



MPHIL IN DEVELOPMENT POLICY AND PRACTICE

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Due Date	13 February 2023
Number of Pages	Including Cover Page, Table of Contents, References: 82

Certification:

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STRENGTHENING PARLIAMENT AS AN EFFECTIVE OVERSIGHT BODY: THE ROLE OF ETHICAL POLITICAL LEADERSHIP

ABSTRACT

The discussion of Parliament and its role as an oversight body is a significant issue in current South African political and policy discourse. Parliament has in recent years faced scrutiny from the Judiciary (including the Zondo Commission) and the public. This has been due to its perceived weakness as an effective law-making institution as well as its perceived failures in its duty to exercise oversight over the Executive, as enshrined in The Constitution of the Republic of South Africa (Act 108 of 1996).

The National Development Plan states that in building a capable developmental state, strong ethical leadership in institutions is required to address South Africa's challenges. Unethical conduct by Members of Parliament (MPs) in recent years has impacted trust in Parliament negatively, as witnessed in Afrobarometer surveys which track citizens' perceptions of public trust levels across institutions.

This research examines Parliament's mandate as an instrument of accountability and oversight of the Executive, and in particular what leadership role Members of Parliament, across political parties, can play to strengthen it. Using the qualitative research method, the key factors which inform how consistently MPs from across political parties abide by their Oath of Office, uphold the parliamentary Code of Ethical Conduct, and work to strengthen the effectiveness of Parliament, are critically examined.

The study includes recommendations on how both MPs as individuals can be supported to perform their oversight duties and how Parliament as an institution can be strengthened to operate in accordance with its Constitutional mandate. This includes critical consideration and implementation of recommendations the Zondo Commission of Inquiry into State Capture to improve Parliament's oversight function. Additionally, also recommended is a capacity needs analysis, and a mandatory capacity-building programme, that is comprehensive for all MPs and tailored to committees they serve on

DEDICATION

This mini-dissertation is dedicated to South Africans whose aspirations of a better tomorrow can be realised through institutions that fulfil their legislative mandate.

ACKNOWLEDGMENTS

I would like to appreciate the Chief Apostle, Professor Ceasar Nongqunga for being a beacon of hope and inspiration not only in my life, but in the lives of many.

I would like to thank my family, TACC and ATM members for their support, prayers and encouragement to better myself.

I wish to express my deepest and sincerest gratitude to my supervisor Dr Marianne Camerer for her support, advice and encouragement to produce a quality dissertation.

In addition, I would like to appreciate the respondents, the academic and administrative staff of the Nelson Mandela School of Public Governance. All MPs, Parliament staff who contributed to the research.

I would like to thank all people who have played a role in my life. I would not be where I am if it was not for them.

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LIST OF ABBREVIATIONS

ANC	African National Congress
APC	African People's Convention
CODE	Code of Ethical Conduct for Members of Parliament
DA	Democratic Alliance
EFF	Economic Freedom Fighters
IFP	Inkatha Freedom Party
MP	Member of Parliament
NA	National Assembly
NCOP	National Council of Provinces
NGO	Non-Governmental Organisation
PC	Portfolio Committee
OUTA	Organisation Undoing Tax Abuse
SCOPA	Standing Committee on Public Accounts
SC	Select Committee
SCoA	Standing Committee on Appropriations
UDM	United Democratic Movement

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1. Introduction

As enshrined in The Constitution of the Republic of South Africa (Act 108 of 1996), the Parliament of the Republic of South Africa has an oversight mandate over the Executive. Since inception of democracy in 1994, Parliament has faced scrutiny from the public, civil society and the judiciary due to its perceived weakness in conducting effective oversight. Parliament has a critical role in drafting of the legislation and providing effective oversight over the Executive.

Plaatjies (2013) has deliberated on the failures of Parliament to hold the Executive accountable, asserting that the behaviour of some Members of Parliament (MPs) can be described as questionable when conducting oversight. In many instances it appears as though the Executive is being shielded from being held accountable (Plaatjies, 2013). Furthermore, citizens are increasingly becoming disengaged in the parliamentary processes which require their overall participation to be effective (Calland, 2006).

