lack of efficiency and quality (Fortas, 2012: 20). Fortas (2012) explains that the argument in favour of privatization is that it modernizes a country's economy. Privatisation of SOEs entails, for example, the sale of the SOEs to the private sector (Ibid). However, Meggison and Netter (2001) contend that while the sale of state-owned assets through privatization may result in instant revenue for a cash-strapped state, it often came at the expense of the consumers because the price of services increased.

Mostert (2002:14) points out that when traditional bureaucratic SOEs in developing countries incurred severe debts, they became reliant on international donour funding. However, funding was linked to several public sector reform conditions referred to as Structural Adjustment Programmes (SAPs). SAPs identified the privatization of SOEs as a core requirement for donour funding. The World Guide in 1997 argued that "SAPs aims to open national markets, suppress subsidies and price controls, reduce budget commitments, privatize public enterprises and deregulate salaries and working conditions". The literature on the history of privatization suggest that it emanated from a belief in capitalism which saw the private sector to be best at providing of public goods and services (Pape 1998 cited in Mostert, 2002). To that end Hoeven and Sriraczk (1997: 2) argue that privatization is a viable solution and that there are no reasons of creating SOEs. They hold the view that rationale behind privatization is the growing industrialization of the world which negate reasons of establishing SOEs.

In early 1990s, the global economy reflected the domination of economic markets as driving the economy after the demise of socialist economies. (Mostert, 2002). In Eastern Europe, SOEs dominated the energy and transportation sector, so to improve their operational performance and remove political control, privatization became an important pillar of successive programs of restructuring (Marrez, 2015: 3).

Rondelli and Lacono (1996: 9) argue that the drive for privatization was dubious. Privatisation, they argue was driven by multinational companies to create more space for them to make profits. They further contend that privatization in certain cases helped former colonizers to recolonize their former colonies through owning the strategic sectors of the economy that were privatized. The central argument is that if governance is weak, then privatization can indeed be abused to the benefit of multinational companies. Hence this necessitate the importance of good governance to ensure that privatization benefits the people not only foreign actors.

In some countries, especially developed countries, privatization took on forms of shared public and private ownership of the means of production (Meggison and Netter, 2001: 2). By contrast, in some of the developing countries such as Latin America, Asia and Africa the most common form of privatization was the outright commercializing of government services (ECA, 2005).

2.6.1.2 Outsourcing

Outsourcing refers to contracting out the provision of goods and services to an external agency (ECA, 2005). According to Mostert (2002) outsourcing in SOEs is premised on transferring some of the responsibilities for the production of public goods and services to a private entity. When applied in the public sector, it enables the state to delegate some of its functions to a private company. (Turner and Hulme, 1997: 194). Turner and Hulme contend that the outsourcing of certain functions of an SOEs can enhance efficiency. Outsourcing, it is argued, encourages more flexible enterprise units with a potential to adapt to the ever changing environment. The contracting out of certain services can lead to cost savings (Ibid). The outsourcing of certain SOE functions is said to improve service delivery because private contractors can be penalized for poor services, delays and lack of reliability. (Ibid).

Outsourcing allows for competition between the public and private sector which then leads to, in principle, innovative and efficient service delivery (Turner and Hulme, 1997: 199). According to Marrez (2015) outsourcing can also involve the transfer of operations. This means that the state will buy services after agreeing that a private entity will operate it for an agreed period of time. However, the state must ensure that there is a solid regulatory framework in place, including a contract in order to ensure accountability of those performing the outsourced functions.

Outsourcing should be managed with a performance contract which specifies the expectations and standards of performance to be met by the procuring part (Hood, 2002). As such, outsourcing is a contractual relationship where the private company agrees to provide certain services to government with payment linked to performance (Delmon, 2011: 132). In the light of struggling SOEs, outsourcing with a performance contract can provide a basis for evaluating performance and improve accountability (OECD, 2013). It is theoretical coherent to define limits under which both parties operate and thus providing outcome-oriented evaluation systems in order to hold managers accountable (Turner and Hulme, 1997: 197). However, the World Bank (1995) argues that performance contracts may lead to poor incentive structures for SOE managers. It suggests that this public sector reform strategy requires professional public managers with the necessary skills and expertise to oversee such contracts.

2.6.1.3 Management reforms and good governance

NPM and SAPs called for extensive managerial reforms in how the public sector (including SOEs) should be managed. This is another form of governance methods proposed by the NPM of application of private sector management approaches to the public sector. Management reforms had to be conducive to promoting efficiency and operating SOEs along viable commercial lines (OECD, 2012). Managers of SOEs had to be capable to oversee, among others, revenue-generation, commercial ownership or strategic ownership of the means of production (Ibid).

Mostert (2002: 54) points out that accountability is an on-going challenge in the public sector because of the overwhelming political powers often exerted over public managers as opposed to the SOE being accountable to its clients (Mostert, 2002: 54). The ECA holds that many of the problems of traditional bureaucratic SOEs stem from their lack of autonomy. NPM contends that the adoption of private sector management methods which calls for more autonomy, will channel then into profit, performance improvement and substantive results of accountability.

Shirley and Nellis (cited in Gumede 2012: 19) proposed four considerable actions crucial for defining the relationship between government and SOEs;

(a) Set clear and obtainable objectives compatible with the commercial operation of the firm.
(b) Give management greater autonomy over the operation of the enterprise and select managers that are capable of operating independently.
(c) Establish clear rules, procedures and limits for government involvement in decision-making.
(d) Hold managers accountable by setting targets, monitoring and evaluation results.

In addition to privatization, outsourcing and PPPs, NPM emphasizes the importance of management reforms and good governance. Whether SOEs privatize, outsource or enter into PPP arrangements, the role of government is fundamental. In fact, governance becomes crucial. Government is responsible for providing the regulatory framework (Kamarck, 2007: 46-47).

Government is also responsible for ensuring good governance in its SOEs. Good governance is central to public sector reforms. Good governance insists on accountability, transparency, rule of law and public participation in processes of governance (Camerer, 1997: 4-6). The World Bank (1989, 1992) identifies four elements of good governance namely, efficiency, accountability, a predictable legal framework and transparency in decision-making. As such, good governance requires effective and efficient public service delivery; reliable judicial systems and accountable administration. The ECA (2004) points out that accountability and responsiveness are key to good management and good governance (ECA, 2004).

Ridley (cited in Gumede, 2012: 14) contends that good governance of SOEs captures the structural, organizational and managerial changes unfolding in the public sector (Ibid). Therefore, one can conclude that making provision for good governance is vitally important in any restructuring of SOEs and the public sector at large.

2.6.1.4 Public-Private Partnerships

PPPs are a governance arrangement somewhere in between absolute state ownership and full outright privatization. PPPs are a long-term contracts between the public sector institution and private sector institution in which the private party assumes substantial financial, technical and operational risk from the design, financing, building to the operation of a project (National Treasury, 2004). The main objective is to ensure the delivery of well-maintained and cost-effective service by leveraging private sector expertise (National Treasury, 2007: 4). A key component of PPPs is that it entails the transfer of risk from the public to the private sector (OECD, 2013). This means that the private sector puts its own capital at risk, funding its investment in the project with shareholder equity (Ibid). PPP is defined in South African law as; a contract between a government institution and private party where:

- The private party performs an institutional function and/or uses state property in terms of output specifications
- Substantial project risk (financial, technical or operational) is transferred to the private party
- The private party benefits through: unitary payments from government budgets and/or user fees.

(National Treasury, 2007: 5)

Public-Private Partnerships (PPPs) refer to a contractual relationship between the public and private sector (Osborne, 1999). He acknowledges that PPPs, in the light of infrastructure development, is one of the tools for government to stimulate investment in infrastructure services and also improve efficiency. PPPs are any activities that relies on the agreement of actors in the public and private sector which contribute to improvement of economy and quality of life (Harding, 1990: 23). The idea is that PPP projects often takes much less time to deliver services and government avoid unnecessary costs (ECA, 2005). The basic tests for PPPs include transfer of risk as demonstrated above. Secondly, affordability which test whether the procuring actor or institution can afford it, given its available budget (National Treasury, 2007). Thirdly, is the value for money which needs to be assessed whether or not to procure infrastructure through a tender or PPP. This is assessed by determining how much will it cost for the institution to self-provide services than to provide such services through PPP, the difference between this option is the value for money.

There is a need for a clear, legitimate and predictable institutional framework before establishing PPPs (OECD, 2012: 11). Prior to engaging into a PPP, the public sector should, theoretically, determine whether it would be financially more efficient if a certain service is provided through external entity (Delmon, 2011: 14). In other words, government should only enter into PPP arrangement if there is a value for money. In South Africa PPPs are regulated by National Treasury Department. Any PPPs arrangement (whether at national, provincial or local government level) needs final approval of the National Treasury Department. South Africa has made extensive use of PPPs in its energy and transport sectors (National Treasury, 2004).

PPPs have become a key governance approach across the globe. They are seen as a cost-efficient and effective mechanism for the provision of public services. (Osborne, 2000). PPPs in Hungary have been used to restructure the provisions of public services and to develop the country after the demise of its communist regime (Osborne and Kaposvari cited in Osbornes, 2000). Some countries such as France, Australia and Germany often use PPPs to deliver services that they delivered through traditional public procurement (OECD, 2012). PPPs in United States of America (USA) are at the centre of government initiatives to regenerate local beneficiation and local economic development initiatives (Podziba, 1998).

PPPs can also meet social needs. Such PPPs require active consultation with relevant stakeholders such as non-governmental organizations (NGOs), trade unions or civil society as the core process of its operations (OECD, 2012: 11). PPPs, for example, are a key component of the developing stakeholders' society of the Labour government in UK and is regarded by the government as a fundamental tool for implementing its social policies (Falconer and Ross, 1998). Falconer and Ross (1998) argue that PPPs have also been used to respond to the youth unemployment by creating more job opportunities.

2.6.1.6 Different types of PPPs

Concession model

The nature of Public Private Partnerships (PPPs) arrangement depends either on contractual links or cooperation between the public and private sector. There are different models of contractual PPPs but they depend on the characteristics of delegated tasks to the private sector (Marques, 2010). There is a concession model, this is where there is a direct link between the private partner and public because the private partner provide services to the public in the place of and under control public authority (Ibid). In a concession the concessionaire typically obtains most of its revenues directly from the consumer and so it has a direct relationship with the consumer. Maintenance of the facility becomes the responsibility of the private party while government assumes regulatory role (World Bank, 1997; EU, 2003). The private party assumes all the responsibility relative to the construction, operation and maintenance of the infrastructure assets, charging users for the service (Merna and Njiru, 2002). A concession arrangement is typically for a period of 25 to 30 years.

Build, Operate and Transfer (BOT)

There is Build, Operate and Transfer (BOT) model that is when the private partner builds and operates the infrastructure, transferring it for the public partner at the end of the contract (Marques, 2010). In a BOT project, the public sector grants to a private company the right to develop and operate a facility or system for a certain period (the "Project Period"), in what would otherwise be a public sector project (Oddeneli, 1999). This entails that operator finances, owns and constructs the facility or system and operates it commercially for the project period, after which the facility is transferred to the public authority. The revenues generated from the operation phase are intended to cover operating costs, maintenance, repayment of debt principal, financing costs (including interest and fees), and a return for the shareholders of the special purpose company. BOT contracts are typical structures for project finance and the project company assumes a lot of risks.

Management Contract

Another format of contractual PPP are delegated management contracts, which are at the boundary of PPPs depending on the risk transferred in each situation. Government pays the private entity a fee for the operation and the management of the public service or facility (World Bank, 1997; EU, 2003). In management contract the private entity is responsible for the operation as well as management of a public service or infrastructure whilst government controls decisions regarding new investment in the services or the infrastructure. They encompass relatively short periods (3 to 8 years) the payment of the private partner is done by the public partner, rather than involving revenue collection directly from the end consumer (Oddeneli, 1999:12-15).

Service contract

In service contract, a private party is appointed by government to essentially provide various services and both parties take responsibility for maintenance and operations (World Bank, 1997). Although the private party provide technical expertise in the operation but government retains management and investment responsibilities over the service or facility.

Lease

In the light of lease, the private party rents a facility belonging to government in order to make profit. In terms of lease agreements, government is obligated to maintain and expand the facility in case of need, nonetheless, the private party may undertake specific repairs. In return for use of the public facility, the private party pays government rental fees (World Bank, 1997; EU, 2003). Examples of lease agreements include lease of port facilities

2.7 Strength and weaknesses of State-Owned Enterprises

SOEs contribute to GDP decisively in certain countries but not all of them have positive outcomes in achieving socio-economic goals. They play active role in transformation through skills development and creation of jobs (Binza, 2010). Hence government intervention in economy through SOEs is an on-going debate, as argued, to have positive and negative impact depending on developmental strategy pursued by government (Mostert, 2002: 17). This section discusses strength and weaknesses of SOEs.

