PARLIAMENT WATCH

Parliament Watch, a collective of independent civil society organisations working towards the advancement of social justice, the realisation of human rights, and strong constitutional democracy in South Africa, makes this written report to the Speaker of the National Assembly; the Chairperson of the National Council of Provinces; the Chief Whips of the ANC, DA and EFF; as well as the Secretary of Parliament. This report will provide an opportunity for us to share our observations, analysis and recommendations culminating from three years of monitoring selected committees in Parliament

This report was compiled by the following Parliament Watch members:

2016: Equal Education Law Centre; Public Service Accountability Monitor; Right to Know Campaign; Social Justice Coalition; Women and Democracy Initiative: Dullah Omar Institute; Women on Farms Project

2017: Equal Education Law Centre; Public Service Accountability Monitor; Right to Know Campaign; Social Change Assistance Trust; Social Justice Coalition; Women and Democracy Initiative: Dullah Omar Institute; Women on Farms Project

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1. Introduction

1.1. Background to Parliament Watch

In 2014 and 2015, a small group of organisations, which have been working together on different initiatives to increase claims on the legislatures, agreed to set up Parliament Watch as a collaborative project to strengthen constitutional democracy in South Africa through a sustained and coordinated process focused on the legislatures.

1.2. Purpose of Parliament Watch

Parliament Watch considers the legislatures as central to our democracy and having a crucial role to oversee effective service delivery, and advance social justice and transformation in South Africa. While increased public attention to debates and events in the National Assembly is evident over the past few years, the work of parliamentary committees generally falls outside of public scrutiny. Committees are the engine rooms of the legislatures, and are tasked with the development of laws and the detailed work of performing oversight to interrogate the performance of the executive. The organisations, which make up Parliament Watch share the goal of building the quality of South Africa's constitutional democracy by collaborating on actions aimed at holding the legislatures to account for their constitutional mandate.

1.3. The Work of Parliament Watch

Parliament Watch has been actively monitoring National Parliament, the Eastern Cape Legislature and to a lesser extent, the Western Cape Legislature, since 2016. This monitoring is conducted by a range of monitors from the Parliament Watch member organisations, with diverse experience engaging in the parliamentary space. Monitors include researchers, lawyers and community activists. Some monitors had not previously entered Parliament prior to joining Parliament Watch, while others had some experience in engaging with the legislatures on oversight and law reform.

Monitors made use of the publically available schedule of committee meetings, unofficially known as the z-list, to identify issues and committees to monitor. In addition, monitors tracked a few committees' reviews of annual reports and preparation of budget review and recommendations reports (BRRR). In 2016, monitoring was conducted from May to November. Parliament Watch's 2017 activities supported advocacy targeting MPs to represent the voices of their constituency regarding the Vote of No Confidence, which took place in August. Regular monitoring took place from September to December 2017. In 2018, monitoring took place from February to November.

Due to the diversity of interests and approaches of monitors and organisations in Parliament Watch, we have built our assessment of the performance of committees on specific issues or in relation to their general mandates.

Committees monitored at the National Parliament include:
- Standing Committee on the Auditor General
- Portfolio Committee on Basic Education
- Portfolio Committee on Communications
- Portfolio Committee on Higher Education
- Portfolio Committee on Justice and Correctional Services
- Portfolio Committee on Labour
- Portfolio Committee on Police
- Portfolio Committee on Public Enterprises
- Portfolio Committee on Rural Development and Land Reform
- Portfolio Committee on Social Development
- Portfolio Committee on Women in the Presidency
- Portfolio Committee on Telecommunications and Postal Services
- Standing Committee on Finance
- Standing Committee on Public Account
- Multi-Party Women's Caucus

Issues monitored include:
- social security
- public school infrastructure
- public school scholar transport
- public school safety
- allocation of police resources
- police high-level appointments
- rural women
- rural health services
- state owned enterprises (SOEs) ESKOM and SABC
- appointment of the public protector

1.4.   The purpose of this report

This report focuses on findings emerging from monitoring conducted by Parliament Watch during 2016, 2017 and 2018 in the committees listed above, and certain key issues dealt with in those committees.

Public participation within the legislative space should be at the core of South Africa's democratic process. Section 59 of the Constitution states that the National Assembly must facilitate public involvement in the legislative and other processes of the Assembly and its committees, and that it must conduct its work in an open manner and hold its sittings, and the sittings of its committees, in public. Section 118 imposes the same obligations on provincial legislatures.

Parliament Watch has, over the past three years, endeavoured to ensure that committees have complied with the obligation to facilitate openness and public access. As a coalition of civil society organisations, Parliament Watch has been in a position to observe the work of a range of committees in National Parliament and two provincial legislatures, and to assess this work against principles including openness, accountability and effectiveness, of which we say more below. Most Parliament Watch member organisations are rooted in working on critical human and socio-economic rights concerns facing many communities in South Africa. Because these organisations have a shared vision for protecting and strengthening democracy, we share in this report our experiences, insights and learnings with the legislature in the hope that it will serve a dual purpose of contributing to our democracy and providing an opportunity for meaningful public participation and engagement going forward.

