

Oversight in Parliament: The Role of Committees

POLICY BRIEF

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ABOUT THIS BRIEF

Effective parliamentary oversight is essential for democracy. The Constitution enshrines the National Assembly's mandate to exercise oversight over the Executive arm of government. But committees are the engine rooms of Parliament, where the detailed work of scrutinising, reviewing and reporting happens. Arguably, committees matter far more for oversight than the National Assembly. As the Seventh Parliament gets up and running, this policy brief aims to contribute to enhancing the work of committees in democratic oversight. This brief is based on a longer PARI report: *The State of Parliament and its MPs: Identifying Oversight Challenges and Proposing Solutions*. It provides a summary of the oversight role of National Assembly Committees – what they are mandated to do by law; and it explores examples of good oversight and makes recommendations for improving their oversight work.

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The Oversight Mandate of Committees

Parliament supervises the Executive on behalf of the people. This oversight function is essential to prevent abuse of authority and to ensure that government is accountable to the electorate. As such it is a keystone of democracy.

The National Assembly's Portfolio Committees are the main way that Parliament exercises oversight over the national sphere of government. Committees are responsible for scrutinising the use of budgets by departments and agencies, ensuring the proper application of relevant laws and determining whether government organisations are delivering on their commitments. They are meant to engage the public in this work, towards their effective participation in oversight. Furthermore, there are Joint Committees – comprising members of both Houses (National Assembly and National Council of Provinces) with powers like those of Portfolio and Select Committees – Standing Committees that deal with topics that are not specific to a department or portfolio, such as the Standing Committee on Public Account (SCOPA) and ad hoc committees set up to deal with specific issues as they arise.

Committees can monitor, investigate and make recommendations concerning any such institution. They can summon anyone to appear before them to give evidence, presentations or submissions; and conduct public hearings and consult any committee or subcommittee.

Committees are constituted on proportional representation of political parties in the National Assembly and elect a chairperson from within the committee. When practical, each party is entitled to at least one representative in a committee. Committees fall under the Committee Section of Parliament, headed by the House Chairperson for Committees, commonly referred to as the Chair of Chairs.

IN THE CONSTITUTION

The Constitution provides an oversight mandate for the National Assembly, with Section 55(2) mandating the National Assembly to provide mechanisms to ensure all executive organs-of-state in the national sphere of government are accountable to it and maintain oversight of the application of national executive authority and any organ of state.

The Constitution also sets out that Parliament must perform oversight of security services, approve a state of national defence, provincial funding, and approval of international agreements. The current version of the Rules of the National Assembly, adopted in May 2016, provides several mechanisms to ensure accountability and oversight of the executive: motions of no confidence, discussion of urgent matters of public importance, members' statements, questions to the executive and the president, and various functions of portfolio committees.

Committees use various mechanisms and sets of data to assess the government's performance, including budgets, in-year reports and annual reports with financial statements, among others. Ideally, they should use a wide range of appropriate sources. Parliament can scrutinise and influence the budget through its oversight and budget recommendations – the power to approve budgets is a way for committees to influence government departments.

Parliament also has the power to approve Executive expenditure, through the annual budget vote process. This is one of the most direct methods it can use to exercise oversight over the Executive. A committee has never actually refused to approve a budget presented to it by the Executive, though it can do so – there are only a few cases where committees have threatened to do so to ensure action.¹

To investigate issues, committees may also conduct oversight visits to obtain further detailed information. The effectiveness of these visits depends on the quality of reports, the level of preparation of committee members and the extent to which the issues in question are further pursued. Committees can also call for submissions from the public, organised civil society or experts to provide background knowledge and analysis on these issues.

Committee reports are tabled for debate and adoption in the relevant House. These reports present the committee's recommendations on what the department or state entity must improve or address, and serve as a record of the interventions and directives for the Executive.

¹ The process by which Parliament oversees, scrutinises, and approves the annual budget is set out in the Money Bills Amendment Procedure and Related Matters Act 9 of 2009.