Parliament's role as espoused by the Constitution has demonstratively been weakened and compromised over time. According to their Oath of Office and the Code of Ethical Conduct, MPs are expected to uphold a high degree of ethics and ethical conduct. They are expected to perform their public duties in the public interest without succumbing to personal, party, financial or other interests (Plaatjies, 2013). Most recently, the Commission of Inquiry into State Capture has contributed substantially to the discourse on public ethics in South Africa, highlighting instances where MPs failed to act in the public interest, according to the oath they took when sworn into office. The Commission has surfaced discourse that is testament to MPs non-adhere to the Code of Ethical Conduct.

It is generally accepted that public trust and confidence in political leadership, government, and institutions is crucial for developing a society, especially concerning countries governed through representative and participatory democracies such as South Africa (OECD, 2017). Public opinion surveys such as Afrobarometer, SA Reconciliation Barometer, and Edelman Trust Index to name a few, have weighed in on the debate regarding the lack of ethics which appears to be prevalent among MPs. Surveys report that the unethical behaviour of MPs has a direct correlation with the weakened trust that citizens have in the functioning of Parliament (Lekalake, 2015).

1.1 Problem Statement

In South Africa, there is overwhelming evidence that MPs are failing in their ethical duty. That ethical duty is to uphold the Constitution, hold the Executive to account and protect the national interest over their party or personal interests (Corder, 2021). The Institute of Risk Management SA (IRMSA) cites lack of decisive, ethical, and courageous leadership in South Africa as a key concern. It argues that how MPs are elected has also contributed to a trust deficit between the legislature and the electorate (Institute of Risk Management South Africa, 2022).

Consequences of a failing Parliament according to Corder: the Executive succumb to temptations their power gives them; the electorate is failed by its direct representatives; organs of State such as Courts and Chapter 9 institutions are burdened, thus challenging of power is left at the hands of civil society (Corder, 2022). While the electoral system is not the subject of this study, it is important to highlight the contribution the proportional representation electoral system has on the conduct of MPs. The proportional representation system encompasses the election of leaders by their political parties. MPs retain their parliamentary seats through membership to their political parties, consequently, MPs are beholden to their parties more than to the citizens (Calland, 2013). This has led the electorate to question their ability to hold their MPs accountable.

The Institute for African Alternatives (IAA) found that “parliamentary oversight, checks, and balances are weak and ineffectual- and it’s largely the fault of bad Members of Parliament” (Nicol, 2021). Bad refers to the quality of MPs, which has a direct effect on the quality of the oversight work being conducted in Parliament. In contrast, February argues “Good MPs are always prepared to work behind the scenes and across party lines for the sake of the greater good” (February, 2018, p. 59).

Utterances of former President Motlanthe regarding the ruling party’s “cadre deployment” policy that suggests political leaders and activists affiliated to the party acquire deployment and employment inter alia, based on party allegiance rather than merit or competence, is an indictment on the ANC (Mkokeli & du Plessis, 2022). Given this policy, “bad members” as referred to by Nicol (2021) are more likely to occupy seats as MPs and further pledge their loyalty to their party instead of being loyal to the people of South Africa and the greater good such as serving the public interest. This practice is not confined to the ruling party. MPs of other political parties have also

displayed that they have “party lines” which cannot be crossed. These “party lines” have illustrated that they conduct their work in the interest of their respective parties, and not primarily of national interest. However, given that the ruling party has the majority of seats in Parliament, its members conduct has far more reaching consequences because effectively, the ruling party possesses the majority to make decisions.

The ruling party suspending Mervyn Dirks (MP) in January 2022 for requesting the Standing Committee on Public Accounts (SCOPA) to summon President Ramaphosa over the comments he made about the misuse of public funds for party activities has further illustrated the erosion of Parliament’s responsibility to hold the Executive accountable (Makinana, 2022). The suspension of the ANC MP further compounded Parliament’s perceived weakness of lack of oversight over the Executive.