2.   Analysis of committees' performance

Parliament Watch monitors participated in ongoing and overlapping processes of training, monitoring of committees and analysis in 2016, 2017 and 2018. We recognise that our qualitative approach has an element of subjectivity and affected by many complex factors. Committees in the legislatures are diverse and made up of representatives from different political parties. Their performance is also affected by the particulars of the issue being dealt with and the political context at the time.

However, the range of monitors and organisations that participated, and the consequent range of experiences of the legislatures, provide a sufficient basis on which to form a view on the broad themes, which we assessed.
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The Parliament Watch collective developed a monitoring tool to provide a guideline and direction to the monitors, allowing them to assess committee meetings in terms of a number of key themes. The monitoring tool (Annexure I) was developed with the legislatures' constitutional mandate in mind and covered four thematic areas: Access, Independence, Responsiveness, and General Effectiveness. This report provides our analysis and recommendations based on those four themes, as well as additional thematic issues that surfaced during our analysis and reflection processes. Those are: the role of chairpersons; and MPs' performance in committees based on political party affiliation.

Because it is difficult to separate the role and performance of MPs from that of the committees in which they serve, this report sometimes refer to MPs and at other times to committees in general. These themes overlap and are interrelated.

2.1. Performance of committee chairpersons

The role of committee chairpersons came up often during the analysis of our monitoring, warranting specific mention. Committee chairpersons, by nature of their position, hold an obvious amount of power and influence over the functioning and processes in committees and we saw examples of what we considered good, bad and inconsistent performance. These ranged from chairpersons appearing to protect members of the executive from probing questions from committee members (usually, but not always, opposition party members) to chairpersons who ensured that there was follow up and robust engagement between committee members, promoting non-partisan approaches to discussions in the committees.

Parliament Watch monitors observed chairpersons who showed commitment to ensuring due process and a range of inputs from members and some who were willing to challenge members of the executive. However, monitors also witnessed numerous situations in which committee chairs were protective and deferential towards members of the executive (particular senior officials) or where they blocked processes that could ensure accountability.

Selected comments from monitors regarding committee chairpersons:

- *But the chair of the committee is protective of ICASA. The chairperson is holding everyone back. (2016)*
- *Chair defends the DG and is overprotective and cuts time for questions. (2016)*
- *Chairperson would allow number of questions (up to 20) and department then just rushed through these. (2017)*
- *The chair, kept making excuses for the minister. (2017)*
- *Chair does not interrogate – just lets it go. (2017)*
- *The chair did a great job of forcing Heads of Dept/orgs to actually answer questions. Also forces MPs staying on topic. (2017)*
- *Chair is not critical enough or independent – does not make follow up, accepts any answers that department officials give – even if it leaves more questions. (2017)*
- *The chairperson tried many angles to find out why and what is happening. (2017)*
- *The chairperson would say – be careful what you are saying, the public is among us. (2018)*
- *[It is a] sneaky closure of meetings that carries on during lunch time. In one meeting [the chair said] the meeting is now closed but committee members will have a working lunch. (2018)*

Parliament Watch believes that a good chairperson can have a significant impact on the performance of a committee. Noting the good examples we encountered, we are still of the opinion that this aspect of Parliament's functioning needs to be improved. Some of the basic chairing skills we would expect a chairperson to practise are: maintaining the focus of a meeting; time management of the meeting process; managing conflict in a meeting; and ensuring questions are substantially addressed by the executive. It is our opinion that a good committee chairperson demonstrates qualities and skills above and beyond the basic functions of chairing a meeting.

Parliament Watch standards of good practice for chairpersons:
- Chairpersons should hold an impartial position (notwithstanding their political affiliation).
- They should avoid 'gate-keeping' whether in relation to the flow of information between the public and a committee or of opportunities for members of the pubic/civic actors to engage a committee.
- A good chairperson has the ability to unite a committee across political party divides - to get the committee to function as a unit.
- They should demonstrate the independence and strength to not be intimidated or dominated by other members or by the executive.
- Chairpersons should demonstrate effectiveness to ensure follow-ups and follow through with requests made by the committee and tasks assigned especially to the executive.
- They should ensure that meetings are conducted in an open and accessible manner that facilitates meaningful public participation.
- Chairpersons must ensure that support staff is doing what is required to ensure the smooth functioning of the committee

2.2. MPs' performance in committees based on political party affiliation

Political parties play a very important role in Parliament not only through the formal structures of the chief whips and party caucuses, but all MPs owe their position in Parliament to the political party they are affiliated to. Political parties appoint MPs and decide which committees they will serve on. Therefore, they have a role to play in ensuring they deploy members to Parliament who are equipped to fulfil their duties and to hold them accountable when they fail to do so. For this reason, we wanted to provide feedback regarding our analysis of members' performance based on their political party affiliation.