Marrez (2015: 1) observed that SOEs in Romania have had far reaching productive outcomes because it accelerated the potential of Romania's economy whilst reducing risk to government budgeting. He further noted that SOEs dominate in key strategic sectors of economy such as transportation and energy where they often undertake government responsibilities. Fortas (2012: 18) argues that in Ireland, SOEs employ approximately 22% of the working force. This contribute decisively on the country's GDP because employees of SOEs are taxed and it increase the total expenditure per capita. Findings reported by Public Sector Research Center (2015: 7) revealed that in advanced economies SOEs are used as role models for good reporting practice as an attempt to address challenges of accountability. According to the OECD (2014) China National Petroleum enterprise contributed above 16% of total revenues as a biggest SOE in the world. Whilst in Germany they contribute 62% of all SOE income and involved in trades in the world (Ibid). They are flexible in that they can partner with any actor as long as such contractual relationship is geared towards economic development that is cost-efficiency (OECD, 2013).

However, some of these enterprises did relatively well under colonialism. Turner and Hulme (1997: 176) observed that public enterprises in developing countries in 1980s only accumulated 10% of GDP whilst in developed countries they accumulate for about 50% of GDP. The contemporary regulation of SOEs has allowed managers to preferentially employ people on the basis of non-productive attributes, especially in developing countries (Agesa, 2000: 39). He further argued that such workers who are not hired on the basis of operational skills they often have lower outputs which then lead to inefficiency of operational functions of public enterprises. There is high level of patronage on SOEs operations as argued by Ennser-Jedenastic (2011: 389) that this is how political officials repay party loyalists. He further observed that patronage, to some extent, forms basis for future government in developing countries.

2.8 Conclusion

This chapter has conceptualized the concept of State-Owned Enterprises. It has noted that SOEs have their merits and critiques. It has identified the key arguments in favour of the establishment of SOEs. This chapter has shown that SOEs have and continue to play a key role in both developed and developing countries and also highlighted some of the common challenges experienced. The chapter points out that the New Public Management paradigm proposed a range of public sector reforms which are relevant to SOEs. This chapter contends that despite the challenges and pitfalls associated with SOEs, they can contribute meaningfully to a country's socio-economic development objectives.

CHAPTER 3: STATE-OWNED ENTERPRISES IN SOUTH AFRICA

3.1 Introduction

This chapter introduces the history of SOEs in South Africa dating back to the pre-democratic era. It shows that the apartheid regime used SOEs to industrialise the country. It was primarily concerned with the security of strategic sectors such as energy and rail. There has been a major increase of SOEs in the post-apartheid government. The Department of Public Enterprise (DPE) is mandated with government shareholding responsibilities of SOEs. This chapter identifies the current legislative mechanisms and policies in place to guide the operations of SOEs. The chapter also analyses the policy framework that guides the functions and the structure of the DPE.

3.2 Background of State-Owned Enterprises in South Africa

State-Owned Enterprises (SOE) refer to a legal entity that is established as a business organization by the government to undertake both commercial and non-commercial activities on the government's behalf (Balton, 2010: 26). It can be either wholly or partially owned by a government. There is a wide variety of SOEs in South Africa that are categorized in schedules according to the Public Financial Management Act (PFMA) 1 of 1999. The degree of autonomy of SOEs vary according to their schedules, for example SOEs listed on schedule 1 enjoys full autonomy whereas SOEs listed in schedule 3 have limited autonomy.

In describing SOEs, there is distinction between commercial and non-commercial SOEs. A commercial SOE is defined as a legal entity established by a government to undertake commercial activities on behalf of the owner, the government (National Treasury, 2009). Moreover, the legal standing of a commercial entity differ from being a part of government to a private company with a state as a shareholder. A state-owned enterprise is often referred to as a corporation if it has been corporatized, meaning that although state owned, the SOE operates like a private company with state autonomy. A corporation is a company that is created under the laws of a state as a separate legal entity that has privileges and liabilities that are distinct from those of its members (Fourie, 2012: 35). Concepts used to describe commercial SOEs include government-owned corporation, government-owned business, state-owned company, publicly owned corporation and government business enterprise (Ibid).

On the other hand, a non-commercial SOE is an entity that is created and owned by a government to undertake certain functions of government with the purpose of improving service delivery to the public without creating profits (Balton, 2010: 28-29). These are often government agencies or entities created solely to pursue purely non-financial objectives. Moreover, non-commercial SOEs have no need or goal to satisfy the shareholders with return on their investments because they are typical oriented in social responsibility (National Treasury, 2009). Common names that are used to describe non-commercial SOEs include public entities, state agencies, inter alias and parastal. However, in South Africa there is a lack of common or standard understanding of the meaning of SOEs. Consequently, this highlighted different concepts are often used interchangeably to denote meaning of SOEs in South Africa thus creating a need for standard meaning.

3.3 State-Owned Enterprises before 1994

South Africa has a long-standing history of using State-Owned Enterprises (SOEs) as a mechanism for socio-economic advancement (Fourie, 2011: 205). The establishment of SOEs in the early decades of the twentieth century was premised on providing the state with the necessary instruments that would enable the building of a sustainable industrial economy (Ritcken, 2014: 5-6). Tshela and others (2012: 14) argue that at first glance, the state was concerned with the security of supply of strategic inputs at competitive prices where mining companies were dominant economically. They further observe that the establishment of SOEs stemmed from the desire by the state to move away from the state's dependence on existing (privately owned) mining houses and foreign enterprises (Ibid). SOEs established during this period focused mainly on the mining sector. This was, according to the state, in the interest of industrialization hence the need for investment from the very mining houses particularly Anglo America (Ritcken, 2014: 17). However, during this period, the state was perceived to have relatively sufficient resources compared to other entities (Ibid). As a result some people argued that the state had the potential to own and build its own strategic companies to self-supply services. Therefore, the relationship between SOEs and the then mining industry was highly complex. (Ritcken, 2014: 17).

One of South Africa's first SOE, the Department of Post and Telegraphs, was established in 1910 tasked with dealing with the transmission and receipts of mails (Ritcken, 2014: 42-43). When the British took over control of the Cape in 1806, they inherited infrastructure that was publicly owned including this SOE. This SOE was mandated to oversee the development of postal, telephone as well as broadcasting infrastructure and related services. The rationale was to provide the state with instruments to enable the building of a diversified industrial economy (Ibid).

The rail sector became critically important because of the desire to connect a country that could transport goods from the "Cape to Cairo", thereby fostering economic development. (Ritcken, 2014: 2-4). During the late 19th century towards the early 20th century numerous narrow railways were constructed across South Africa. After the formation of the Cape Government Railways in 1872, railway construction underwent massive expansion. After the merger of South Africa's four colonies (namely the Natal colony, Cape colony, Transvaal colony and Orange River colony) in 1910, the South African Railways and Harbours (SAR&H) was established in 1918. This SOE was mandated with the responsibility of further expanding the country's rail systems (Ibid). Akiwandele (1997: 44) argues that during this period, South Africa's rail network expanded into neighboring countries such as Northern Rhodesia (present-day Zambia). The objective was to improve infrastructural development of the country, including road infrastructure, to create an enabling environment for the transportation of goods and services (Ritchken, 2014: 35-37).

In 1922, the Electricity Supply Commission (ESCOM) was established in order to build, generate, transmit and distribute electricity infrastructure (Ritcken, 2014: 7). In tandem with the expansion of South Africa's rail sector, the electrification of railway commenced in the early 1920s with the establishment of the Colenso Power Station for the Glencoe to Pietermaritzburg rail route (Akiwandele, 1997: 53). Since this period to date, approximately 50% to 80% of the rail lines in South Africa are electrified. To promote industrial development, the Iron and Steel Corporation (ISCO) was established in 1928 (Ritcken, 2014: 17).

3.4 State-Owned Enterprises during apartheid

With the official establishment of apartheid as a form of political rule in South Africa in 1948, SOEs became strategic sites for racially-based job reservation which empowered whites, particularly the Afrikaner, at the expense of the black majority (Ritcken, 2014: 17). In 1950 South African Synthetic Oil Limited (SASOL) was established to beneficiate coal, alleviate the balance of trade and enhance national fuel in South Africa (Ibid). This SOE was struggling until the rise of energy-intensive resource processing industries (like ESKOM) which implemented a huge program to beneficiate the country's coal (Bratton, 1999).

The Companies Act 61 of 1973 was passed to consolidate and amend laws relating to companies in South Africa (Bratton, 1999: 345-347). As a result, SOEs were now officially regulated when this Act was promulgated. The Companies Act classified companies in term of either being "for profit or non-profit" companies. This Act was the sole legal framework for companies and became the founding legislation of SOEs. Furthermore, this Act led to the establishment of the Industrial Development Corporation (IDC) which was a state-owned financial institution aimed at funding development (Akiwandele, 1999). Before sanctions were formally declared against the apartheid government, the IDC reported that the energy and rail sector accounted for around 30% of GDP and up to 95% South Africa's export (Ibid).

In the 1980s, the National Party (NP) led government was facing severe international economic sanctions, and the need for restructuring its SOEs became clear (Mukwena, 2012: 16). In 1987, the government released a White Paper on Privatization and Deregulation. This White Paper sought to reduce the size of the public sector; lessen government spending; open investment opportunities for the private sector; and raise money from selling different assets (White Paper, 1987). This marked the beginning of public sector reforms of South Africa's SOEs, including the full or partial privatization of some SOEs in South Africa. The White Paper proposed the selling of Iscor and Sasol. It also established the Department of Privatization and Deregulation to oversee public sector reforms in SOEs. (White Paper, 1987). The premise behind privatization was the belief that government no longer had to be the key driver of economic development. There was a definite role for the private sector.

3.5 State-Owned Enterprises post 1994

Compared to the current regime, there were relatively less SOEs during apartheid (Marrez, 2010: 6-7). According to Fourier (2012: 34-35) the democratic dispensation inherited about 300 SOEs across the three spheres of government (namely national, provincial and local government). These SOEs were regarded as mechanisms of advancing socio-economic development. It is reported by the Human Science Research Council (HSRC) database (2015: 203-214) that South Africa in post-apartheid now has about 713 SOEs. The literature suggests that this increase is geared to aid the developmental agenda enshrined in the National Development Plan (The NDP). According to Gumede (2012: 16) the increase of SOEs in post-apartheid South Africa is premised on their potential to drive economic policy direction of the country. Moreover, the rationale for this increase is to improve socio-economic development in a manner that addresses the historical imbalances and transformation (Makuta, 2009: 15-23).

In post-apartheid South Africa, SOEs continue to operate across all spheres of government, namely the national, provincial and local sphere. (Mukwena, 2012). In fact, at the dawn of democracy the newly elected ANC government was against the privatization of SOEs. Its Reconstruction and Development Program (the RDP) proposed the nationalization of key sectors, this implied reversing the privatization of SOEs. This public sector reform entailed state-ownership of certain sectors that were perceived to be critical.

The RDP holds that the privatization or commercialization of many agencies in the public sector hampered basic services to the poor (RDP, 1996). The argument was that the policy of privatization reduced the ability of government to mobilize essential resources for development. Privatization, for RDP proponents, results in a structurally unbalanced economy with serious fiscus deficit because it leaves the economy in the hands of free market. In restructuring the public sector to carry out national goals, democratic government must therefore increase the public sector in strategic areas through, for example, nationalization, and establishing new public corporations (RDP, 1994). In line with the transformational agenda government ought to consider reducing the public sector in certain areas in ways that enhance efficiency, advance affirmative action and empower the historically disadvantaged (Ibid).

The RDP was in 1996 superseded by the Growth, Employment and Redistribution a Macroeconomic Strategy (GEAR) of 1996 as a strategy to stimulate faster economic growth required to respond to social needs since the RDP was not achieving its developmental objectives (GEAR, 1996). This policy shift included considering the restructuring of state-owned enterprises through, for example, the total sale of state assets; a partial sale to strategic equity partners; or the sale of asset but with government retaining strategic interests (Ibid). Government prepared a protocol on corporate governance of all public entities, this included the following;

- Formulation of dividend policies, together with clear indications of the objectives and performance appraisal norms for all agencies;
- A revised policy regarding government guarantees;

- Appropriate regulatory policies, aimed at ensuring that pricing policies are fair and fully recover operating costs, while also promoting competition or protecting consumer against monopolistic practice;
- A programme of asset restructuring with respect to the ownership and governance of state entities.

(GEAR, 1996: 14)

Mukwena, (2012) argues that the replacement of the RDP with GEAR introduced the notion of public sector reforms in SOEs. International pressure and South Africa's desire to re-enter the global economy, recommended the government to adopt neo-liberal macroeconomic policies. Such policies advocated widespread public sector reforms in line with the premises underpinning the New Public Management (NPM) approach to governance. NPM recommended the use of private sector management methods in public sector in order to enhance efficiency and effectiveness. This, it was argued, would lead to a competitive market and ultimately innovation (Africa Economic for Commission, No date).