1.2 Judiciary on Parliament

South Africa’s Constitution lays the foundation for a constitutional democracy system of governance. The authority of the people is limited by judicial institutions that interpret the law as drafted by Parliament which is elected by the people. Any Executive action and law drafted by Parliament must be in line with the highest law of the land, the Constitution, which is interpreted by the Judiciary. As such, the Judiciary has a critical role of being the guardian of both the actions of the Executive and Legislative arms of the State. This is informed by the doctrine of the separation of powers where there are checks and balances by the different arms of the state (le Roux & Davis, 2019). The role of the Judiciary is pertinent in ensuring that Parliament performs its oversight role effectively while respecting the doctrine of separation of powers.

There has been an increase in litigation involving Parliament in recent years. Litigation has at times resulted in the Judiciary rebuking the Parliament for its failures in oversight over the Executive. For example, litigation concerning Parliament’s ongoing dereliction of oversight duty on issues such as Nkandla, the SABC, and other matters was in the courts more frequently in the recent years.

A recent example is the 2017 Constitutional Court judgement on the Economic Freedom Fighters (EFF) and others vs the Speaker of the National Assembly. In the case referred to herein, the court was approached by political parties in Parliament to consider and make judgements on the failure of Parliament in holding President Zuma

accountable. It was in relation to the failure of President Zuma in implementing remedial action by the Public Protector Advocate Thuli Madonsela on the *Secure in Comfort* report compiled on the security upgrades in his private residence (*Economic Freedom Fighters and Others v Speaker of the National Assembly and Another*, 2017). The justices of the Constitutional Court ruled unanimously that Parliament had violated the Constitution and that the National Assembly resolution that absolved President Zuma from the Public Protector's remedial action was declared invalid and set aside. In the judgement, former Chief Justice Mogoeng stated that "centuries of dreams of the people, a voice of the poor and the voiceless, a watchdog of state resources, financial discipline and also bear the responsibility to play an oversight role over the Executive and state organs to ensure that constitutional obligations are met" (*Economic Freedom Fighters and Others v Speaker of the National Assembly and Another*, 2017, p. 14). The court stated that Parliament had failed the citizens of South Africa in its constitutional mandate of exercising oversight over the Executive.

In the *United Democratic Movement (UDM) versus Speaker of the National Assembly* case, the Constitutional Court ordered the UDM's request for the motion of no confidence in the President to be voted by a secret ballot to be remitted to the Speaker for a fresh decision (*United Democratic Movement v Speaker of the National Assembly and Others*, 2017). The Constitutional Court did not use language that would appear to "instruct" Parliament unless it was necessary to do so. It must be noted that Parliament has been respectful in adhering to court orders and appreciated the guidance from the Constitutional Court (SA News, 2017).

The Constitutional Court has always maintained a posture of allowing space for Parliament to run its own affairs. Its intervention has always been on a case-by-case basis where litigation is of a Constitutional nature and when it is warranted that the Constitutional Court involves itself in the affairs of Parliament. The Constitutional Court has always acted cautiously in its involvement in the affairs of another arm of the State in order to avoid judicial overreach. The Constitutional Court has always been cautious of impugning the authority vested in Parliament. Therefore, overreach had to be warranted, but however, it must be confined (*Glenister v President of the Republic of South Africa and Others*, 2011).

1.3 Public Perceptions of Parliament

In a representative democracy, citizens elect MPs to represent their views and aspirations in Parliament. Parliament then elects a President who appoints the Executive. People have a direct relationship with Parliament more than the Executive and Judiciary due to the practice of regular elections of parties that represent the people in Parliament (Plaatjies, 2013). People have high expectations from institutions they directly elect to power and as such, expect Parliament to guard the Executive through effective oversight and accountability mechanisms. They expect Parliament to develop progressive legislation that will better their lives (Plaatjies, 2013). Public perceptions of Parliament are important as the institution has a mandate of serving the people.

Several civic organisations, religious and traditional leaders, and community leaders have spoken out against Parliament's failures of oversight and holding the Executive accountable. The Organisation Undoing Tax Abuse (OUTA) released its annual parliamentary oversight report for 2021 which found Parliament failed to hold the Executive accountable. The report highlighted how MPs generally did not uphold their Oath of Office, and how Parliament as an institution, failed in its constitutional mandate of oversight (McDaid, 2022).