MPs' performance is a complex matter influenced by many factors not confined to which political party they belong to, their position within the party, the committee they serve on and their personal political views and opinions. Despite this, the experience of Parliament Watch monitors provides insight into trends regarding the performance of MPs in committees. Monitors observed that although there were instances where MPs made critical comments and posed difficult questions, this was far more likely to come from opposition MPs. We also noted that MPs regularly miss committee meetings without any formal apologies or explanations tabled with the chairpersons. No evidence could be found that MPs are at all held accountable for non-attendance of committee meetings. Monitors documented some examples of MPs who came to committee meetings well prepared but also found many instances of MPs who were clearly ill prepared, disinterested or distracted.

Selected comments from monitors regarding MPs' performance in committees:

- *ANC members were not debating, but leaving it to the chair – low key comments. (2016)*
- *Usually only a few committee members were contributing to the conversation – many were on their cell phones, sleeping or seeming uninterested. (2016)*
- *MPs were really good in the questions and concerns regarding the Annual Report. (2016)*
- *ANC MPs not so tough – like they are intimidated by generals and ministers. MPs ask non-questions. (2016)*
- *EFF walk in, sign and walk out. (2016)*
- *EFF ask hard questions when present. (2016)*
- *Mostly ANC were there. Many MPs not there. (2016)*
- *MPs seemed helpless to deal with departments that did not answer questions or do what they were asked to do. (2016)*
- *Members left early, sometimes didn't even wait for responses to questions. (2017)*
- *Members play games on phones, two/three leave early. (2017)*
- *Some committee members are raising the issues but there is no timeframe and nothing is happening. (2017)*
- *Opposition do push but ANC MPs protect the ministers in response. (2017)*
- *No follow up/ passion from MPs on outstanding documents or questions. (2017)*
- *An MP took a call in the meeting and the chairperson had to put an order for members to have respect while in the meeting. (2018)*

Parliament refers to the committees as the 'engine rooms of Parliament's oversight and legislative work'. By extension, MPs are the workers who drive the engines - the vehicle through which Parliament achieves its constitutional mandate. It is our assertion that although there are examples of MPs who live up to their obligations and duties, there is still significant room for improvement.

Parliament Watch standards of good practice for MPs:
- MPs deployed to committees should have sufficient time to properly execute their duties as a committee member;
- MPs should approach their committee work in a non-partisan manner as far as possible;
- MPs must utilise their privileges effectively to fulfil the oversight functions without fear or favour and be prepared to ask the tough questions;
- MPs should demonstrate that they are prepared for meetings.

2.2.1. African National Congress MPs' meaningful engagement in committees:

ANC MPs are the majority in all parliamentary committees. In addition, with the exception of the Standing Committee on Public Accounts (SCOPA), all committees are chaired by ANC members. There are numerous examples of ANC members engaging strongly and effectively in committee meetings; however our observations across committees is that only a small proportion of ANC MPs play an active and meaningful role in the meeting. In most committees only between one or two ANC MPs besides the chairperson meaningfully engage in the discussions. The active participation of the majority of ANC MPs witnessed in committees dealing with high-profile issues is unusual and a departure from their day-to-day low-profile work of committees.

However, Parliament Watch monitors have noticed with interest the impact of shifts in internal party politics within the ANC that became more public in the last two years. This seems to have resulted in a greater diversity of positions being voiced by different ANC MPs and increased critical engagement with members of the executive and thus greater potential for holding government officials to account. Whether these shifts will become the standard practice or whether it is merely a consequence of the current political context, remains to be seen.

We believe that should more ANC MPs exercise their oversight function and with rigour confront, challenge and hold the executive accountable, they could have significant impact on the performance of the executive.

2.2.2. Opposition political parties MPs' meaningful engagement in committees:

Our monitoring focused particularly on the performance of the Democratic Alliance (DA) and the Economic Freedom Fighters (EFF) in committees.

In our view, all vocal engagement from minority parties, in spite of the low potential for influence on final outcomes and decisions taken, can impact on the quality of oversight over departments and help to bring issues to light that may otherwise remain hidden. As such, even without weight, opposition parties can add value to the functioning of our democracy.

During our monitoring, we recognised that most challenges to the executive came from the opposition MPs, and that the opposition MPs were more likely to be prepared for meetings.

Democratic Alliance MPs' meaningful engagement in committees

Overall DA MPs, as is required by their role as the official opposition, appear to be well prepared for meetings and take a strong, active and engaged role in committees, often asking challenging questions of members of the executive. From the committees we monitored, it appeared to us that the DA in particular had a better record than other parties at submitting formal apologies for non-attendance.

Economic Freedom Fighters MPs meaningful engagement in committees

It is important to note that the majority of EFF MPs in Parliament are new to working in the legislature. In addition, all minority parties in Parliament, including the EFF, must divide a limited number of members across a wide range of committees. Understandably, this would impact those parties in making choices regarding which committees and issues they will focus on.