As a result many of South Africa's key SOEs underwent public sector reforms during the late 1990s. For an example, the objectives of Eskom and Telkom was redirected to commercial activities from being non-commercial (PRC, 2015: 11). To ensure successful restructuring government set up specialized department, Department of Privatization, to proceed with selling the remaining asset. Strategic foreign investment partners were introduced to Telkom in 1997 however, in 2003 Telkom Initial Public Offering was then concluded and in 2004 foreign investors exited (Mokwena, 2012: 17-18). In the Transportation sector at Transnet sold close to 40 non-core business units over a period of 24 months in order to enable greater focus (PRC, 2015: 8-11). The Amscor entity was incorporated to Danel to reduce debts thus maintaining government's strategic interests. South African Airways sold 20% shares in 1999 to the Swiss Air Company. However, the deal was later reversed in November 2001 after the global recession (Ritcken, 2014: 24-25).

3.6 Legislative framework

There is not one Act that regulates SOEs in South Africa. The operation and management of SOEs are regulated by different Acts and policy frameworks. SOEs are business enterprises and are therefore subject to general legislation pertaining to companies. In addition, they are publicly-owned entities, so they are bound by legislation that pertains to the public sector as a whole. Since SOEs operate in specific sectors, they are further regulated by sector-specific legislation and policies. SOEs exists in all spheres of government. As such, provincial and local government legislation may further regulate the operations of such SOEs. Below is a brief discussion of some of the key policies that have a direct bearing on SOEs.

3.6.1 National Legislation and State-Owned Enterprises

3.6.1.1 The Public Financial Management Act (Act 1 of 1999)

The Public Financial Management Act (Act 1 of 1999), hereafter referred to as the PFMA, is not limited to SOEs only. Section 1 of the PFMA (as updated in 2008) defines an SOE as a national government enterprise which:

- a juristic person under ownership control of the national executive,
- has assigned financial and operational authority to carry on business entity,
- as its principal business, provides goods and services in accordance with ordinary principles,
- is financed fully or substantially from services other than-
    - the National Revenue Fund or;
    - by way of tax, levy or other statutory money.

Section 48 provides for classification of public entities.—(1) The Minister may by notice in the national Government Gazette classify public entities listed in Schedule 3 in accordance with the relevant definitions set out in section 1, as—

a) national government business enterprises;
b) provincial government business enterprises;
c) national public entities; and
d) 46 provincial public entities.

Before the PFMA, there were a myriad of different policies and Acts that regulated the management of public resources. The introduction of the PFMA brought uniformity in terms of financial reporting and accountability procedures across the public sector, including SOEs (Marrez, 2010: 16). Section 55 of the PFMA requires that SOEs submit their audited annual financial statements to the executive authority within five months of the end of the financial year

(Public Financial Management Act, 2010). This is how SOEs are expected to be financially accountable for their operations. Moreover, section 65 requires the executive authority to table the annual financial statements in parliament within one month of a year having received them (Ibid). This process enables transparency and accountability in accordance with developmental agenda. According to the Department of Public Enterprises (DPE) the PFMA is aimed at improving financial governance, accountability and reporting which applies to SOEs (Department of Public Enterprise, 2011).

3.6.1.2 The Companies Act (Act 71 of 2008)

The Companies Act (Act 71 of 2008) at first classifies companies as either for profit or non-profit. According to Section 1 of the Companies Act, a state-owned company means "an enterprise that is registered in terms of the PFMA or MFMA" (Ibid). The Companies Act requires that SOE name should at all times end with designation "LTD". In principle, while SOEs are regulated in terms of the PFMA (including the MFMA at municipal level), SOEs also have to abide by the Companies Act.

In cases of conflict between the Companies Act and the PFMA, the PFMA is more pertinent because it pertains specifically to the management of public finances, whereas the Companies Act regulates private and public companies. Hence Section 5(4) (a) of the Companies Act states that "the provisions of both Acts apply concurrently, to the extent that it is possible to apply and comply with one of the consistent provision without contravening the second" (Companies Act, 2008).

The Companies Act provides that any provision of the Act that applies to public companies also applies to SOEs, except to the extent that the Minister has been granted an exception in terms of the Act (Companies Act, 2008). From the PFMA and Companies Act it appears that there is a considerable need to strengthen SOE legislative framework. To this end, there is a proposed Bill by the National Treasury working with the DPE.

3.6.2 Local Government Legislation and SOEs

It is crucial to note that the national legislative framework pertaining to SOEs also regulate municipal SOEs. In other words, municipalities must comply with the requirements of the PFMA as well as the Companies Act. There is a proposed bill to replace PFMA by the Department of Public Enterprise (DPE) which deals with matters of shareholding and powers. Changes which will be forthcoming from the Bill will also regulate SOEs at municipal level. However, there are a number of local government Acts, namely the Municipal Systems Act (as amended 2000), the Municipal Financial Management Act, the Municipal Structures Act which further provide regulations for the establishment and management of municipal SOEs.

The Municipal Systems Act refers to SOEs in their jurisdiction as municipal entities. The Act identifies a municipal entity as being as a company, a corporation, a Trust or other corporate entity established in terms of any applicable national or provincial legislation which operates under the control of municipalities (Section 2 of Municipal Systems Act, 2003). Prior to this Act and the PFMA, municipalities used to establish Trusts as the main legal entity tasked with delivering services and manage the functions they perform (ENS, 2012). The National Treasury (2014) suggested the need to review municipal entities to monitor their performance as a legislative requirement and whether or not there are too many. The objectives and purpose of the respective municipal entities, as well as the activities performed by such entities need to be determined in order to consider the necessity of the various municipal entities.

According to Municipal Systems Act, a municipal entity may be established if the municipal manager and municipal council approve the need for such an entity in accordance with section 21 of the Act. Section 21 requires municipalities to set out the municipal operational plans of the municipal entity, in consultation with the local population. Municipal entities are accountable to the municipality that established that entity. The National Treasury (2010) stressed that municipal entities must perform their functions according to a service delivery agreement and performance based objectives set forth by the municipality. Moreover, given that their debts and decisions are made on behalf of the municipality, they must be disestablished if they fail to perform satisfactorily or to the municipal expectations.

The Municipal Systems Act also classifies municipal entities into three categories namely, private companies, service utilities and multi-jurisdictional service utilities. Structures such as Trust should be incorporated into a municipal entity, or disestablished altogether if it is not meeting its intended objectives. Ritcken (2014: 15-16) argues that this classification seems to meet the needs of municipalities in their pursuit of providing municipal services when the municipality may not have the requisite capacity as the national entities. He further observed that service utilities are municipal entities with separate board of directors who are appointed by the municipal council in order to manage the SOE. (Municipal Systems Act, 2000). Multi-jurisdictional service utilities can be constituted by a form of written agreement between one or more municipalities (Ibid).

A local municipal entity can be a private company. According to the Municipal Systems Act, such a company may have more than one parent municipality. However, the problem starts when a municipality is not the only shareholder (Municipal Systems Act, 2000). From this legal perspective, for a company to be classified as a municipal entity, it is crucial for the municipality to have "effective control" of the entity in a sense that it has powers to:

- Appoint or remove the majority of the board of directors of the private company or;
- Control at least majority of the voting rights at a general meeting of the private company.

(Section 86 of Municipal Systems Act, 2000)

The legal framework for municipal entities states that to delegate municipal functions to a company must be justified through similar terms to the decision to use a service utility. In terms of section 86 D (2) of the Municipal Systems Act:

> "a company which is a municipality entity-
>
> (a) Must restrict its activities to the purpose for which it is used by its parent municipality in terms of section 86 E (1) and;
> (b) Has no competence to perform any activity which falls outside functions and powers of its parent municipality contemplated by section 8.

3.6.3 The Public Financial Management Bill

The Public Financial Management Bill (PFM) is set to replace the current PFMA. The National Treasury has drafted an explanatory memorandum as an attempt to explain what this Bill is set to achieve. According to the explanatory memorandum, the PFM Bill is aimed at bringing about transparency and expenditure control from each sphere of government and uniform treasury's norms as required by section 216 (1) (c) of the Constitution, 1996. Private sector institutions argue that this Bill will transform the PFMA from a financial oversight instrument to a governance legislative framework (Sunday Times, 2015).

Given the current poor performance of SOEs in South Africa, the Bill approves the National Treasury and Department of Public Service Administration (DPSA) initiative to conduct a governance review of all entities listed in Schedule3A and 3B to the PFMA (Public Financial Management Bill). The Bill also aims to clarify distinctions between public entities and government enterprises. In addition, the Bill also aims to shed clarity on the mechanisms for the establishment of SOEs and elucidate the relationship with their governing authorities (Ibid).

However, the effectiveness of these SOEs has been questioned in recent times. One critique raised by the Presidential Review Committee (2012: 15-16) was that there are many different terms used when discussing SOEs. For example, the PFMA refers to these entities as business enterprises whilst the Companies Act refer them as SOEs. Mokwena (2012: 24) argues that the legal framework does not only address matters of fiscal accountability and reporting but it also contains non-financial and governance issues such as service delivery or social responsibility initiatives by the government.

In post-apartheid South Africa there are SOEs that are performing poor compare to apartheid period even though they were benefiting only the few. It has been argued that some poor performance of certain SOEs like ESKOM and South African Airways (SAA) can be blamed on the incapacity of the government of the day (Sunday Times, 2014). According to the Sunday Times (2014) the failing of public enterprises can be attributed to the politics of patronage and family ownership as opposed to government ownership. However, Bratton (2014: 42-43) argues that some SOEs such as Iscor are battling to survive due to competitive global corporate. There is a prevailing need of, among others, restructuring of SOEs as suggested in the National Development Plan (NDP) in order for SOEs to compete globally effectively. Hence Gumede (2012: 16) raised a valid concern that "how do we reinvent governance in the post-apartheid?"

According to Edward Nathan Sonnenbergs (ENS) (2012) though PFMA is to be applied where there are inconsistencies this remain an ongoing challenge. They argue that this is because it requires the sophisticated legislative interpretation which often lack in government or public space (Ibid). Hence, from the legislative perspective government is expected to act in accordance with this legal principles. There is a question of whether these financial governance legislative mechanisms should or should not contain non-financial provisions. This question follows the literature on SOEs which points out that some SOEs are established to pursue non-commercial activities. The second question is what impact the inclusion of non-financial provision has on SOEs.

3.6.4 Policies guiding operations of State-Owned Enterprises

Besides formal Acts, there are a number of policies that guide the operations of SOEs. In overseeing the implementation of SOE regulations, the Department of Public Enterprises (DPE) has drafted policies that detail the national government's strategic objectives. Such policies are meant to inform the actions of SOEs. For example, the DPEs Medium Term Strategic Framework (MTSF) 2015-2019, positions the Industrial Policy Action Plan (IPAP) and the National Development Plan (NDP) as key pillars of development in South Africa. These policies provide the overarching framework required in order to change the structure of the economy (National Treasury, 2015). SOEs as regarded as key vehicles to bring about a structural change in the economy and that SOEs are crucial to achieving the developmental goals set out in the NDP (PRC, 2012: 17). The argument is that SOEs can be leveraged in order to support growth in the short-term. According to the DPE's 2015/19 Medium Term Strategic Framework (MTFS), SOEs should be used to redirect the economy in line with South African Government's NDP.

A policy framework on restructuring SOEs in four major sectors namely telecommunication, transport, energy and defense-related industry was released in August 2000 (National Treseary, 2009). This policy framework is "*an accelerated agenda towards the restructuring of state-owned enterprises*" which set out guiding principles for the restructuring program. These objectives are;

- At the enterprise and sector level, restructuring involves improving the efficiency and effectiveness of the entity, accessing globally competitive technologies where possible, mobilize private sector capital and expertise, and assessing in the creation of effective market structures in sectors currently dominated by state-owned enterprises.
- At the macroeconomic level, the initiative aimed to attract foreign direct investment, to contribute to the reduction in the public borrowing requirement, and to promote industrial competitiveness and ultimately growth.
- Social imperatives included the need to ensure growth in employment and develop new skills within the labour force. This restructuring further aimed to ensure the wider ownership and participation in the economy.

(National Treasury, 2009)

The NDP states that by 2030, South Africa should have financial sounding SOEs (National Planning Commission, 2012). To achieve this, SOEs must be commercialized. This means that SOEs objectives should be profit oriented as alluded above but still make a room for non-commercial SOEs as long as the latter do not run at a loss. The NDP holds that every SOE need to have clearly defined and transparent mandate that will outline its role and how it will serve the public interest (Ibid). Moreover, it requires a clear and unequivocal governance structure which entails identifying and managing the government's role in policy-making (National Planning Commission, 2010). The NDP requires serious consideration on the various role, ranging from policy-making to governance, to ensure sustainable well balanced priorities and coordination between different policy priorities. Although clear governance structure may reduce financial burden but there is a need to develop skills required by SOEs and to ensure that they are financially sound (Ibid).