What research has shown

The oversight function requires parliamentarians to be knowledgeable of the work of the departments they oversee, government processes, and the broader socio-economic context. They also need to understand the rules and powers of Parliament itself. A committee's effectiveness is strongly determined by the commitment of its members.

Research and content support is important in supporting members of Parliament (MPs). Parliamentary staff and MPs interviewed for PARI's State of Parliament and its MPs project felt that one of the biggest weaknesses in the oversight system was the lack of support staff for committees. Content advisors, researchers, legal advisors and financial experts are important in supporting these activities. During the Sixth Parliament, committees generally had only one content advisor and respondents in our research felt that content advisors are overworked and unable to give every issue the attention it may deserve.

Committee researchers provide research reports, briefings and other requested information. At the time (during the Sixth Administration) of our interviews with MPs and staff the research unit had around 40 researchers but there were many vacancies that could not be filled as the posts had been frozen. Similarly, Portfolio Committees were usually allocated only one researcher each. MPs voiced concerns about the lack of research support; although capacity has increased over the years, both the MPs and staff felt that committees are still underserved.

Portfolio Committees also lack sufficient financial expertise. Many interviewees felt that each Portfolio Committee should have at least two researchers as well as a budget analyst.

The Parliamentary Budget Office (PBO) was established to provide independent, objective and professional advice and analysis to the committees located in the National Assembly and National Council of Provinces. However, the PBO is under-capacitated. MPs and committee staff expressed frustration that the PBO was unavailable to some committees requesting specific assistance on analysis, leaving content advisors and researchers to do this work without the right expertise.

Some researchers and other knowledge workers reported experiencing political interference in their work. Researchers have been reprimanded for presenting both pros and cons of policy proposals when some MPs want only positive reports. To protect themselves from potential retaliation, some researchers have become very cautious, which could compromise the quality of their research and the trust between researchers and MPs.

High turnover of MPs can seriously weaken a committee's ability to exercise oversight effectively – this has certainly been the case in our Parliament – with turnover rates of 33 per cent in the Sixth Parliament and 26 per cent in the Fifth.² Both newer democracies and proportional representation electoral systems have higher turnover rates, with most turnover occurring at the end of each parliamentary term. Committees generally need the knowledge and institutional memory that comes with experience to pursue effective oversight.

² Parliamentary Monitoring Group (PMG), 'MP Turnover in 6th Parliament': <https://pmg.org.za/6th-parliament-review/statistics/turnover>, accessed November 2024.

Committees sometimes work in isolation and there can be a lack of collaboration between them which can weaken Parliament's effectiveness. Portfolio Committees work to a fixed quarterly programme that may not deal with unexpected developments, leading to a relatively inflexible approach to oversight.

Ad hoc committees are established for specific tasks, such as conducting investigations or reporting on findings. Opposition parties call for ad hoc committees more often, usually investigating serious allegations of corruption in the media. Some felt that Portfolio Committees should be able to deal with most issues as part of their normal oversight duties, and that too many ad hoc structures interfere with Parliament's work.

How committees (and their Chairs) choose to run committee meetings can have significant effects on oversight. Interviewees felt committee meetings generally afforded reporting institutions an inordinate amount of time to make presentations and read through reports, with very little time left for questions and debate. Where this is the norm, MPs often do not read the reports in advance or sufficiently prepare themselves to engage with the reporting officials. There is often no follow-up and critical issues that should be subjected to oversight may be overlooked.

When people are questioned before a committee, members take turns to ask questions and the presenter then answers all the questions. The time allotted is often inadequate and the presenter determines which questions to address and which to skirt around. The MPs we spoke to, from the majority party as well as the opposition, felt that this traditional meeting format was unproductive and did not allow for targeted and effective questioning. This observation was also made by MPs who testified at the Commission of Inquiry into State Capture.