The Parliament Watch monitors indicated that EFF MPs participated in committees that engage with more contentious issues therefore receiving greater public attention. It was also noted that EFF MPs were more visible and loud in ad hoc committees dealing with inquiries or appointments, but were less consistent in the normal day-to-day work of regular committees. Monitors observed an improvement in EFF PMs attendance from 2016 to 2018. We believe that EFF MPs can contribute significantly to the functioning of committees if they were consistently present and engaged.

2.3. Openness and Public Access

Central thematic question:
–   Was the committee open and accessible to the public?

Monitoring questions to test for openness and public access:
–   Was it easy to access information about the committee meeting schedule?
–   How much notice did you have before the meeting?
–   Was the meeting postponed? If yes, where you given a reason why? How much notice were you given?
–   Was it easy/difficult for you getting to the legislature?
–   How easy or difficult is it to get to the committee room?
–   Did you feel welcome when you were in the committee room?
–   Was part of the meeting closed? Were the public asked to leave at any point? Were there parts of the meeting that were 'off the record'?
–   Did you know who the members of the committee were and which party they were from?
–   Could you tell who was from the executive (department)?
–   Were members of the public who had not made formal presentations allowed to participate in the discussions? What was that like?
–   Did you try to approach any MP/Ls or the Chair to introduce yourself or discuss an issue? How did they react to you? Did any MPs approach you? If yes who? What was that like?
–   Did you make contact with committee support staff (secretary or researchers)? Do you think it helped you?
–   Could you get copies of documents and presentations that were discussed?

The Parliament Watch monitors with little to no previous experience of accessing Parliament were struck by how accessible and welcoming the legislatures and many committees were. They were impressed with the ease with which they could gain entry to Parliament and sit in committee meetings. However, this group of monitors agreed that without the support of other more experienced monitors they would have been lost and overwhelmed the first few times they came to Parliament.

Monitors with more exposure and experience of Parliament had a less positive view and raised concerns centred on the subtle ways in which openness and access are hampered. These experiences, however, varied between monitors working in the provincial legislature in the Eastern Cape, the Western Cape and national committees. These differences are themselves worth considering in terms of the overall openness of parliament(s) in South Africa.

Some of the key points that emerged during our analysis were:

Committees' programme: Some committees' meetings were posted on the z-list with very little advance notice and monitors experienced meeting cancellations and venue changes on the day meetings were scheduled. Often the support staff in the reception centre were not informed of these changes and could not provide monitors with updated information on the day.

Venue: In some cases, committee meetings were held in venues that were too small and this could easily have been anticipated based on the public interest of a particular issue. Some important meetings for the public were shifted to hotels at awkward times.

Support Staff: Monitors noted the important role played by support staff of committees. Support staff were often helpful and facilitated access to information. However, monitors recorded instances where support staff were not helpful and this hampered access to information

Access to documents: Monitors did not have consistent access to documents and access took place at the discretion of support staff. Consistent access to documents will improve meaningful engagement of monitors and the public. Timely access to committee proceedings and documents is also especially important for effective participation.

Meeting procedures: Both experienced and newer monitors often struggled to understand the agenda for meetings as well as who the MPs were in attendance. This is a significant obstacle to making meetings accessible and open.

Selected comments from monitors regarding openness and public access:

- *Many committees put meetings on the z-list only the day before and sometimes on the same day. (2016)*
- *Space in committee meetings sometimes a problem – impedes public access. Or chairs squashed in back of room. (2016)*
- *Some of the venues are difficult to find. (2016)*
- *Postponements not updated so people don't know. (2016)*
- *MPs don't engage with us – seem surprised to see us? (2017)*
- *Venues don't change often, on the whole accessible, support staff are friendly etc. (2018)*
- *Since we have complained about closed meetings they now give the documents without asking. (2018)*

It is our assertion that Parliament is fulfilling only the very basic requirements of openness and public access. We believe and expect that Parliament has a duty to do more to facilitate openness and access.

Improving openness and access simply requires better planning and coordination. In our opinion, it should not be difficult for Parliament to improve, for example, advance notice of meetings; minimising last minute cancellations; ensuring that all support staff are aware of last minute changes; public access to documents in meetings; and the appropriate allocation of venues anticipating public interest.

We believe that committee meetings could achieve more meaningful openness and access by making the meeting process more transparent to those observing. Chairpersons of committees could for example explain the agenda, introduce the MPs present and name the MPs absent with and without apologies. The requirements of section 59 are that the assembly *facilitate* participation, and not merely allow the public to sit in a committee meeting. Those observing committee meetings should be able to understand what is happening in a meeting. Parliament Watch submits that Parliament has a responsibility to ensure this. Even though members of the public are generally not allowed to speak in portfolio committee meetings, they are often in Parliament representing organisations or communities on particular issues of concern to them. It is important that members of the public attending committee meetings are able to use their observations as part of a comprehensive public participation process.