They also draw from National Growth Plan (NGP) which is set to "deepen the domestic and regional market by growing employment, increasing incomes and undertaking other measures to improve equity and income redistribution" (National Growth Plan Policy, 2009: 14). The NGP is government's response to insufficient job growth and the need to accelerate income growth and reduction of inequality (Ibid). This policy identifies six priority areas of job creation with SOEs as essential players. As established in chapter two that SOEs often undertakes governance commercial activities and create jobs, the NGP challenges South Africa to do more to create job opportunities in the fast growing economies of China, India and Brazil (Ibid). Indeed the NGP sets out a range of practical measures to achieve this and draw from the growing economies with view of realizing NDP.

The PRC (2012: 14) noted that when assessing the potential of SOEs to achieve the developmental agenda, especially over key SOEs, the issue was that PRC did so without the power of any legislation positioning the PRC as a shareholder Ministry. However, other Ministries are given that authority through SOE founding legislation which specify that a particular minister from which level of government is their shareholder. It is argued that the DPE has stretched its mandate and developed a paper called Centralized Shareholder Management (CSM) to further explain the Government Shareholder Management Bill (GSM Bill). The CSM articulates how SOEs can be governed but stemming from the GSM Bill. From the GSM Bill, the investigation conducted by

DPE into the current legislative framework found that there is a need to strengthen the SOEs policy framework. The CSM denotes that to devise such a policy framework, the DPE would need to co-ordinate with National Treasury.

According to CSM document the GSM Bill will provide for, inter alia;

- Shareholder management and accountability while enabling SOEs operational flexibility;
- Establishment of new SOEs and restructuring of existing SOEs;
- Publication of annual strategic intent statements and thus continuously align SOE planning and performance with such strategic intent and objectives;
- Board appointment by the shareholder Minister in the relevant SOE;
- SOE procurement policies that are based on principles of strategic sourcing and long-term planning.

3.6.5 Key concerns raised by the Presidential Review Commission on State-Owned Enterprises

The Presidential Review Commission (PRC) on State-Owned Enterprises was established in May 2010 by President Jacob Zuma during the Presidency Budget Vote in Parliament (Premhid, 2013). The PRC was established to investigate and respond to the state of SOE's in South Africa and how to strengthen their role in the economy. In line with this mandate, the PRC was to examine the macro-policy environment and role SOEs play in delivering the developmental agenda of South African government, as alluded to in the NDP. Given the historical imbalances of the past, the PRC mandate involved the scrutiny and examination of the role that SOEs can play in economic transformation (Ibid). In a nutshell, the PRC was established in order to review SOEs and to provide recommendations and reforms on SOEs across all spheres of government. The rationale was to;

> "Achieve a balance between national developmental and transformation objectives, and improved service delivery as well as to achieve sustainable viability of SOEs in alignment with the developmental state aspirations"
>
> (The Presidency, 2010).

There are four key themes that the PRC identifies as needing focus and revision in order to achieve the developmental agenda of the government. The first theme is development and transformation, which is centred on the need of standardizing development and delivery goals for all SOEs (Presidential Review Commission, 2012: 15-22). Moreover, this theme holds that there is a need to enhance the role of SOEs in economic transformation particularly regarding procurement deals. The second theme is governance and ownership. This entails that the government should develop a long-term strategy for SOEs based on measurable short-term objectives (Ibid). This is to say that government must clearly distinguish role of government as owner, policy-maker and regulator. Thirdly, business care and viability is centred on the need for the re-examination of financing of SOEs by a striking balance between equity and debt financing (Presidential Review Commission, 2012: 14). Finally, strategic management and operational effectiveness which entails the need to revise and strengthening the political accountability to ensure better line-function management (Ibid).

The DPE and the National Treasury strongly believe that the current legislative framework should form basis of the overarching SOEs Act. This policy framework owes its existence to the NDP which forms operational principles of the DPE. However, Tshela and others (2010) argue that despite the positive image drawn by the NDP, it is likely that it will reproduce capitalist exploitation that predominantly characterizes the country. Their argument is that there are no measurable objectives of achieving this, yet every effort made by any department will be equated to the NDP. In the light of growth, it appears that there is a need to draw from success of past policy interventions. Mathebe (2014: 14) argues that to achieve the developmental agenda there should be a more restrictive fiscal policy. She further noted that this should be accompanied by strong and independent oversight of SOEs not only those regarded as major but every public entity.

The CSM argues that the PFMA does not confer powers for the listing of Schedule 2 entities thus the need for legislative amendment to give effect to such listing. Section 2 of the PFMA lists Transnet as a major public entity including all of its subsidiaries. Therefore, schedule 2 applies to SANRAL. The PFMA require that all entities are listed by the National Treasury on its schedule in order to exercise a financial oversight role. The major public entities listed in Schedule 2 enjoy full managerial autonomy and with government only able to intervene in its capacity as a majority shareholder (Public Financial Management Act, 2003). Whilst other public entities listed in

Schedule 3 enjoy lesser degrees of autonomy. It is noted that National Treasury could argue that the DPE is contradicting itself because it suggests that the PFMA continues to govern government shareholdings and on the other hand it calls for a new SOE Act which may redirect its mandate (PRC, 2014: 17-18). The argument put forward is that PFMA does not involve mechanism for Executive Authority to establish entity in cases where the need arise. Therefore, there is a room for both proposed Act and PFMA. Since PFMA is about financial management and accountability, the proposed Act on SOEs serves a different but complementary power. This is because the PFMA is not enough to ensure good governance but it has the potential.

From the CSM model, the question arises whether to strengthen the PFMA or create a new Act? The literature suggest that the failure of the PFMA to give the DPE powers, especially to be able to establish an entity as municipalities, and take key decisions but instead report to National Treasury limit the Department's scope of function (Marrez, 2010). The CSM is necessary to explore because it is DPE internal literature developed to critically reflect on current legislative framework of SOEs. Moreover, it is developed to demonstrate a need for revamp of these areas moving into the future (Ritcken, 2014: 17-20). He further observed that a key attribute of the CSM is that it is centred on the notion of developmental state and critically examine current SOE legislative framework. He further noted that it also predicated on whether they are aligned to the developmental state outlook and governance oversight (Ibid).

The DPE has also proposed, because of its challenge of ownership, a Government's Shareholder Management Mode (SMM). According to the PRC report (2015: 12) on SOEs this SMM is largely biased to a centralized shareholder management approach to owning SOEs. Hence while it is far more crucial to note that there is no automatic relationship between a South African SMM and the overarching SOE legislative framework (Ibid). Hence the CSM holds that the decision about which shareholder model to adopt moving forward is a legal issue. This is because the current decentralized model is premised on SOE founding legislation that give certain Ministries a shareholder status on the SOE ownership (Ritcken, 2014: 16-22). The central argument is that there is a need for legislative enforcement of a shareholder management and the CSM justifies the need for a uniform framework for corporate governance, strategic objectives and reporting obligation of SOEs. In motivating for SMM it is argued that it will enhance strategic state intent to invest on SOEs and thus address the pressing challenge of accountability.

3.7 Structure of the Department of Public Enterprises

In 1994, the office of Public Enterprise was established to champion and direct the restructuring of SOEs through considering their optimal economic and developmental impact. Today the DPE is the only established shareholder representative for government with oversight responsibility for key SOEs, thus playing a crucial role in the development of the country's economy. The strategic plan for the DPE is to drive transformation of SOEs and unlock growth through job creation and skills development. In the light of background overview, the DPE is a crucial and key government shareholder representative over major SOEs (Public Financial Management Act, 2008). The DPE is only mandated with government shareholding. In order to uphold this mandate it has devised a strategy to;

- Develop national policy to steer and direct South Africa on a sustainable path;
- Consideration for a different stakeholder compact to unite the public sector, business, labour and civil society in a partnership geared to implement this shared programme;
- Establish clear measurable and time bound targets for common programmes and for monitoring their implementation and;
- Re-enforce inter-governmental and integrated planning across spheres of government and between different government departments (DPE MTSF, 2015).

The DPE operates a number of programs in order to align, integrate and oversee related services and also to benefit from synergies between the SOEs. The DPE constitutes three programs namely (i) administration, (ii) legal and governance, and (iii) portfolio management and strategic partnerships. The administration program provides the strategic management, direction and administrative support to the Department which then enables it to meet its strategic objectives (Department of Public Enterprise, No date). The legal and governance program is mandated to "provide legal services and corporate governance system, and facilitate the implementation of all legal aspects of transactions that are strategically important to the Department and the SOE and ensure alignment with government's strategic intent" (Ibid). This program is implemented as an attempt to provide measurable and strategic interventions working towards achieving NDP goals using SOEs.

The third program is portfolio management and strategic partnerships which align the corporate strategies of SOEs with government strategic intent, monitor and benchmark both their financial and operational performance (Gov, 2015: 13). This third program, according to the Department's MTSF (2015-2019), it is also responsible for SOE's capital investment plans. There are other programs the Department implement on its MTSF to enhance THE realization of having a well sounding governance of SOEs and commercialized practice in 2030. Hence the Department largely manages the portfolio of major SOEs which are Alexkor, Denel, Eskom, SAFCOL, SAX and Transnet. The Department is working on a national prudent macroeconomic policy and proper fiscal management.

The Department identified and categorized challenges into two sets which are core challenges and enabling challenges. From the core challenges it is important to discuss problems of inability to meet demands as has been recently evident in Eskom and Transnet failing to meet demands (PRC, 2014: 34). This challenge directly affect their ability to support and advance sustainable growth in the light of South African economy. The DPE is working on a strategic intervention which is geared towards breaking the challenge down into an area that highlights the area of limited sources of supply within the country (Ritcken, 2014). Another challenge is the financial instability which hampers the ability of many SOEs to actually fund commercial and expansion activities oriented in achieving NDP goals or targets.

On the other hand there are enabling challenges that can be attributed to state institutional model to give SOEs the necessary support. It has been noted that oversight remains a challenge because in terms of governance there is mismanagement and policy gaps within the Department making it hard to hold director accountable (Gov Report, 2015: 23). According to Makuta (2009: 224) director's accountability is the basis for successful SOEs. The DPE has noted that there are internal challenges that, directly or indirectly, result in the underperformance of SOEs.

3.8 Conclusion

The history of SOEs in South Africa dates back to pre-apartheid period although there were fewer SOEs then than now. This chapter has shown that SOEs are regarded as fundamental institutions for the pursuit of the developmental agenda of the government. Government continues to regards SOEs as vital for achieving goals of the National Development Plan. SOEs are seen as future policy drivers of the country. However, their legislative framework is cumbersome and there seems to be a need for an overarching SOE Act that will deal specifically with SOEs. The following chapter discusses the case study of SANRAL to explore how this framework has affected the transport sector.

CHAPTER 4: CASE STUDY ON THE SOUTH AFRICAN NATIONAL ROAD AGENCY LIMITED (SANRAL)

4.1 Introduction

The previous chapter presented a background on SOEs in South Africa. This chapter presents the case study of South African National Road Agency Limited (SANRAL). It explores SANRAL's pre-1994 roots in Transnet SOC Ltd. Transnet, itself was established as a result of reforms of the South African Rail and Harbour (SAR&H) SOE in 1990. The chapter also examines SANRAL post 1994 by looking at the types of public sector reforms that have unfolded and the reasons behind these. It identifies and discusses the policy and legislative framework of SANRAL. It provides a detailed discussion of the national Department of Transport (DOT) which is the custodian of SANRAL. It examines the contemporary state of affairs of SANRAL in terms of its objectives, implementation challenges and outcomes.

4.2 Background of the South African National Road Agency Limited (SANRAL)

As discussed previously, the early decades of the twentieth century saw a number of State-Owned Enterprises (SOEs) being established to break the chain of dependence on the mining industry and foreign private entities (Fourie, 2012: 207). Before SANRAL was established, its mandate rested within Transnet SOC Ltd which came as a result of restructurings of the South African Railways and Harbour (SAR&H) of 1910 (Ritchken, 2014: 5). The SAR&H was established and mandated with the responsibility of expanding the country's rail system. Hence the roots of Transnet SOC Ltd can be traced back to the 1850s when rail harbour was proposed in the Natal and Cape (Ritchken, 2014: 17). This followed the discovery of diamonds in Kimberly, which creating a need for railway and harbour infrastructure and expansions. In the 1970s there was an agreement in government that SAR&H should restructure itself in line with business activities (Ibid). This meant that the public entity had to consider practices and techniques that would raise revenues. One proposal is that it should participate in commercial activities as opposed to relying on government funding for its growth and sustainability.