Political analyst, Dr Ralph Mathekga has echoed the debate and reiterated how Parliament has visibly been failing to play its oversight and accountability role over the Executive. A key factor he highlights is the electoral model of electing MPs as the main constraint for effective oversight and accountability as MPs are more accountable to their political parties than the electorate (SABC News, 2021).

1.4 Commission of Inquiry into State Capture on Parliament

The Judicial Commission of Inquiry into allegations of State Capture, Corruption, and Fraud in the Public Sector including Organs of state (commonly known as the Zondo Commission of Inquiry into State Capture) was established in January 2018. The Commission of Inquiry into State Capture resulted from of a remedial action by former Public Protector, Advocate Madonsela, who received a complaint from Mmusi Maimane (MP) (SA History, 2022). The Commission held its first hearing in August 2018 and concluded its work in April 2022.

Speaker of the National Assembly (NA) in the 5th Parliament, Baleka Mbete (MP) testified before the commission. Thandi Modise (MP), also testified in her capacity as Chairperson of the National Council of Provinces (NCOP) of the 5th Parliament. She testified that Parliament “woke up late” to the realities of State Capture and for that, Parliament owes the nation an apology (Ferreira, 2021). The admission of lack of oversight from a senior MP and ANC leader was reassuring given that the majority of ANC MPs appeared defensive when giving their testimonies at the commission.

The Commission of Inquiry exposed the lack of oversight by Parliament over the Executive. It further exposed how MPs were active participants and complicit in the unethical conduct that contributed to the deterioration of ethical principles in the public sector (Zondo, 2022).

The reports of the Commission of Inquiry were released in parts and Parliament is expected to deal with two critical issues:

1. MPs (current and former) that were implicated in wrongdoing;
2. Processes of Parliament that need to be strengthened for Parliament to be effective in providing oversight over the Executive and organs of State.

Several MPs¹ were implicated in the report. Parliament was expected to utilise its own mechanisms to hold accountable MPs who have been alleged to have violated the Powers, Privileges and Immunities Act and/or the Code of Ethical Conduct. The alleged violations by the MPs were:

- Accepting gifts that create a direct conflict of interest;
- Using one’s position to improperly advantage oneself;
- Failure to disclose benefits above the threshold; and
- Seeking to improperly influence Parliament and advance the interest of a private company (Zondo, 2022).

The Chairperson of the Commission of Inquiry, Chief Justice Zondo contended that Parliament failed on its oversight mandate and therefore aided State Capture. The last instalment of the report included how the oversight function and capacity of Parliament could be strengthened (Zondo, 2022).

¹ Gwede Mantashe, Winnie Ngwenya, Cedrick Frolick, Vincent Smith, Thabang Makwetla, Nomvula Mokonyane.

The importance of Portfolio Committees (PC) was highlighted, and the former Speaker of the NA, Baleka Mbete (MP) was quoted to have said “The committee system is the main instrument through which parliament exercises oversight” (Zondo, 2022, p. 560). The report of the Commission of Inquiry stated several recommendations that would impact the business and operations of Parliament. The recommendations of the Commission of Inquiry are not binding. Presiding officers of Parliament mandated the Parliament’s legal advisors to look into the reports emanating from the Commission of Inquiry. This was done with a view of soliciting counsel on the steps that can be considered by Parliament to deal with the recommendations to Parliament in particular and the findings of the Commission in general.

The report made several recommendations relating to the functioning of Parliament, the most notable being:

- Consider establishing a committee to provide oversight over the President and Presidency;
- Consider legislation that would protect MPs from losing party membership, thus their parliamentary seats, should they exercise their oversight duties reasonably and in good faith;
- Provision of adequate funding of portfolio committees to enable effective oversight;
- Implementation of a system to “track and monitor” by the Executive for corrective action adopted in parliament reports;
- Establishment of an oversight and advisory section to provide advice, technical support, coordination, and tracking and monitoring mechanisms on issues emanating from the oversight and accountability work of MPs;
- Considerations whether more representatives of opposition parties should be appointed as chairpersons of portfolio committees (Zondo, 2022).