Furthermore, there was a strong sense that the rigid adherence to parliamentary protocols and rituals by many – if not most – MPs is unproductive. There is a generally strong insistence on formality, certain modes of address and so on. While some standards of behaviour are important, this seems to extend far beyond the initial standards and rules, and has become overly formal, deferential and inflexible. This preoccupation with protocol and formality often derails meetings on substantive matters and MPs spend more time discussing decorum than engaging with oversight. The Seventh Parliament offers the opportunity for committees, led by their Chairs, to experiment with more productive ways to engage the Executive and the public.

Good Oversight in Committees

MPs, parliamentary staff and others interviewed pointed to the Standing Committee on Public Accounts (SCOPA) and the Portfolio Committee on Justice and Correctional Services (PCJCS) as examples of committees managing oversight and accountability effectively during the Sixth Parliament. The PCJCS has developed an effective method of questioning, insisting on direct and specific answers to each question. Allowing committee members to pose immediate follow-up questions enables members to pursue lines of inquiry and insist on specific and non-evasive answers. The committee has been praised for promoting collaboration between members, for a common commitment to justice and for pursuing rigorous and effective oversight.

SCOPA's style of questioning has also been praised. With its insistence on early submission of reports, attendance of key role players and timelines for responses earning it a reputation for good oversight. Many respondents noted that SCOPA was focused and strategic, adhering strongly to a common objective and allocating responsibilities to all committee members.

The smooth running of a committee meeting is dependent on the leadership of the chair. The role and influence of the Committee Chair is vital to the committee's functioning, including:

- organising the administrative affairs of a committee
- controlling its budget
- supervising the writing of the committee's reports to the House
- formulating the agenda, and so forth.

The success of a Chair depends on their leadership skills, trust, respect and collaboration within the committee and across party lines. Effective Chairs have technical knowledge of the work of the departments overseen by the committee. They must be able to navigate the political environment and push back against instructions that are not in the interests of oversight. Good Chairs also build strong relationships with support staff and make good use of the research and content support provided to them.

AN MP WHO IS EFFECTIVE IN TERMS OF OVERSIGHT

- Is well-versed in the area overseen by their portfolio committee; Understands the mandates, functions and operations of overseen entities; Reads widely and seeks additional information where relevant;
- Is collegial and can work with members from other parties;
- Maintains connections with stakeholders relevant to the overseen entities;
- Is analytically-minded and can scrutinise complex issues;
- Asks informed, direct, and meaningful questions;
- Understands the rules and powers of parliament, and particularly of portfolio committees
- Is dedicated to holding the executive accountable.

Late submissions were a common complaint of MPs and parliamentary staff interviewed for the study. Without adequate time, MPs cannot properly analyse the materials presented to them. Additionally, committees may consider the reports, plans and presentations in isolation, conducting oversight almost exclusively based on these reports.

Executive attendance and engagement is another issue that needs to be addressed. The Constitution and Rules imagine that Ministers and Deputy Ministers should attend Parliament and its committees, but ministerial attendance generally depends on the Portfolio Committee and Minister involved. In 2022, OUTA showed a general upward trend in ministerial attendance across ten committees. However, Ministers are not obligated to attend all meetings, and the quality of engagements between Ministers and Portfolio Committees can be improved.

Some interviewees were particularly concerned that committees focus almost exclusively on overseeing accounting authorities/Heads of Department (Directors-General) and not Ministers. Executive authorities are responsible for strategic and policy direction and must hold their department heads accountable. Portfolio Committees should question:

- how Ministers exercise oversight over Directors-General and Deputy Directors-General;
- what work the Minister is directly involved in;
- how the Minister delegates and directs the department; and
- how the 'accountability chain' is working.

Finance dominates the agenda, with the National Treasury's frameworks, guidelines and quarterly expenditure reports dominating a committee's valuable working time. The Money Bills Act requires Parliament to have reported on all the annual reports of national departments and their entities, and all state-owned enterprises within four weeks of receiving the voluminous documents. Committees must also interrogate Annual Performance Plans and budgets, which take effect from 1 April each year after being tabled only in the previous month.