In 1981, SAR&H was restructured from being a government department to a state-owned enterprise known as the South African Transport Services (SATS) (Richken, 2014: 13-14). As the

New Public Management (NPM) approach to governance was becoming more popular in the 1980s, SATS was decentralized into different semi-autonomous units and divisions with a strong emphasis on improved localised management (Ibid). As established in Chapter Two of this mini-dissertation, the restructuring of SOEs gained special attention from NPM in that commercialisation, for example, was identified as a technique that could make SOEs profitable. To this end, SATS drew on NPM philosophies by adopting techniques in order to improve management such as emphasizing localised management and commercialisation. Hence, by the end of 1989, the desire of managing SATS as a business enterprise was common and well within reach (Fourier, 2012). Towards the end of the 1980s, the World Bank's Structural Adjustment Programs (SAPs) stipulated certain conditions for fiscal support in developing countries. One recommendation was that SOEs should become financial viable (Akiwandele 1997, Bratton 1999, Meggison and Netter 2001, Rondelli and Lacono 1996). As a result, on the 1st of April 1990, after decades of government control, SATS was converted into a new, limited liability company, representing South Africa's vast transport network now known as Transnet SOC Ltd.

4.2.1 Objectives of Transnet SOC Ltd

Transnet SOC Ltd (hereafter referred to as Transnet) is currently regarded as the largest and most essential part of the freight logistic chain that delivers goods and services across South Africa. Its vision focuses on being the primary freight transport company, delivering integrated, efficient and cost effective services to promote economic growth in South Africa (Transnet, No Date). It is responsible for ensuring that the country's transport industries work in line with world-class principles. Transnet is fully owned by the South African government but operates as a corporate entity aimed at supporting and controlling the country's freight logistics network. Transnet forms an integral part of the overall economy. This SOE is aimed at developing the South African freight industry while operating efficiently and profitable (Ibid). In line with the NPM paradigm, Transnet contends that commercialization enhances revenue generation. As an article of evidence, Transnet has successfully completed a four-point turnaround strategy and just embarked on a four-point strategy aimed at generating profit (Transnet, No Date).

Moreover, Transnet is oriented on promoting economic growth of South Africa and it is investing R110. 6 Billion in extending its infrastructural development projects (Transnet, No Date). Such infrastructure includes widening and deepening ports, building a new pipe line and buying hundreds of new locomotives. It plays a pivotal role not only in South African transport but in the national economy of African countries that use its transport networks (including harbours) within South Africa to transfer their imports and exports (Ibid).

The Transnet Procurement Policy of 2013 states that Transnet aims to ensure that it obtains value for money in the procurement of goods and services to achieve its mandate to redress economic imbalances caused by unfair discrimination of apartheid (Transnet, 2013). As established in Chapter Three, South Africa is a 'developmental state' and the NDP calls for government intervention in the economy to influence economic activities in a direction that is geared towards redressing the economic imbalances (Mokwena, 2012: 16-18). Transnet's procurement policy (2013),

> "Transnet shall ensure that procurement of construction related work, goods or services for expansion of its ports, rail and pipeline infrastructure happens in a manner that create sustainable jobs for South Africans. Procurement of operation and maintenance services of the infrastructure shall be done in a manner that supports sustainable job creation particularly among the previously disadvantaged members of the South African society"
>
> (Transnet Procurement Policy, 2013)

The procurement policy further requires that (in line with requirement placed on SOEs by the DPE), the supplier development plan of Transnet should;

- Increase procurement from black-owned firms;
- Contribute to economic growth through employment creation, rural development and skills development (preferential procurement);
- Establish collaborative relationships with public and private entities to ensure sustainable supplier development; and
- Ensure effective monitoring and evaluation of reporting systems.

In the light of socio-economic transformation and empowerment, government developed the Broad Based Black Economic Empowerment (BBBEE) Act (Act 53 of 2003). BBBEE is a transformation program to give previously disadvantaged groups, (black people and women) better economic opportunities. In order to implement the BBBEE Act, government developed the Black Economic Empowerment Strategy that is underpinned by four core principles;

i. it is a broad-based;
ii. it is an inclusive process;
iii. it is associated with good governance: and
iv. it is part of the country's growth strategy (Transnet, No date).

In terms of good governance Transnet must adhere to the King III principles. The following section discusses the structure of Transnet.

4.2.2 Structure of Transnet

Transnet has five subsidiaries. The first subsidiary is the Transnet National Ports Authority. This subsidiary is responsible for the effective, safe and sufficient economic functioning of the national port system which it manages in a landlord capacity. This operating division provides port infrastructure and marine services at the eight commercial seaports in South Africa (namely, Richards Bay, Durban, Saldanha, Cape Town, Port Elizabeth, East London, Mossel Bay and Ngqura. The legislative National Ports Act (Act 12 of 2005) regulates this sector of Transnet. According to this Act, the core functions of this subsidiary are;

- To plan, provide, maintain and improve port infrastructure.
- To provide or arrange marine-related services.
- To ensure the provision of port services, including the management of port activities and the port regulatory function at South African ports and,
- To provide aids to navigation and assistance to the manoeuvring of vessels within port limits along the coast.

Transnet's second subsidiary is the Transnet Port Terminal (TPT) which is responsible for the commercial handling services of sea-route freight across imports, exports and transshipments in containers, bulk, break-bulk and automotive. Its operations cover imports and exports across containers, mineral bulk and agricultural bulk. It also operates in a broad spectrum of the economy, including shipping lines, the container industry, the general shipping industry and cargo agents which are regulated by legal entities. It was recently reported that this division has achieved level two Broad Based Black Economic Empowerment (BBBEE) status in 2015.

Transnet's third subsidiary is Transnet Engineering which is the backbone of South Africa's railway industry with eight product-focused businesses and is comprised of 150 depots, seven factories and 15,000 employees countrywide (Transnet, No Date). This subsidiary replaced the engineering department of the former SAR&H. It has a long history of actively supported the expansion and technical management of railways in the country and continues to be an integral part of South Africa's economy. Over the decades it has developed some of the most innovative boogies and wagons (Ibid). Moreover, it has become a key supplier of customised rolling stock for the coal, iron-ore, and intermodal, agricultural and cement industries. This subsidiary is dedicated to in-service maintenance, upgrading and manufacturing of freight wagons, man line and suburban coaches and diesel. It focuses not only on South African market but also on investment in research and development to service Africa and the rest of the world with stock products and enhance organisation's international reputation (Transnet, No Date).

The fourth subsidiary is Transnet Pipeline which is mandated to manage the strategic pipeline assets of the country, servicing two key industries by transporting petroleum and gas (Transnet, No Date). The petroleum liquid products include crude oil, diesel, leaded and unleaded petrol. The pipeline network includes a tank farm with a capacity of 30million litres used for storage and distribution of liquid in neighboring countries such as Botswana (Ibid).

Transnet's fifth subsidiary is Transnet Freight Rail which is the largest division of Transnet. It is tasked with managing the extensive rail network across South Africa which connects with other rail networks in sub-Saharan region and constitute 80% of Africa's rail network (Transnet, No Date). This subsidiary has positioned Transnet as a profitable and sustainable freight railway business which continue to drive the competitiveness of the South African economy. This enabled Transnet, particularly in early 2000s, to play a positive role in the transformation of society given the historically background of South Africa (Ibid).

4.2 3 Issues and challenges facing Transnet

Transnet has always been a fundamental SOE developing South Africa's transport infrastructure envied by many developing countries. In line with NPM principles, Transnet restructuring resulted in the decentralizing of functions and responsibilities (to subsidiaries) in order to improve localized accountability and expedite service delivery. Prior to reforms, Transnet was becoming too big as an entity to manage. This restructuring was oriented in optimizing the equity that is embedded in the Transnet given its historic imbalances. The vision to rethink its brand was influenced by the desire to realign with its divisions adopting sub-brands. The rebranding indicates the change in the direction and focus of the business. In line with NPM, Transnet identified new core value;

- Customer focus;
- Reliability and flexibility;
- Cost-efficiency and competitiveness;
- Transparency;
- Improved communication and divisional alignment; and
- An integrated solution of bulk freight transportation.

However, there are challenges in developing transport infrastructure. Based on the national Department of Transport (DoT) Transportation Infrastructure Report (2006), there was a need for alternative transportation of petrol and gas because heavy loaded trucks often damaged Transnet's roads infrastructure. The national legislature Portfolio Committee on transport resolved that petroleum and gas must be transported through pipelines from Richards Bay to Gauteng under the auspices of Transnet SOC. However, the multiproduct pipeline suffered numerous setbacks and was delayed by four years and exceeded its expected budget (Business Day, 2007). Furthermore, much criticism has been leveraged against railway authorities for allowing the deterioration of passenger services (Ibid).

4.3 The South African National Road Agency Limited (SANRAL)

4.3.1 Rationale for the establishment of South African National Road Agency Limited

As South Africa's road network expanded, Transnet identified the need for an agency to take charge of the development and maintenance of national roads. As a result, the South African National Road Agency Limited (SANRAL) was established in 1998 by the enactment of The South African National Road Agency Limited and National Roads Act of 1998. SANRAL is an independent and statutory company that is registered in terms of the Companies Act 61 of 1973 (Amended in 2008). The increasing volume of responsibilities of Transnet's subsidiaries created the need for separate public entity that would focus on the development and maintenance of South Africa's national roads network (Makuta, 2012: 204). SANRAL was established as a commercial public entity. SANRAL is fully state-owned with the Department of Transport (DoT) as its shareholder.

SANRAL is legally authorized to generate revenues in order to finance, improve, manage and maintain the national road network system. Moreover, SANRAL is responsible for financing all related functions in accordance with its business and financial plan in order to ensure that government's goals and policy objectives concerning national roads are achieved.

4.4 The Legislative and policy framework of SANRAL

The main transport policies are spelt out in two key policy documents namely, the 1996 White Paper on National Transport Policy and the Moving South Africa document (Government, No date). The latter emanated from the white paper and sets out an integrated strategy for improving and maintaining transport infrastructure development (National Transport White Paper, 1996). It set out strategic framework to provide safe, reliable, effective, efficiency and fully integrated transport aspirations that will meet consumer's needs and improve sustainable economic empowerment (Ibid). Hence the expansion of a road network needs to be communicated across all spheres to achieve alignment within the context of integrated road and transport planning. According to the White Paper on National Transport Policy (1996) national, provincial and local government and other associated agencies, each have responsibilities for certain sections of the road network. South African road infrastructure, through SANRAL, is relatively far more developed compare to most sub-Saharan African countries (Business Day, 2009). Fundamental considerations underlying SANRAL's strategic planning are support for the aims and objectives of the Reconstruction and Development Programme (RDP), the New Partnership for Africa's Development (NEPAD) and Broad-based Black Economic Empowerment (BBBEE) (SANRAL Declaration of Intent, 2012).

4.4.1 SANRAL and National Road Act, 1998

Chapter 1 of this Act provides for the establishment of a national road agency for the Republic of South Africa. According to section 2 (1) "there will be a national road agency for the Republic for the purpose of taking charge of the financing, management, control, planning, development, maintenance and rehabilitation of South African national road system" (SANRAL and National

Road Act, 1998). This provision gives SANRAL the authority to manage financial planning for the purpose of development in road network system of the Republic. According to section 25 of this Act they agency (SANRAL) "within government policy, is responsible for, and is hereby given power to perform all strategic planning with regards to the South African national road system, as well as planning, design, construction, operation, management, maintenance and rehabilitation of national roads of the republic" (SANRAL and National Road Act, 1998). This entity has additional powers at the request of a municipality or the Premier of the Province to perform any work in connection with any road, including planning, design and construction of such roads but it can charge fee for any services. This Act provide for the governance and management of SANRAL by a board of directors that is accountable to the Minister of Transport and National Treasury.

According to SANRAL and National Road Act section 25 the agency (SANRAL) "within government policy, is responsible for, and is hereby given power to perform, all strategic planning with regard to the South African national road system, as well as planning, design, construction, operation, management, maintenance and rehabilitation of national roads of the Republic" (SANRAL and National Road Act, 1998). This clause rests this duty to SANRAL and it is the role of this entity to uphold this obligation. SANRAL has and continue to play a positive role in this regard because there is empirical improvement in road infrastructure in the Republic (Independent News, 2008). SANRAL continuously seek amendments in certain areas of current legislations, particularly those relating to electronic tolling. These amendments are aimed at supporting electronic tolling systems to enable the free flow of traffic on some of South Africa's busiest roads (SANRAL Statement of Intent, 2009-2012). As a result there are numerous alternative entrances in country's economic harbours such as Johannesburg, Tshwane, and Cape Town and in other strategic centers of our economy.

