

# MPs asleep at the wheel

A report by the Organisation Undoing Tax Abuse

November 2020

## Executive summary

### **Parliamentary oversight is weakened by MPs who are busy but ineffectual**

#### **MPs rely primarily on official information to assess the effect of government delivery**

One of Parliament's core functions is oversight of government and the executive, on behalf of the public.

OUTA's assessment of the first year of oversight by the 6<sup>th</sup> Parliament found significant limitations in this oversight.

Parliamentarians do not take sufficiently effective action against corruption and maladministration, too often allowing themselves to be distracted by emotional issues or simply failing to pursue matters to finality.

OUTA assessed oversight during 2019 by eight National Assembly committees, three of them in depth, and found that the committees failed to use any sources other than from the entities which they are supposed to hold to account.

This means that Members of Parliament are relying on the very departments that they hold to account for the information on which that oversight is based. It is extremely unlikely that departments would present their weaker sides to Parliament, and the opportunity to strengthen oversight through the involvement of civil society inputs is lost.

Despite calls by the President for government leadership to act with integrity, and the need for personal values of integrity, accountability, honesty and justice to be visibly engrained in the day-to-day behaviour of influential public office bearers, MPs remain very busy but not directed towards rooting out systemic corrupt practice, to prevent the continuation of state capture and looting of taxpayers' money.

Accountability mechanisms and core oversight committees such as the Joint Committee on Ethics and Members' Interests are in place, but these must be used with the highest degree of duty and responsibility for them to be effective. Whether this has been the case thus far is evidently doubtful.

This report is part of OUTA's support for the civil society campaign to push for greater accountability of the executive and to ensure that Parliament puts the interests of the public first. It is OUTA's second annual report on parliamentary oversight.

The National Assembly committees focused on in particular are:

- The Portfolio Committee on Mineral Resources and Energy (PC on DMRE);
- The Portfolio Committee on Public Enterprises (PC on DPE); and
- The Portfolio Committee on Cooperative Governance and Traditional Affairs (PC on CoGTA).

Findings include:

- Parliament's oversight and accountability (OVAC) model needs clearer standards for public participation, the use by committees of such information to influence governance, and feedback to the public. The current system conflates communication and information sharing with qualitative public participation, which is not necessarily the case. Public participation is a cornerstone of good governance and can provide an alternative view of departmental performance.
- During the 6<sup>th</sup> Parliament, few committees took the opportunity to involve external stakeholders; indeed, during the first year of the 6<sup>th</sup> Parliament there was less formal interaction at committee level with NGOs than during the 5<sup>th</sup> Parliament. Of 10 committees assessed in 2014 (these were amalgamated to eight committees by 2019), 30% drew on sources other than government in their oversight reports. This improved in 2018 but for 2019, these eight committees failed to include any sources other than the entities they hold to account.
- MPs are thus almost entirely reliant on information from the very entities which they are supposed to hold to account. The notable exception is the Portfolio Committee on Cooperative Governance and Traditional Affairs, which has managed more inclusive involvement through acting on public petitions.
- While OUTA found parliamentary officials usually helpful, a fundamental flaw is the inability of MPs to respond to queries or emails.
- There is a lack of continuity from the previous parliaments, which means that governance challenges identified by the 5<sup>th</sup> Parliament are not being addressed.
- The average number of meetings each portfolio committee holds rose three-fold from 2014 to 2020, with the PC on CoGTA holding the most at 45 meetings in the first year of the 6<sup>th</sup> Parliament. Committees were able to move their work to the virtual meeting space. This is heartening, as the committees are the engine room of Parliament.
- The executive is becoming more accountable to Parliament, based solely on the number of meetings which ministers and deputy ministers attend.
- Committees are busy, but overlook substantive issues, partly due to time constraints but also to choices of issues, failure to set timeframes or deadlines for responses from ministers and officials, and lack of follow through. Priority should be given to systemic changes which prevent abuse of public funds and enable the recovery of wasteful expenditure from miscreants.
- Committee legacy reports on the 5<sup>th</sup> Parliament were of varying degrees of usefulness. The PC on CoGTA report wasn't available, which was a problem.
- The committees made varying attempts to address problems of state capture and corruption, which was influenced by the legacy reports of the 5<sup>th</sup> Parliament. This ranged from the PC on DPE carrying out an inquiry into Eskom and submitting a strong report to the Zondo Commission on State Capture, to the PC on DMRE which failed to take decisions specifically regarding state capture or corruption. There is a lack of action by committees around corruption and maladministration generally.
- During October and November 2020, Parliament was instructed by the executive to finalise the crucial Budget Review and Recommendations Reports (BRRR) process without even the Auditor-General reports on the financial reports. Parliamentary oversight of 2020 is thus effectively nullified. We would like to see mandatory public hearings in September each year as part of MP preparation for the BRRR process.

- The current political system appears to reward unethical behaviour. For example, three former ministers who were heavily implicated in state capture are no longer ministers but were promoted by Parliament from ordinary MPs to chairs of committees. The two committee chairs who ran the only effective inquiry into state capture (the PC on DPE inquiry on Eskom) are no longer in Parliament. The chair of the committee which oversaw the illegal nuclear power deal is now a deputy minister. If Parliament is truly to be the third pillar of governance, independent from the executive and the judiciary, then senior parliamentary politicians should not be eligible for executive positions, and those in the executive should not be able to return to Parliament once they have served their term of office.
- The concern is that the 6<sup>th</sup> Parliament, despite continuing to meet and deliberate, and to engage with the relevant ministers, will continue to be asleep at the wheel, to be accused next year of once again aiding and abetting state capture and being unable to stem the systemic problems that the looters have honed to a fine art over many years.