One content advisor said Portfolio Committees adhere to the oversight mechanisms prescribed by the Money Bills Act and rarely venture further. This leads to excess time spent on overseeing the accounting authorities of state institutions and not enough on the Executive. More time should be spent monitoring the implementation of legislation and cross-cutting issues that several departments are working on.

More fundamental is the issue that members of the governing party were sometimes reluctant to hold the Executive accountable. There have been clear examples of the party using its majority in the House and the Portfolio Committees to protect the Executive and by extension, party. This has played out in different ways. Partisan MPs ask 'sweetheart' questions and do not question the Executive's activities. Partisan Committee Chairs ignore requests from opposition committee members. Similarly, the Speaker, Deputy Speaker and House Chairperson have all been criticised for perceived bias in enforcing rules.

The Zondo Commission heard multiple testimonies that ANC members who fulfilled their oversight duties were harshly criticised by party members who feared that demanding accountability from the Executive would bring the party into disrepute. Some MPs faced personal attacks and threats of violence for going against the party line.

At the same time, MPs have identified lack of Executive responsiveness as a significant challenge to oversight. Portfolio Committees, which report on recommendations for remedial action, are usually adopted by the National Assembly. However, non-implementation of these measures is a problem. The Oversight and Accountability Model (OVAC),³ emphasises the need to track and monitor recommendations made to the Executive and strengthen support services. In 2017, the High-Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change called for a more active Parliament to ensure strict enforcement of penalties for lack of performance by the Executive.

MPs have called for a system to monitor and follow up on recommendations made to the Executive. The Speaker's office promised in 2019 to develop a 'dashboard' for this purpose, but it has yet to be implemented.

Proposals for Enhancing the Functioning of Committees

As per the Zondo Commission recommendations and reiterated in our interviews: committees, particularly Portfolio Committees, need to be sufficiently funded. In this regard, the Parliamentary Monitoring Group has recommended an audit to assess the sufficiency of the Sixth Parliament's resourcing of committees. The Speaker and the President had both indicated that there would be engagement with National Treasury to determine a way to resource Parliament – this will enable better oversight and enhance the technical assistance and research capacity.

Strengthening research capacity is imperative for the functioning of Parliament and committees. MPs do not have the time to keep abreast of the large amounts of research and information that is in circulation. As such, Parliament emphasised the need to increase research capacity in its strategies to improve oversight and accountability. However, the research unit is still seriously under-capacitated; although Parliament is exploring a shared-services model, moving away from dedicated committee research. Thought will need to be given, if this route is followed, to how subject matter expertise will be nurtured in this context. That is, researchers need to develop a depth of understanding of the work of specific sectors of government and not simply possess generic 'research skills'.

Chairs of committees can play a vital role in oversight. Chairs should be distributed proportionately between parties based on seat share, which may strengthen oversight and accountability. The Government of National Unity's committees are still dominated by the ANC, who chair 31 committees, compared to the other GNU members' nine Chairpersons.⁴

The way committee meetings are run can determine the effectiveness of both the committee and the meeting. Meetings should be structured to support substantial discussion and debate, and not around lengthy presentations from departments and agencies, or around protocol. The Rules Committee(s) could adopt rules and guidelines for a more effective running of meetings. PMG recommends that committees should consider dedicated subcommittees to ensure thorough dialogue and consideration of complex issues.

³ RSA, 2009.

⁴ PMG, 2024c.

Effective oversight meetings

- Is based on materials distributed sufficiently in advance;
- Allocates minimal time to presentations from the executive and as much time as possible for questioning;
- Proceeds on the basis that all attendees are familiar with the materials to be discussed;
- Provides for in-depth questioning by committee members, by allocating sufficient time per member and allowing direct follow ups, rather than taking rounds of questions and allowing a presenting entity to respond all at once;
- Takes into account the results of previous oversight activities, including following up on previous recommendations;
- Results in a comprehensive report, including actionable recommendations with clear timeframes, and which not only notes dissent from committee members on resolutions but records the reasons for the dissent.

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