4.4.2 Companies Act 61 of 1973 (Amended 2008)

SANRAL is an independent and statutory company that is registered in terms of Companies Act 61 of 1973 (as Amended in 2008). Given the development of legal framework around companies in the post-apartheid South Africa, only those provisions of Companies Act that are not in conflict with SANRAL and National Road Act that applies to SANRAL. However, provisions of Companies Act may not apply to SANRAL where Minister of Trade and Industry has issued a declaration under section 6 (Companies Act, 2008). This Act may not apply to SANRAL if it may reduce its accountability or requirement of transparency (Ibid). It is worth noting that this Act applies to SANRAL simply because it is a founding legislation.

4.4.3 Public Financial Management Act 1 of 1999 (Amended 2010)

Before the Public Financial Management Act (PFMA), there were a myriad of different policies and Acts that regulated the management of public resources. The introduction of the PFMA brought uniformity in terms of financial reporting and accountability procedures across the public sector including SOEs. Section 55 of the PFMA requires that SOEs submit their audited annual financial statements to the executive authority within five months of the end of the financial year (Public Financial Management Act, 2010). This clause legally binds all SOEs, including SANRAL, to provide audited financial statement to ensure financial accountability in the public sector. Section 56 of the PFMA then requires that the executive authority tables the audited annual financial statements in parliament within one month of a year having revenue (Public Financial Management Act, 2010).

According to the National Treasury SANRAL is abide by PFMA provisions except in terms of borrowing money capital. This is because SANRAL is obliged to ensure that revenues are managed effectively and efficiently (National Treasury, 2012). SANRAL is listed on PFMA schedule 3 of national public entities according to National Treasury (2015). Section 51 (2) of PFMA state that there is a need to "ensure that public entity is effective, efficient and transparent systems of financial and risks management and internal control" (Public Financial Management Act, 2010). Moreover, this Act holds that public entities listed on its schedules are not subject to privatization or bankruptcy and do not pursue profit as a business objective and is tax free.

4.4.4 The King III corporate governance protocol

In line with King III report, there are governance mechanisms in place. It is governed by the board of directors who practice ethical leadership as appointed by Minister of Transport and it report regularly (SANRAL Annual Report, 2014-2015). In terms of the King III governance principle on legislation of SOEs, all enterprises must prepare annual financial statements. The duties of directors include;

- The duty to care, skill and diligence, in terms of which director must manage the business of the company as a reasonably prudent person would manage his own affairs
- Fiduciary duties, being the duty to act in the best interest of the company, avoid conflicts and ensure transparency.

(King III Report, 2015)

This report contends that each SOE must appoint an audit commit. It further holds that good governance is essentially about effective leadership and sustainable economic impact. King III place emphasis on redressing the past imbalances. This is because it holds that “integrating sustainability and social transformation in a strategic and coherent manner will give rise to greater opportunities, efficiencies and benefits” (King III, 2015). There is a strong financial management system, this internal body is the Asset and Liability Committee (ALCO) which sits in every month and is chaired by a representative from the Department of Finance (Ibid). This internal financial management body prepares the overall strategy for financial assets and liabilities, performs regular reviews of all aspects of financial risk management and exposures, and reports to the board on treasury operation (SANRAL Financial Report, 2010).

4.4.5 Public Private Partnership policy framework

In South Africa PPP BBEEE policy has been devised and requires that in every PPP project there is a BEE scorecard targeting private party in relation to;

- Equity: to achieve meaningful and beneficiary direct ownership of substantial equity interests by black people, black women and black enterprises
- Management and employment: to achieve effective participation in the management control of the private party and its subcontractors by black people, particularly black women
- Subcontracting: to ensure that the private party contracts a significant portion of its subcontracting and procurement to black people, black women and black enterprises

- Local socio-economic impact: to promote positive local socio-economic impact from the project to the benefit of SMMEs, the disabled, the youth and non-governmental organizations within a targeted area of the project's operations.

(Code of Good Practice for BEE in PPP, 2004).

However, the concerned groups contends that TMT won this contract because they have partnered with black-owned Momentum Investment for its BBBEE credentials. In principle, this alternative of raising revenues has reduced dependence on tax-based revenues. Hence SANRAL has developed its own BBEEE policy in line with Bill of Rights enshrined in the Constitution of Republic of South Africa. The BBBEE policy seeks to fast track elevation of historical disadvantaged individuals to grow the economy but this that more enterprises needs to be able to;

- Produce value-added services and goods
- Employ SA citizens in productive activities.

(SANRAL BBBEE Policy, No date)

SANRAL as an entity under the DOT ought to adhere to the Transport Sector Transformation Charter, particularly the Public Sector sub-section. In line with this Transport Sector Charter the service providers of SANRAL as an SOE must fall into 3 broad categories;

- Contractors and Built Environment Professionals – Construction Charter
- Land and related service providers –Property Charter
- Banks, Financial Advisor – Financial Sector Charter

(Transport Sector Transformation Charter, 2008)

Moreover, to raise revenues to finance road networks, SANRAL also gains capital through the sale of state-owned bonds which are issued on the Bond of Exchange of South Africa (National Treasury, 2008). According to SANRAL and National Road Act section 33 (2) (a) "The Agency, with the written permission of the Minister granted with the agreement of the Minister of Finance, may raise loans from any other source to finance any expenditure that may be incurred by the Agency during any financial year for the purposes of the planning, design, construction, maintenance or rehabilitation of any national road" (SANRAL and Road Act, 1998).

4.5 Roles and responsibilities of South African National Road Agency Limited

SANRAL is legally mandated to generate revenues in order to finance, improve, manage and maintain the national road networks (SANRAL and National Road Act, 1998). SANRAL manages two distinct funding portfolios namely, toll and non-toll roads. Non-toll roads are funded by the national fiscal through National Treasury's budget allocation whilst toll operation are divided into two; those funded by SANRAL and those funded through Public-Private Partnership (PPPs) (SANRAL, 2014: 51).

In other words SANRAL does not receive 100% of its budget from the national fiscus which means that it must devise strategies of raising revenues to fulfil its responsibilities. SANRAL only receive certain budget from the National Treasury which they use to finance 84% non-toll operations as required by SANRAL and the National Road Act. To finance the remaining 16% toll operations, SANRAL has proactively sought alternative sources of finance for road infrastructure. It has undertaken a number of Public-Private Partnerships (PPP) one example being the internationally acclaimed Maputo Development Corridor (Moeti, 2010: 14-16). The Maputo Development Corridor connects South Africa's industrial and commercial heartland of the Witwatersrand with its deep water port in Maputo, Mozambique.

SANRAL, has outsourced and contracted out some of its responsibilities to outside actors. For an example, SANRAL outsourced certain responsibilities to Australian and Swedish firms to build and manage the controversial e-toll system in Gauteng South Africa (Business Day, 2014). Traffic Management Technologies (TMT) won the PPP contract to Build-and-Operate the e-toll system in South Africa, which means that TMT will build and operate the e-toll then transfer to government.

4.6 Structure and ownership of SANRAL

SANRAL is a state company and the South African government, represented by the Minister of Transport, is the sole shareholder and owner of this SOE (SANRAL, No date). This SOE is governed by a Board of eight people, six of whom are appointed by the Minister of Transport; the Chief Executive Officer who is appointed by the Board; and a representative of the National Treasury (Ibid). This board, as established above, is required to oversee the governance and management of SANRAL and to ensure financial and operational accountability. SANRAL and The National Road Act (1998) stipulates governance mechanisms of this SOE with clear responsibilities of the Board. Section 12 (1) of the Act provides governance and staffing of SANRAL. The Act provides for staffing of the agency and chapter 3 sets functions, powers and responsibilities of the agency.

Given that government is a sole shareholder and owner through the Minister of Transport, it then follows that the DOT is a custodian of SANRAL. The national DOT plays a facilitative and regulatory role on the institutional arrangements for roads (Department of Transport, No Date). It is responsible for the development of policy and the legislative framework that is implemented through provincial departments, local government and public entities (Ibid). However, the Presidential Review Committee on SOEs in 2014 identified the quality of the Board and SANRAL's recruitment of executives inadequate, challenging effective financial and operational accountability (Lanava, 2015). He further noted that there is no clarity on the role of the Board executive authority. Since national DOT is a custodian of SANRAL it is crucial to explore its role in the prevailing relationship between national and provincial spheres and how they interact with local government that often undertakes road maintenance at local level.

The national DOT exercises the rights of the State as a member and shareholder of SANRAL through its Minister. The national DOT plays a facilitative role for SANRAL as per the SANRAL and National Road Act, 1998. According to the Annual Report 2012/13 of the Department the main roles of the DOT and its public entities (including SANRAL) in relation to the transport sector are;

- Policy and strategy formulation in functional areas;
- Substantive regulation in all functional areas where DOT has legislative competency;
- Implementation in functional areas where DoT has legislative competency;
- Leadership, coordination and liaison in all functional areas;
- Capacity building in all functional areas;
- Monitoring and evaluation and oversight in all functional areas; and
- Stimulate investment and development across all modes.

To coordinate the actions of the different spheres of government there is an Intergovernmental Relations Framework Act 13 of 2005, which establishes a framework for the national government, provincial governments and local governments to promote and facilitate intergovernmental relations. This legislative framework is giving effect to Chapter 3 of the Constitution which created a need for a legislative framework that applies to all spheres (Constitution, 1996). This framework provides, among other things, powers to national government to intervene and assist provincial and local spheres of government. This framework gives national DOT avenue to address the problem of unproclaim roads as they are located in provincial and local spheres. This is because according to Intergovernmental Relations Framework Act section 11 (a) a national intergovernmental forum is mandated “to raise matters of national interest within that functional area with provincial 30 governments and, if appropriate, organised local government and to hear their views on those matters”. This means that national level has authority to intervene on provincial or local levels to attend to issues of national importance. The national DOT can intervene according to this framework. Hence in terms of governance framework, SANRAL should adheres to King III corporate governance principles because governance of this entity is both statutory and as a code of principles and practice (SANRAL, No date).

In principle all these spheres must coordinate to have a coherent alignment of operations. However, according to 2014 National Treasury Report coordination between three spheres of government is far from perfect. It is noted that, in this regard, national department has excellent capacity and capability whilst the provincial sphere has limited capacity (Ibid). Both national and provincial spheres may intervene on local sphere where deemed necessary to ensure successful operation on the development of road network. Although SANRAL has managed to build and retain experts’ technical staff over the years, this has not been the case in other public sector agencies (Lanava, 2015).

According to SANRAL estimates (2010) the South African road network comprised some 606 978 km of proclaimed national, provincial and municipal roads. Hence the unproclaim roads were never formally adopted by any sphere of government as part of its official network. Inevitably those who live in rural areas, where there are unproclaim roads, do not have access to roads that are maintained by one or the other sphere of government (Ibid). The national DOT ought to compile a report detailing the extent of national public road inventory, but DoT relies on provinces and municipalities to provide information based on their monitoring of roads (National Treasury, 2009). This entails a need for coordinated effort across the three spheres. However, the information provided by provincial and local spheres is often insufficient because there are roads where there is no sphere that has claim to be in their jurisdiction. National Treasury further observed that the absence of accurate and reliable data makes effective analysis extremely difficult (National Treasury, 2011). Therefore, the lack of information also hampers accurate budgeting at the local level. Hence this is where national DOT and treasury needs to provide support.

Table 10.1 South Africa Road Network (2010)

Road Authority	Paved (km)	Gravel	Total	Network Split
National Roads	16 170	–	16 170	2%
Provincial Roads	48 176	136 640	184 816	25%
Metros & Municipalities	89 373	316 619	405 992	54%
Unproclaimed Rural Roads		140 000	140 000	19%
Total	**153 719**	**593 259**	**746 978**	**100%**

Source: SANRAL (2010)

This table shows that 79% of the roads in South Africa are gravel roads and only 21% are paved. This needs to be seriously considered when budgeting for maintenance as gravel roads require maintenance more frequently (SANRAL, 2010). Automobile Association report (2008) that has provided a review of South Africa's national and provincial roads over 20 years, reported that only 7% of the country's rural road surfaced networks was deemed to be in poor or worse state in 1998. However, the data recently published by SANRAL (2010) indicates that the proportion of paved provincial and national roads in poor or worse condition now constitutes nearly 20%. The literature suggest that the lack of coordinated effort among different spheres of government make it relatively difficult for SANRAL to finance and maintain road network as mandated by SANRAL and National Road Act of 1998. The technical and administrative incapacity in local and provincial spheres, lead to outsourcing or contracting out certain services to private entities with necessary capacity to fulfil the task. Hence it is necessary to discuss policy legislative framework and issues around SANRAL.

