

MPS DRAGGING THEIR FEET -
WHEELS ARE TURNING BUT WE
ARE GOING BACKWARDS:
OUTA 2021 REPORT ON
PARLIAMENTARY OVERSIGHT IN
SOUTH AFRICA



ADVOCACY BRIEF 1: PARLIAMENTARY OVERSIGHT REPORT

Purpose:

The purpose of this Advocacy Brief is to provide a succinct overview of the 2021 Report on Parliamentary Oversight in South Africa as presented by OUTA.

Background:

In the 2020 report, OUTA outlined the constitutional mandate for Parliament's oversight function, highlighting that "In most democracies, Parliament has a constitutional mandate to represent the People and to protect fundamental democratic values.

Facilitating public involvement in political decision-making is a key function through which Parliament fulfills this mandate.

In a global political context increasingly marked by shrinking civic space, Parliament's watchdog role is more critical than ever."

Why is it important for people to have a voice in Parliament?

For OUTA, it is important because this ensures that public resources are not abused with impunity.

PARLIAMENTARY OVERSIGHT REPORT METHODOLOGY

Qualitatively, OUTA analyses the workings of Parliament from July of each year to June the following year. This timeframe enables us to look at the BRRR, the SONA and how / whether the next year's APPs and budgets incorporate recommendations from the previous year. Quantitatively, OUTA examines indicators such as the number of meetings a Portfolio Committee had each year, whether the Minister attended, how many times the committee held public hearings (oversight related), and whether their reports reflect the inclusion of CSO inputs.

THEORY & PRACTICE

There is a discrepancy between the role of Parliament in terms of the Constitution and its own utterances, and how that is enacted in practice. In South Africa, Parliament has a crucial constitutional obligation to involve the public in its functioning. In the wake of the Covid-19 pandemic, Parliament had to adjust its operations to accommodate its function as both an oversight and policymaking authority serving the public interest. It is noted that with the shift from offline to online operations, the results have largely been positive. More citizens have been attending the Parliamentary Portfolio Committee meetings than before Covid-19. But there are limitations to the progressive impact that Parliament's operational adaptations have had.

PUBLIC PARTICIPATION

More citizens have been attending and watching Parliamentary Portfolio Committee meetings than before Covid-19. On the downside of online participation is the concern of accessibility. A substantial number of citizens are excluded from such engagements due to limited data and broadband provision, notwithstanding lack in trustworthy information and communication infrastructure. This discrepancy reinforces the already-existing digital divide in South Africa between those who are fortunate to have access and data provision and those that do not have it. Further, the meaning and effectiveness of public participation has been eroded over past years. This is illustrated by the abandonment of Extended Public Committees in favour of Mini-Plenaries, which do not involve civil society.

PUBLIC INTEREST

The failure of MPs to promote public participation most likely results in inadequate measures to hold the Executive to account. Another instance to gauge acting in the public's interest is to consider how important MPs view attending the Parliamentary Portfolio Committee meetings. Lack in attendance can be translated to lack in interest. During 2020/2021 the rate of attendance by Ministers in a variety of committees has been low, ranging from 10% to 75% - hardly a distinction. This is compounded by the fact that attendance itself does not necessarily result in oversight, functionality, and the implementation of accountability mechanisms at the disposal of MPs.



CONSTITUENCY ENGAGEMENT

Watching parliamentary proceedings does not imply increased public participation. The public can only participate meaningfully and regularly if MPs engage with their constituencies. Political Party Funding through Parliament is extremely relevant in this case. This funding must translate into measurable constituency engagement by representatives with people. If it does not, then that means funding is funnelled to cover salaries, rent, events, and other opaque expenses. Taxing society should result in transparent outcomes. There must be a correlation between engaging with communities within one's constituency and holding colleagues in Cabinet to account.



OUTA has picked up the issues of MP accountability, as well as constituency engagement and parliamentary oversight, because MPs failed to prevent state capture and the systemic erosion of the state's capacity or willingness to responsibly spend money in the public interest.

— OUTA on Electoral Reform

PARLIAMENTARY OVERSIGHT

STRUCTURAL REFORM

The digital divide concern has two prongs: 1) it reinforces structural inequalities and 2) it highlights MPs' and government's failure to attend to pressing Information and Communication Technologies (ICTs) needs such as affordable broadband roll-out. It is a vicious circle which keeps the underprivileged members of society trapped in socio-economic and techno-political poverty. Structural reform also necessitates greater efforts to improve transparency of political party funding allocations, access to documents and information in the public's interest, and the enforcement of accountability mechanisms such as the Oversight and Accountability Model of Parliament (OVAC), its Code of Conduct, and the Financial Management of Parliament and Provincial Legislatures Act, to name only a few examples.

ETHICS COMMITTEE INTERACTION

There is one other committee which is not related to the Executive but is rather concerned with the conduct of Members of Parliament. The Joint Committee on Ethics and Members' Interests is a multiparty committee which deals with complaints and investigations related to the conduct of MPs. This is a necessary part of checks and balances, and in our view, this committee should help to meet the public's expectation that MPs should act with integrity. OUTA has laid several complaints with this committee and this part of our analysis looks at what the outcome has been to date. There has been no action. Either the committee felt the evidence we lodged was not credible, or it decided not to act on allegations of serious misconduct despite it being backed up by credible evidence.





KEY MESSAGES

The oversight function that should be provided by the Parliament of South Africa, is designed to serve the citizens of South Africa by representing their interests. This function extends to the citizenry, who should in turn hold Parliament to account. If the citizens are precluded from engaging with, and enforce accountability of, Members of Parliament, then this oversight function is effectively disabled. It is thus essential that Parliament prioritises the interest of the public over and above their party affiliations.

CHALLENGE

It is required of Parliament to level-up and rise to the challenges currently confronting us. They hold the privileged position of not only representing the public, but also of being handsomely compensated to do so effectively. Another requirement for Parliament is to engage with civil society more constructively, not only doing so with government departments. Civil society could strengthen the Parliamentary oversight processes by enabling politicians to access alternative sources of information.

GENERAL EXPECTATIONS

There are expectations of parliament, which include:

- Representation of the public's interests
- Politicians and MPs must be active citizens themselves
- MPs must uphold the highest moral code and act with integrity
- MPs must oversee the executive



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