Parliament Watch standards of good practice to improve openness and public access of committees:
- Advertise meeting schedules and cancellations, changes of date, time and venue with reasonable notice.
- When meetings are closed to the public, it should reflect in the meeting schedule with clear reasons.
- Notices of public hearings must be uploaded onto the legislature website well in advance to allow interested and affected members of the public adequate time to attend and make representations.
- Address/Improve infrastructure issues including among others translation services in meeting rooms, the size of meeting venues, meeting room signage and ease of access for people with all abilities.
- Portfolio Committee contact details should be updated more regularly and checked for errors where committee members have moved.
- Updated minutes of all committee meetings should be made available on the legislature website.
- Meetings must be conducted in an accessible manner to those observing. This includes the use of accessible language and the meeting procedures explained.

2.4. Independence, Oversight and Accountability

Central thematic question:

- Did the committee and its members seem to be acting independently from the executive (department) and did they perform oversight and hold the executive accountable?

Monitoring questions to test for independence, oversight and accountability:

- Who was present from the department? How senior were the department officials who attended the meeting?
- Were there people from the executive who did not come to the meeting? How did the committee react to this?
- Do you think the committee questions focussed on the most important issues? Do you think the questions and comments were relevant?
- Did the committee or chairperson seem to close down some questions and discussions?
- Did the committee ask the 'difficult' questions to the department? If you think difficult questions were asked, which political parties did those members come from?
- Do you think the department's responses were good? Did the department answer all of the questions or did they avoid some of them?
- Did the committee chairperson insist that the department must answer all questions or was the chairperson satisfied even if the department didn't answer the questions?
- Did the chair require proper engagement from the department with the different questions from the committee? Or was it only short quick responses before moving on to the next issue?
- Did any MP/Ls criticise the department? Which members and from which political parties?
- Do you think the chairperson or ruling party members tried to protect the department officials/Minister from criticism?
- Has the committee repeatedly noted concerns on the same issue without requiring the department to do anything concrete to address these?
- Has the committee followed up with its recommendations to the department from past meetings?
- Did the committee chair/ruling party members accept the department's explanations for why it had not made progress in any particular area? Or did they take a hard line?
- Does the committee seem independent of the executive/department?
- Do you think that the committee is holding/held the executive to account?

Overall, monitors reflect that the parliamentary committees appeared weaker than the members of the executive over which they should exert accountability. This is considered to be a consequence of the ANC majority in committees resulting in those members appearing to be deferential, sympathetic and protective towards members of the executive. Opposition parties thus have little to no influence over the outcomes and decisions of committees. Monitors noted that this was particularly the case when the minister or deputy minister were present. MPs were far more likely to be critical and outspoken with representatives from the executive with less seniority.

Monitors reflected that there were instances where ANC members and committee chairpersons did attempt to exert their authority over ministers or senior departmental officials but were ignored or resisted by those members of the executive. Committees generally failed to follow through with

departments on their requests for further information, or on ensuring that their recommendations are implemented. This failure to follow through is evident across political parties.

We noted the shrinking time allocated for committees to engage with departmental annual reports and developing BRRRs. We have serious doubts that committees can engage with this important oversight function with the rigour that is required to interrogate the executive's performance with the limited time scheduled. In addition, the tight time frames compromises meaningful public participation in this process.

Selected comments from monitors regarding independence, oversight and accountability:

– *At the same time that the committee members are tough on ICASA the committee is not so independent – it's not asking the minister to account, not challenging the minister. PC Communications not independent particularly when the minister is available. (2016)*

– *The committee seem to be independent - they want answers from the DHE. (2016)*

– Committee questions were basic. They didn't interrogate issues enough. Some members left early, sometimes they didn't even wait for responses to questions. (2017)

– *The chairperson looks like she is taking sides – when the acting chairperson steps in you can see that she is more impartial. (2018)*

– *Generally the members are asking good questions and showing independence. There is some posturing of independence but not always a sense that it is being pushed/followed up. (2018)*

– *The committee make sure to raise the issues of continuity and require the new minister to respond to issues previously raised. Committee took a strong stance against retrenchments in spite of it going very much against the executive's plan. (2018)*

'*Members of Parliament have freedom of speech, subject only to the rules of the Houses, when they participate in committees or debates. They have that right to ensure that they, as elected public representatives, can bring important matters to the attention of the Houses and the public. To protect this right, members enjoy certain privileges and protection in terms of an Act of Parliament called the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004*' https://www.parliament.gov.za/what-parliament-does

The lack of independence is a huge obstacle to effective oversight. MPs have powers and privileges that allow them to speak their mind and raise contentious issues as the above quote from Parliament's website confirms. Yet it appears to us that committees often only spring into action once issues have exploded into the public domain through civil society advocacy campaigns or litigation.