4.7 A review of the South African National Road Agency Limited (SANRAL)

4.7.1 Procurement

SANRAL, as it was established after the dawn of democratic dispensation, makes contribution towards road safety by maintaining and improving the road environment by identifying hazards and addressing them with appropriate solutions (SANRAL Annual Report, 2010). In addressing past imbalances, SANRAL continue to make effort to promote transformation by ensuring that Small, Medium and Macro-Enterprises (SMMEs) are exposed to work experience (Ibid). SANRAL prioritise the black owned enterprises and when partnering with private parties it give preference to the previously disadvantaged people. This is informed by the Code of Good Practice issued by the Minister of Trade and Industry in terms of Broad-Based Black Economic Empowerment Act, 2003 (the BBBEE Act). Moreover, the Preferential Procurement Policy Framework Act, 2000 also apply in their procurement process to ensure the financial accountability to treasury as to how the value for money, affordability and risk transfer has been satisfied. This is aimed at positively empowering small businesses by including them in economic market. The chairperson of SANRAL (2012) reported that this SOE often carry out feasibility studies, traffic studies, socio-economic benefit analyses and environmental impact analysis. It has reduced dependence on tax-based revenues by exploring proactively other modes of raising revenues. Hence this entity operate under the mandate of central government and operate under a well-defined treasury-related corporate governance rules.

4.7.2 Public-Private Partnership

As established earlier, SANRAL is involved in PPP projects, under which toll roads concessions are offered to private companies under BOT contracts. Through PPP initiatives SANRAL can negotiate investments for periods well beyond government's three-year budgeting horizon and to expand its network (National Treasury, 2014). The BOT contract transfer operational risk to the third part but SANRAL remains accountable for administrative-related delayed (Ibid). SANRAL has successfully completed three major PPP projects namely N1/N4 Platinum Highway, N4 Maputo Development Corridor and N3 Cedara to Heidelberg. However, these roads account for less than 10% of SANRAL's existing network. The N4 Maputo Corridor is a concession PPP project to build infrastructure using private funding and relieve burden on tax under the authority of government (SANRAL, No date). Hence it involved two governments and TRAC as a private actor and there were commitments for social responsibility premised on the desire for transformation.

In principle the management structure and governance clearly point to a high degree of operational integration with the government. According to the CEO of SANRAL (2012) management practices are oriented towards improving efficiency, albeit within limits and principles embedded in its social mission. SANRAL consistently provides comprehensive financial statements which exclude qualifications by the Auditor General. This is because SANRAL subscribes to governance principles of transparency, social responsibility and accountability as embodied within the King III Protocol on Corporate Governance in the public sector (SANRAL Annual Report, 2012-2013). According to the Declaration of Intent (2009-2012) there is an annual performance agreement signed between Minister of Transport and the board which spells out the principles, performance indicators and budget based on which SANRAL is measured. In line with King III code of corporate governance, SANRAL's zero tolerance for unethical behaviour is reinforced by a code of good conduct that is applied within the organization. The following section discusses some of the challenges.

4.8 Challenges

4.8.1 Financial management

The road infrastructural development are predominantly located in urban areas at the exclusion of roads at periphery. According to National Treasury annual report of 2009 rural roads are becoming more worse than they were under apartheid compared to annual report of 2000 (National Treasury, 2010). Despite this legislative mandate but the contemporary reports suggest that SANRAL is characterized by illicit financial flows (Sunday Times, 2015). Methods of raising revenues, such as e-toll system, demonstrate financial profit shift from South Africa as a sole shareholder of SANRAL to foreign companies (Ibid). According to the study conducted by Makuta (2009) there is a strong financial management which was affirmed by the Auditor General in 2007. Hence the poor financial management firstly appeared on 2009-2011 annual reports with the increased incorporation of BBBEE companies (Moeti, 2013). Majority of companies that often partner with SANRAL are BBBEE principled as per transformational agenda of government. However, media has reported that most of BBBEE companies working with SANRAL have longstanding history with the board which is arguably deployed (Daily Maverick, Amabhungane, 2015).

4.8.2 Good governance

There is a serious lack of accountability on financial expenditures particularly on major projects that involve third part or non-state actors. In 2016 a major investor on SOEs Future Growth announced its intention to withdraw its investments on SOEs in South Africa, as they argue, due to lack of good governance and accountability (Sunday Times, 2016). There is a problem of patronage that undermines the attempt of improving corporate governance in line with King III principles. According to Mail & Guardian (2012) people who serve on the board are politically deployed and have longstanding history with the ruling elite. Inevitably the board enjoy special protection and thus compromising accountability and other operational functions without being accountable. From this account there is corruption which stem from protecting the board from accounting for their decisions to the National Treasury as per the legal framework of the agency.

Moreover, in line with transformational agenda of government, the use of BBBEE to include everyone in the economy turned out to be for the few politically connected black people at the exclusion of the majority (LGB, 2010). This suggest that the board identify potential procuring companies on the basis of connection over merit, which in long-term undermine the struggle of addressing inequalities. The SMMEs that work with SANRAL are owned by public officials or relatives of senior public officials. Although SANRAL supposed to create opportunities to include the previously marginalised people, but such opportunities remain for the few. SANRAL is continuously failing to raise sufficient revenues to finance the non-toll roads. Challenges facing this entity are evidenced by the numerous resignations of senior board members such as Tembakazi Mnyaka a chairwomen who resigned in 2014 (Daily Maverick, 2015).

Responsiveness

The national DoT is the custodian of SANRAL and this entity is legally mandated with responsibility of road network across the country. Hence the national department is more capacitated whilst the provincial sphere (most provinces) is often characterised by the lack of technical capacity and budget (LGB, 2010). It is only the national DOT which has authority to give SANRAL a task and where it is deemed necessary. This is to say SANRAL is only accountable to central government. Consequently provincial road authorities and those at local level either outsource or partner with private actors to carry out road network mandate based on performance agreement (Ibid). The outsourcing of some responsibilities, especial building and maintenance of toll route, gave control of such operations to foreign privately owned companies. The public refusal to comply with toll fess led to the decision by the board to take this small amount collected and pay these companies who were tasked with construction (Business Day, 2015. As a result Gauteng provincial government has recently made a call to national government to rethink the e-toll system.

Efficiency

The long-term projections for toll road projects indicate the debt burden climbing rapidly during the construction phase of the toll roads (DoT, 2012: 134). Given that toll revenues will increase gradually, SANRAL expects the net operating cash flow to be negative until 2030 for existing and new toll road projects (LGB, 2010). According to SANRAL annual report (2009-2010) in the foreseeable future this agency expect a huge deterioration of credit protection measures due to the start-up of the investment projects. The contemporary development on SOEs finance model is of greater concern to SANRAL.

In the Statement of Intent (2009-2012) there was a serious concern about over-expenditure and prolong duration of projects. This is problematic because SANRAL, in principle, often sign performance agreements which means the third part's contract can only be extended based on satisfactory performance. However, third parties or private actors do not only fail to satisfy expectations but their contracts are often extended and stand chance of winning other deals with the agency.

4.9 Conclusion

Before SANRAL was established in 1998, the responsibility for national roads rested solely with Transnet which itself was established because of public sector reforms at the SAR&H of 1910. This chapter has shown that SANRAL is mandated to operate along commercial lines in order to contribute to the national developmental agenda of government. This include enabling BBBEE.. SANRAL plays an active role in the development of road infrastructure in South Africa and beyond. However, there are pressing governance challenges facing SANRAL including corruption and patronage. There is evidence of institutional incapacity and a lack of good governance which calls into question the potential for SANRAL to meet is legislative and policy objectives. The next chapter provides a critical analysis of the importance of prioritizing governance in SOEs like SANRAL.

CHAPTER 5: CONCLUDING RESEARCH FINDINGS AND ANALYSIS

5.1 Introduction

This chapter presents the concluding argument of this study based on the research findings and the analysis thereof. It revisits the conceptual framework on SOEs and its relevance to SANRAL. This chapter re-examines arguments for the establishment of SOEs. Chapter Three presented a background of SOEs in South Africa. It was shown that SOEs can be, and have been utilised by governments as a means for economic reform in the public sector in order to promote economic growth.

A closer review of the rationale of the establishment of SANRAL and its objectives is presented in this chapter. The chapter identifies and analyses the key governance issues facing SANRAL and analyses the public sector reforms undertaken by the Department of Transport relevant to SANRAL, such as the introduction of public private partnerships. Based on this analysis, the chapter concludes the study and makes some recommendations that could assist SOEs such as SANRAL with their aims of achieving the developmental goals, such as those of the National Development Plan (NDP).

5.2 Arguments for the establishment of State-Owned Enterprises

This study has shown that there are various arguments advanced for the establishment of SOEs and that governments have high expectations of SOEs. During the 20th century, traditional governments became incapacitated by too much bureaucracy resulting in an inability to deliver effective services to the general population (Kamarck, 2007: 15). Some of these reforms resulted in the creation of SOEs in order to reduce state debts and enhancing the capacity and competitiveness of the SOEs (Mokwena, 2012: 43-44). SOEs have a reputable record of providing people with public services such as water, electricity, sanitation, and energy. SOEs have successfully been adopted by governments worldwide, resulting in increased competition and protection against monopolistic behaviour, which in turn has resulted in economic growth and development (Balton, 2010: 45).

As established in Chapter Two, most countries towards the end of the 20th century realised a need to move away from traditional bureaucratic governance into a more entrepreneurial organization in the 21st century (Karmack, 2012: 11). There was a need for entrepreneurial organization that complemented traditional arrangement. Operating on commercial lines for SANRAL resonates with the NPM approach which holds that commercialisation is a technique to make SOEs profitable (Economic Commission for Africa, No date). This is because NPM proposes the adoption of market-related delivery methods in the public sector for the implementation of government programs (Ibid). The expectation was that this method will improve the effectiveness and efficiency of government programs.

Hence the rationale for the establishment of SANRAL was to create a state agency that will maintain and develop the expanding national road system of the Republic (SANRAL and National Road Act, 1998). As part of government's commitment to transform the public sector, SANRAL was established in April 1998 through an Act of parliament to operate along commercial lines. Moreover, SANRAL was established to take charge of the development, maintenance and rehabilitation of national roads within the framework of government policy (Ibid). In a nutshell, the rationale for establishing SANRAL was to have a public entity fully owned by government with the Minister of Transport as custodian, responsible for the financing, management, and control and planning of the national roads of the Republic. SANRAL is therefore legally mandated to generate revenues in order to finance, improve, manage and maintain the national road network system. Moreover, SANRAL is responsible for financing all related functions in accordance with its business and financial plans in order to ensure that government's goals and policy objectives concerning national roads are achieved. There are objectives set for SANRAL from its inception. The following section revisits the theoretical rational for the establishment of SOEs and considers the relevance to South Africa, with a specific focus on SANRAL.

5.2.1 State-Owned Enterprises improve socio-economic development

SOEs play a constructive role in transformation through the creation of jobs and skills development (Makuta, 2009: 45). Certain countries, including South Africa, rely on SOEs as a means to address market failure and improve the development strategies (OECD, 2014: 65). Traditionally, governments of large and emerging economies rely on the performance of the private sector and SOEs to drive their economic agendas and enhance competitiveness of their countries. In undertaking government's commercial activities, SOEs provide employment and skills development which are crucial elements of development (Mostert, 2002: 5). This is affirmed by Marrez (2015: 2) who argues that SOEs play an active role in a country's economic growth.

Moreover, SOEs promote economic efficiency through competing with the private sector to deliver public goods and services (OECD, 2014: 17). The study did point out that not all SOEs serve a commercial purpose. There are non-commercial SOEs aimed at responding to the social needs of the people and life improvement through delivering quality social services (World Bank, 2010). According to South Africa's Presidential Review Committee (2015), SOEs are expected to assist in addressing issues of social and economic transformation, and bridge the gap between the rich and poor. Given the strategic position of SOEs, Gumede (2012) argues that they can play a critical role in catalysing socio-economic transformation. Moreover, McGregory (2012: 1) contends that SOEs in South Africa can provide capacity building for innovation as they employ private sector methods.

However, despite the existence of significant SOEs in South Africa, and their efforts made, the results achieved remain inadequate. In some cases, the poor and their socio-economic situation has deteriorated. South Africa's 2015 Presidential Review Commission argues that the cause of this outcome is because there is no commonly agreed strategic priorities of SOEs to enhance the achievement of the developmental state (Presidential Review Commission, 2015). Not every SOE provides skills or employment, some operate as traditional government departments (Fourier, 2011: 24-25). The study has found that though many developing countries rely on SOEs to remedy their economic failures, few have managed to do so. (Turner and Hulme, 1997). This, according to Agranoff and Brinkerhoff (2002: 24) is because SOEs may be able to adopt private sector methods to enhance efficiency and effectiveness but they are often unable to sustain such methods. For example, incentives have been identified as an essential lubricant for public private partnerships, however it is relatively hard for SOEs to offer incentives that are appealing enough to convince the private sector to invest its capital into public development projects (Agranoff and Brinkerhoff, 2002: 24).