<u>Parliament Watch standards of good practice to improve independence, oversight and accountability:</u>

Without independence, committees will find it difficult to be effective; responsive; or open and accessible. We expect that MPs and committees in Parliament respond proactively rather than the reactively like we have witnessed. We also expect that MPs and committees play a leading role in bringing to light the issues affecting South Africans - holding accountable those in the executive responsible for those failures and ensuring corrective actions.

- MPs should act without fear or favour in the execution of their duties.
- MPs should utilise their privileges to expose and address systemic and critical failures of the executive.
- Committee members should not only rely on information provided by government departments during briefings but should consult diverse sources of information to aid in their duty of holding the executive to account. Civil society organisations, media and their own constituency work can inform this.

2.5.   Responsiveness to the Public

Central thematic question:
- Did the committee respond to issues that are of public interest or that were raised through submissions?

Monitoring questions to test for responsiveness to the public:
- Did the committee discuss issues that are currently in the public eye?
- Did the committee seem open to or reluctant to include public input?
- Were there any members of the public or civil society organisations making submissions to the committee?
- Did you think that the committee took the inputs from the public seriously?
- Did the committee engage in any depth with the content of public/civil society submissions?
- How did the committee respond to input from the public that was critical of the Minister or department's performance?
- Were there issues raised that the committee were not willing to address?
- If more than one organisation/person presented from the public, do you think they treated people the same or differently?
- Do you think the chairperson applied the rules fairly? Do you think that the rules may have been used to favour/help certain people or to silence other people?
- Did you think the public inputs affected or influenced the committee's positions or decisions?
- If you made a presentation: What was the experience of making a presentation and engaging with the committee like?

It is difficult to analyse committees' responsiveness without considering their independence as discussed under point 2.4. We monitored issues that committees were responsive to as well as other urgent issues affecting poor and marginalised communities that committees were not addressing. In addition, monitors looked for instances in which committees responded to issues that were being raised in the public domain. Amongst others Parliament Watch monitored the responses of

committees to the #FeesMustFall movement and the mismanagement of the SABC board and the social grants crisis in SASSA. The coalition also monitored responses to other key and often urgent issues affecting poor and marginalised people, including school infrastructure, inequitable police resourcing and women's inequality. These are all issues that have dire consequences when left unattended and cost taxpayers a lot of money to address. Monitors reflected that committees were far more likely to be responsive to issues already receiving media attention. Some critical issues we feel were not adequately addressed by committees include school infrastructure, unequal allocation of police resources and rural women.

Selected comments from monitors regarding responsiveness to the public:

- *When there is a boiling issue it is when you see the parliament being public through media. (2016)*

- *Frustrated because problems coming on for years but they don't have solutions yet. (2016)*

- *MPs don't engage with us. They seem surprised to see us. We feel unwelcome. (2017)*

- *There is still an element of not following up with current issues re SASSA/SAPO. After it switched over to Post Office you find the same problems but the committee are acting like all is okay now. (2018)*

- *It depends on the issue they're dealing with – if Public Protector so they are more responsive, but cybercrime they are bored and disinterested (2018)*

- *Yes responsive but on influence of the public it falls flat. You get promises that they will take your issues forward, but they don't follow through. (2018)*

As mentioned under point 2.4, the important oversight role of committees requires them to function proactively. We would expect committees to be the first to detect problems or issues rather than it first emerging via civil society or the courts. Monitors felt that MPs could and should do more to understand the daily lives and lived realities of ordinary people. Whether MPs are fulfilling their representative functions via their constituency work is not the scope of this report. Monitors did however deliberate on how committees could be more responsive given the possibility that some MPs may not have significant contact with their constituencies. Monitors brainstormed and came up with two possibilities. Firstly, committees could find opportunities and ways to engage with the members of the public observing committee meetings by having a suggestion box and a system for periodically addressing the contents thereof. Secondly, Parliament's TV channel could allow members of the public to text their comments that are then displayed on the screen similarly to the method employed by news broadcasts on TV. These ideas reflect an appeal from monitors that Parliament considers creative and out of the box thinking to improve its responsiveness to the public.

MPs have a responsibility to remain connected and informed regarding the needs and issues affecting the public that they serve. MPs are supposed to be a conduit of information from communities to parliament and from parliament to the communities.

Parliament Watch standards of good practice to improve responsiveness to the public:
Having a responsive committee is dependent on a committee that is open and accessible (see 2.3) to the public.
- Committee agendas should reflect relevant and current issues.
- Committees should be flexible to respond to issues that need urgent attention at short notice.
- Committee members should make a more conscious effort to frame discussions in what is relevant to the lived realities of ordinary people.
- Committees should actively seek public input and meaningfully engage with the information presented.
- In instances where public comment has been solicited and/or received by committees – feedback must be provided outlining the nature of the input and the action taken or in instances where such queries have been forwarded to other committees this should be indicated.
- Greater effort must be made to ensure that public enquiries are addressed and expected delays should be communicated by the relevant committee staff.

2.6. General Functioning and Effectiveness

Central thematic question:
Was the committee effective and professional?

Monitoring questions to test for responsiveness to the public:
- Was the committee meeting postponed and do you know why?
- Were all of the committee members present and did they all stay for the whole meeting? Could you tell who was missing/left early?
- Did the chairperson seem satisfied with the level of attendance?
- Did committee members seem prepared for the discussions? Did they refer to any background reading and documents?
- Were some committee members more active in the discussions than others? Do you think there were committee members not paying attention?
- Did you think that the questions they asked, and points they made were relevant to the issues?
- Did the committee follow up on past discussions or recommendations it had made?
- What did you think of the relationship between committee members from different political parties?
- Did differences of opinion between different committee members or from the public result in committee members shifting their positions (even a little bit?)
- Do you think the chairperson applied the rules fairly? Do you think that the rules may have been used to favour/help certain people?

We again reiterate that the performance of committees were not uniform, with some doing better than others at various moments. In addition we acknowledge that we did not monitor all of the committees all of the time but rather selected committees on different occasions. Despite this, we feel that our range of monitoring provides us sufficient exposure to make some comments and recommendations about the general effectiveness of the committees we tracked. It has been our observation that many MPs appear unprepared for meetings demonstrated by their lack of

knowledge of the topics on the agenda as well as not having the relevant documents or appearing to be unfamiliar with the contents of the documents that have been provided. We observed on a few occasions that departments and other entities presenting to committees could also frustrate committees ability to prepare because they have not submitted the relevant documents on time and/or they have not submitted the correct information requested.

Concerns regarding the poor performance of committees to follow through with request and instructions issued to departments and entities have been raised under point 2.4. We are reiterating this observation again because it relates to the effectiveness of a committee as well and this failure has implications for effective oversight. Some of the monitors were surprised and somewhat disappointed that issues raised and the level of discussions in committees were sometimes so basic and no different to what they had heard since South Africa's democracy. For the monitors this indicates a lack of building a more complex understanding of issues and an inability of committees to drive solutions from one parliament to another. We would like to suggest that committees improve their tracking system of requests and instructions issued by them to the executive.

Selected comments from monitors regarding general functioning and effectiveness:

- *Two members playing games on their phones and three left early. They don't respect time but want to rush out. (2017)*

- *The meeting started late because members don't take it seriously. (2017)*

- *There were no critical engagement or participation from them (MPs). It was as if they were bored and just going through the motions. (2018)*

- *Every time the committee meets on cybercrime, they (MPs) look lost. (2018)*

Parliament Watch standards of good practice to improve general functioning and effectiveness:
It is difficult for us to assess what the causes are when committees are not functioning optimally. Many factors need to be in place for a committee to function well which overlaps with points already made in the rest of the report, but summarised and restated again. It is our submission that committees can function optimally by getting the basics right.
- Proper coordination of logistical matters like placing committee meetings timeously on the z-list, appropriate venues, and availability of documents electronically or in hard copy format.
- Ensure skilled support staff that understand Parliament's constitutional duty to facilitate meaningful public participation and not act as an additional buffer to access.
- Similarly ensure MPs are present, prepared and on time for meetings to ensure quorums for decision-making.
- Establish a monitoring system to keep track of requests and instructions issued by committees and ensure that the committee is briefed on this regularly.

3. Recommendations

We have collated all of the suggestions and standards of good practice raised throughout this report under one heading for ease of reference.

3.1. Chairpersons

- Chairpersons should hold an impartial position (notwithstanding their political affiliation).
- They should avoid 'gate-keeping' whether in relation to the flow of information between the public and a committee or of opportunities for members of the pubic/civic actors to engage a committee.
- A good chairperson has the ability to unite a committee across political party divides - to get the committee to function as a unit.
- They should demonstrate the independence and strength to not be intimidated or dominated by other members or by the executive.
- Chairpersons should demonstrate effectiveness to ensure follow-ups and follow through with requests made by the committee and tasks assigned especially to the executive.
- They should ensure that meetings are conducted in an open and accessible manner that facilitates meaningful public participation.
- Chairpersons must ensure that support staff are doing what is required to ensure the smooth functioning of the committee

3.2. Members of Parliament

- MPs deployed to committees should have sufficient time to properly execute their duties as a committee member.
- MPs should approach their committee work in a non-partisan manner as far as possible.
- MPs must utilise their privileges effectively to fulfil the oversight functions without fear or favour and be prepared to ask the tough questions.
- MPs should demonstrate that they prepared for meetings.

3.3. Openness and access

– Advertise meeting schedules and cancellations, changes of date, time and venue with reasonable notice.
– When meetings are closed to the public, it should reflect in the meeting schedule with clear reasons.
– Notices of public hearings must be uploaded onto the legislature website well in advance to allow interested and affected members of the public adequate time to attend and make representations.