This study has shown that SANRAL as one of South Africa's commercial SOEs, has been struggling to generate sufficient profits or revenue to sustain their operations hence SANRAL relies heavily on financial government support. (Presidential Review Commission, 2015). However, this study argues that while SANRAL is not generating a profit, it can contribute to socioeconomic development needs of South Africa. But in order to assess this, there is a need to set developmental state priorities and objective. There is a need to clearly define the role of profit and non-profit SOEs. Therefore, this study argues that although SANRAL may not be profitable, it serve a crucial socio-economic purpose in that it provides South Africa with a quality national road network which is crucial for economic growth. As such, they do have the potential to contribute to the realization of the developmental state.

5.2.2 State-Owned Enterprises improve governance

Governance refers to how power is exercised in order to manage a country's economic, social and political affairs (World Bank, 1992). It is about the style of interaction between the governed and those who govern. SOEs are majority-owned government entities, hence government is ultimately responsible for the governance of SOEs. The manner in which SOEs in South Africa are governed must result in the required economic reforms, including promoting economic growth, increasing competition and protecting the state against monopolistic behavior (Moeti, 2013:17). SANRAL is locally owned, supervised and managed. It also ascribes to the principles of corporate governance (Bernier, 2011: 8). This means that the framework exists for ensuring accountability, transparency, and public participation because managers are locally based making them readily accessible. In South Africa, Parliament is tasked with monitoring and evaluating the performance of SOEs, including SANRAL.

Moreover, SOEs strengthen mechanisms of coordination with different actors that they often partner or compete with (Cassess 1994, OECD 2014, Bernier 2011). SOEs improve governance because they can be used as economic policy instruments to advance the agenda of the developmental state (Gumede, 2012). In principle, SOE structures allow government to hold its managers accountable through its dedicated ministerial departments. In the case of SANRAL, its custodian is the national Department of Transport. In line with New Public Management principles, SANRAL implements performance management strategies to hold their employees accountable.

SANRAL is governed by the Board of Directors which is comprised of eight members of whom seven are appointed by the Minister of Transport (SANRAL and National Road Act, 1998). Currently, there is a representative of the Department of Finance and a representative from the Department of Transport (DOT). In line with the King III Report, there are governance mechanisms in place. It is governed by the Board of Directors who practice ethical leadership in accordance with King III principles of governance, at least in theory, as appointed by Minister of Transport and it reports regularly (SANRAL Annual Report, 2014-2015). There is zero-tolerance for unethical leadership at SANRAL. There is a strong financial management and oversight system, i.e the Asset and Liability Committee (ALCO) which meets every month and is chaired by a representative from the Department of Finance (Ibid). This internal financial management body prepares the overall strategy for financial assets and liabilities, performs regular reviews of all aspects of financial risk management and exposures, and reports to the Board on Treasury operation (SANRAL Financial Report, 2010).

However, the study found that parliament and its portfolio committees are not quite able to hold Departments and SOEs to account for their (lack of) performance (PRC, 2015). SOEs are flexible to do business with any potential actor or investor in a cost-efficiency manner. Moreover, the study has shown that there is no clear distinction of government as policy maker and as a shareholder (Ibid). Despite governance mechanisms but accountability, especially from the board of directors, remains a problem, as to how and why certain decisions are taken. Moreover, there is often a lack of transparency. There is a lack of transparency in procurement processes as a result is not clear what is the criteria used to contract private actors (Makuta, 2009).

5.2.3 State-Owned Enterprises improve infrastructural development

According to Christiansen (2013: 6) SOEs are key actors in large cross-border infrastructural development. SOEs are often engaged in provisions that are significant on infrastructure priorities and development such as electricity, seaports, rail, airport and other sectors (Ibid). In developing countries SOEs are predominantly used to provide needed infrastructure and expand them to strengthen government support (Mostert, 2002: 2). For an example, in Ireland SOEs are involved in monopoly industries to provide cost-effective infrastructure. According to Gumede (2012) they often play crucial role in providing economic infrastructure and capacity building. Therefore, SOEs have positive impact on infrastructural development because it is often cost-efficient for a country to provide, maintain and improve infrastructure using SOEs.

In South Africa SOEs play a developmental role on infrastructure in partnership with the private sector to enhance efficiency and effectiveness. There are various forms of Public-Private Partnerships (PPP) as established on Chapter Two. Significant infrastructure is often provided through PPP projects. SANRAL manages two distinct funding portfolios namely, toll and non-toll roads. Non-toll roads are funded by the national fiscus through National Treasury's budget allocation whilst toll operation are divided into two; those funded by SANRAL and those funded through Public-Private Partnership (PPPs) (SANRAL, 2014: 51). SANRAL, through a concession model, partnered with Trans Africa Concession (TRAC) through road agency to provide road infrastructure connecting South Africa with Botswana and Mozambique, (SANRAL, No date).

However, South Africa's Presidential Review Commission states that SOEs contribute decisively to infrastructural development but only if priorities are set accordingly (PRC, 2015). Although new major freeways are built for the motorised few, but economically crucial infrastructure like rail networks are falling behind repairs (Wenzel, 2007). Since the advent of democracy in South Africa, government has sought to realign its public expenditure and the financing of public services to redress the imbalances of the past. However, their performance is not assessed on the basis of efficiency and effectiveness. There is a growing trend of SOEs, particularly in developing countries, that is channeled to infrastructural development such as roads, urban development, housing, public facilities and every infrastructure (Marrez, 2015). Therefore, SOEs play crucial role in the infrastructural development very efficient and effectively.

5.3 State-Owned Enterprises and public sector reforms

There are stages of public sector reforms on SOEs worth discussing. There are reforms of traditional government by establishing SOEs that nationalised the responsibility for economic development as opposed to leaving economic growth in the hands of private sector (Fortas, 2012). This is because, according to Turner and Hulme (1997: 156), government was perceived to be the only entity with capacity to engineer development. However, SOEs failed to achieve the intended outcomes and in fact they overburdened the state. They meet their theoretical expectation. As a result they were heavily criticised for lack of performance, thus creating a need for another reform.

Another stage of reform was premised on implementing private sector management practices to try and make the SOEs more efficient and effective because they were not generating the expected capital necessary for infrastructure development (OECD, 2014). In essence, failures of SOEs to deliver on expectations resulted into public sector reforms such as New Public Management (NPM) that promotes the implementation of private sector management principles in the public sector.

This, to some extent, happened in South Africa when one pays close attention to the history of SOEs. Transnet SOC Ltd initially nationalised the entire transport networks in South Africa. At this stage government was perceived to be the only entity with necessary capacity to engineer the development of the country. However, Transnet SOC Ltd became too big, unable to cover the entire transport sector alone thus creating a need for reforms. Then the implementation of public sector reforms strategies such as NPM which included privatization, PPPs, outsourcing and other techniques, resulting in the establishment of SANRAL and other subsidiaries. According to the Presidential Review Commission the current calls for privatising SOEs is an indication of public sector reform.

5.4 State-Owned Enterprises in economic transformation and empowerment

State-Owned Enterprises have the potential for economic transformation through job creation and skills development. SOEs play essential roles in South Africa in redressing past imbalances which are characterized by the exclusion of the black majority. The policy framework pertaining to SOEs stipulates that priority is given to previously marginalized service providers. It means the procurement process is transformation-oriented even when partnering with private actors. Moreover, there are three recognized standards of determining whether or not PPP is a viable solution than self-serving of services which are affordability, transfer of risk to the private actor and value for money (National Treasury, 2009: No date). In line with government's transformational agenda, PPPs requires BBBEE score points in order to provide sustainable socioeconomic impact in South Africa (SANRAL, 2005).

PPPs can create jobs and skills development for BBBEE partners. This can address the issue of inequality. Although there are different types of PPPs, as established in Chapter Two, SANRAL often employs the BOT or concession contracts because it enables this entity to recover its investment, operating and maintenance expenses. In BOT contracts, the private actor receives a concession from the public sector to finance, design, construct and operate a facility stated in the concession contract (GLB, 2014). SANRAL put strong emphasis on creation of opportunities for Small, Medium, and Micro-Enterprises (SMMEs).

Based on this study, major projects managed by SANRAL in 2011/2012 involved SMMEs contractors, local labour, skills transfer and trainings (SANRAL, 2014: 17). However, this study found that it is not clear how the King III principles of corporate governance have been implemented by SANRAL. Wenzel (2007: 56) contends that the bidding and procurement process of these contracts is not transparent. This is because these processes do not make room for public participation to involve "the people" SANRAL aims to empower. The media contends that the PPPs do not lead to widespread black economic empowerment, but only benefit the few elite (The Sunday Independent, 2009). Companies that often partner with SANRAL does reflect preference for BBBEE constructors but most of these companies are not necessarily owned by black people, they have rather partnered them to satisfy BBBEE scores (TheBusiness, 2014).

Moreover, there is a problem of corruption in the procurement process (Daily Maverick, 2015). This is evidenced by the contracts awarded to companies who often fail to provide the expected service at the expected time frame, but no actions taken. The study has found that corruption is perpetuated by the lack of accountability and transparent. This entails that there is institutional incapacity that hinders the achievement of strategic objectives highlighted above and empowerment (Economic Commission for Africa, No date). Such weaknesses have stifled the process of socioeconomic development. There is also a problem of nepotism, where contracts are given on basis of favours not merit which undermines the efficiency of service. This entails that even some SMMEs contactors and BBBEEs empowered have long standing relationship with the officials (Wenzel, 2007: 34). The following section explores the legislative framework for SANRAL.

5.5 Legislative framework of State-Owned Enterprises

In theory SOEs should be regulated by legislation to ensure that they can be accountable using SOE specific strategic financial management. This is because there is a need for universal mechanisms for planning, implementation and reporting of SOEs. In South Africa, the study has shown that there is general legislations that apply indirectly to SOEs. These relevant legislations include Companies Act, Public Financial Management Act, Municipal Systems Act, Municipal Structures Act and Municipal Financial Management Act. Different legislations offer different meanings of SOEs and processes of either establishing or disestablishing SOEs (National Treasury, 2009). South Africa has no common agenda for and understanding of SOEs and consolidated national strategy (Presidential Review Commission, 2015). The study contends that these legislations are indirectly relevant and there is no Act that precisely regulate SOEs. However, there is a need for unique meaning and understanding of SOEs. SANRAL, apart from these general legislations, has SANRAL and National Road Act of 1998. However, SANRAL is legally required to be abide by the PFMA. Hence the study has found that legislations on SOEs are not consolidated so there is a need for an Act specific to SOEs and this Act should stipulate specific obligations and the roles and requirements of SOEs.

5.7 Conclusion

The study has shown that there are different arguments for the establishment of SOEs. In South Africa there are general legislations pertaining to SOEs so they apply indirectly and therefore, there is a need for SOEs Act. This is to say that government should work on creating legislative clarity in order to create an enabling environment for SOEs. SOEs have potential to empower people and contribute to economic transformation by prioritizing BBBEE and SMMEs. According to the Presidential Review Commission government ought to foster popular participation in order to ensure the responsiveness, accountability and transparency on governance of SOEs to achieve developmental agenda. To channel SOEs in a right direction government should identify strategic sectors that have potential to support SOEs to achieve the developmental state agenda. There are different forms of public sector reforms that has unfolded in the history of SOEs in South Africa. This is evidenced by transformation from Transnet which a huge entity managing the entire sector to SANRAL which is only tasked with financing, maintaining, developing and sustaining the national road networks. To deal with incompetency of some of the SOEs government ought to institutionalize a competent, efficient and accountable system of governance geared towards realization of the developmental state. There should be a policy for compulsory periodic review of SOEs to ensure that SOEs are monitored.

CHAPTER 6: CONCLUSION

The study has shown that the use of SOEs is influenced by different factors such as economic transformation, infrastructural development, job creation and skills development. SOEs often render different form of services depending on the purpose of their establishment. The objective of this study was to analyse the governance of the South Africa National Road Agency Limited and ascertain some issues facing SOEs in South Africa, with special reference to SANRAL. The case study has shown that SOEs in South Africa have potential of bringing benefits efficiently: high international comparative as ranked by the World Road Federation as one of the world's leading road agency and economic gains, among other things.

The DoT believe that in 2020 most national route will be integrated to improve efficiency and access to quality roads (DoT, 2013). One could argue that SANRAL governance approach could have improved on issues such as accountability and transparency. Makuta (2009) argument advanced in Chapter Two relating to the use of SOEs- that director's accountability is far more crucial for the success of SOEs. While SANRAL has demonstrated that PPPs may be a good vehicle for the attainment of BBBEE, there is challenges of transparency in the procurement process which may overshadow benefits of PPPs. The case stresses the importance of transparency and accountability in the procurement process, thus skeptical of political influence or patronage.

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