- Address/Improve infrastructure issues including among others translation services in meeting rooms, the size of meeting venues, meeting room signage and ease of access for people with all abilities.
- Portfolio Committee contact details should be updated more regularly and checked for errors where committee members have moved.
- Updated minutes of all committee meetings should be made available on the legislature website.
- Meetings must be conducted in an accessible manner to those observing. This includes the use of accessible language and the meeting procedures explained.

3.4. Independence

Without independence, committees will find it difficult to be effective; responsive; or open and accessible. We expect that MPs and committees in Parliament respond proactively rather than the reactively like we have witnessed. We also expect that MPs and committees play a leading role in bringing to light the issues affecting South Africans, holding accountable those in the executive responsible for those failures and ensuring corrective actions.
- MPs should act without fear or favour in the execution of their duties.
- MPs should utilise their privileges to expose and address systemic and critical failures of the executive.
- Committee members should not only rely on information provided by government departments during briefings but should consult diverse sources of information to aid in their duty of holding the executive to account. Civil society organisations, media and their own constituency work can inform this.

3.5. Responsiveness

- Committee agendas should reflect relevant and current issues
- Committees should be flexible to respond to issues that need urgent attention at short notice
- Committee members should make a more conscious effort to frame discussions in what is relevant to the lived realities of ordinary people.
- Committees should actively seek public input and meaningfully engage with the information presented.
- In instances where public comment has been solicited and/or received by committees – feedback must be provided outlining the nature of the input and the action taken or in instances where such queries have been forwarded to other committees this should be indicated.
- Greater effort must be made to ensure that public enquiries are addressed and expected delays should be communicated by the relevant committee staff.

3.6. General effectiveness

- Proper coordination of logistical matters like placing committee meetings timeously on the z-list, appropriate venues, and availability of documents electronically or in hard copy format.
- Ensure skilled support staff that understand Parliament's constitutional duty to facilitate meaningful public participation and not act as an additional buffer to access.
- Similarly, ensure that MPs are present, prepared and on time for meetings to ensure quorums for decision-making.
- Establish a monitoring system to keep track of requests and instructions issued by committees and ensure that the committee is briefed on this regularly.

4. Conclusion

Parliament Watch's monitoring themes provided a lens to evaluate the performance of National Parliament against its constitutional mandate and although discussed as separate points in this report, it should be viewed as overlapping and interconnecting themes. In many respects, National Parliament performed better than the two provincial legislatures also monitored by Parliament Watch. Despite this recognition we feel strongly that National Parliament has a long way to go to ensure openness and access; independence and oversight; responsiveness to the public; and effectiveness.

We noticed with concern the increased attempts by committees to conduct closed or partially closed meetings. Other more subtle attempts, like continuing meetings in private lunch locations or requesting responses from the executive in writing, prevented full meeting processes being conducted in an open and accessible manner. We were left with the impression that, particularly with high-profile matters, critical discussions and decisions were not being made in committee meeting spaces, but were being made elsewhere. This implied to us, that in some instances, committee meetings were paying lip service to the democratic principle of conducting its business in an open and accessible manner.

Parliament Watch will continue its work of advancing democracy through monitoring National Parliament and the Eastern Cape and Western Cape Provincial Legislatures in 2019. We remain convinced that the legislatures have a critical role to play in ensuring constitutional and participatory democracy in South Africa.

Annexure 1: The Parliament Watch Monitoring Tool

Legislature: ☐NA ☐NCOP ☐ECPL ☐WCPP ☐ Other _____

Name of Committee: _____

Name of Chairperson: _____

Issue monitored: _____

What was on the agenda?

Theme 1: Openness and access

Score for openness/access:	1: Fail	2: Poor	3: Fair	4: Good	5: Excellent
	☐	☐	☐	☐	☐

Theme 2: Independence, oversight and accountability

Score for independence/oversight/accountability – Chairperson:

1: Fail	**2: Poor**	**3: Fair**	**4: Good**	**5: Excellent**
☐	☐	☐	☐	☐

Score for independence/oversight/accountability – Ruling Party members:

1: Fail	**2: Poor**	**3: Fair**	**4: Good**	**5: Excellent**
☐	☐	☐	☐	☐

Score for independence/oversight/accountability – Opposition members:

1: Fail	**2: Poor**	**3: Fair**	**4: Good**	**5: Excellent**
☐	☐	☐	☐	☐

Theme 3: Responses to public issues and submission

Score for responsiveness to the public – Ruling Party:

1: Fail	2: Poor	3: Fair	4: Good	5: Excellent
☐	☐	☐	☐	☐

Score for responsiveness to the public – Opposition Parties:

1: Fail	2: Poor	3: Fair	4: Good	5: Excellent
☐	☐	☐	☐	☐

Theme 4: General effectiveness of the committee

Score for general effectiveness:

1: Fail	2: Poor	3: Fair	4: Good	5: Excellent
☐	☐	☐	☐	☐

Are there any issues from the meeting that you think Parly Watch should follow up on?

What information from the meeting will you share with your organisation?

Are there any issues from the meeting that you think your organisation should follow up on?