While these are important to note and appeared during the course of this research, the views of MPs as reflected in the study are also intriguing.

1.5 Significance of the Study

The study will contribute to a body of knowledge on Parliament as an institution, and how MPs as individuals who conduct themselves ethically can play an effective oversight role in line with the objectives of the Constitution. This research is interested

in exploring the role that MPs can play through their individual ethical conduct as opposed to acting solely along party lines in order to strengthen Parliament as an effective body in exercising oversight over the Executive.

The Code of Ethical Conduct for MPs will be scrutinised as to its effectiveness in holding MPs accountable for their conduct. The study includes recommendations on how Parliament as an institution can be strengthened to operate effectively and in accordance with its constitutional mandate and how MPs can best abide by the Oath of Office and prioritise the national interest albeit elected through the party list system. This research is anchored on the views of the MPs that know the intricacies of the functioning of Parliament including the impediments to effective oversight and the proposed solutions from their lived experiences.

1.6 Aims and Objectives

The focal point of this research is to explore how, within the existing model of representation, MPs as political leaders can be supported to strengthen their capacity to assist Parliament to fulfil its oversight mandate. Existing research in South Africa has not adequately explored the tension that MPs across political parties experience in relation to the requirement to fulfil their Constitutional duty of oversight and also as elected representatives to represent their party interests in parliamentary processes. This conflict, when it arises, has inevitably impeded the oversight role required of MPs and therefore impacted Parliament as an effective institution tasked with upholding the public interest.

1.7 Research Questions

This research study focuses on the role ethical political leadership can play to strengthen Parliament as an effective oversight body. The following key questions are addressed:

RQ1 What factors impede MPs from upholding parliamentary the Oath of Office and the Code of Ethical Conduct?

RQ2 What role can Members of Parliament as individuals play in strengthening the effectiveness of Parliament as an oversight body?

RQ3 What changes can be made to how Parliament functions as an institution to make it more effective as an oversight body?

2. LITERATURE REVIEW

2.1 Introduction

This chapter reviews the literature of scholars who have contributed to the discourse on ethical political leadership and its role in strengthening Parliament as an effective oversight body. The review is presented under the subheadings of democratic governance, parliamentary governance, parliamentary accountability, corruption, Code of Ethical Conduct and disclosure of members' interests for assembly and council members, political leadership, and ethical political leadership. The review highlights the contribution of scholars on the aforementioned sub-topics while highlighting the gap in the literature that the study is filling.

2.2 Democratic Governance

Democratic governance is the state's capacity and effectiveness in providing basic public goods and services (Fukuyama, 2016). Effective administration of public resources for the benefit of the citizens can be understood as democratic governance. Basic indicators of good democratic governance include: political and social order, law and order, service delivery, improvement in the quality of life, and effective control of corruption (Fukuyama, 2016). Democratic governance is governing with the people, having policies and programmes by the government because of people's participation and aspirations (Fukuyama, 2016). Parliament is at the centre of both representatives and participatory governance. Citizens elect their representatives that serve in Parliament, they have ongoing interaction with those representatives through amongst others, public participation programmes and MPs constituency offices (Buhlungu, Daniel, Southall, & Lutchman, 2006).

Democratic governance in public institutions does not exist in a vacuum. Public representatives are at a risk of being influenced by business people as well as criminals that have financial leverage over public representatives (Plaatjies, 2013). The influence therefore, impacts government policies, institutions, legislative and regulatory culture and potentially leadership behaviour (Naidoo, 2012). A public representative's leadership behaviour does not exist in a secluded environment; it is linked to the type of elements that influence the public representative. Private interests influence leadership toward selfish and self-centred governance which is not for public

good (Plaatjies, 2013). Key features of good governance are transparency, public accountability and public interest (Naidoo, 2012).

Democratic governance to a great extent is governance with the people. The actions of the government have led citizens to be despondent and disengaged in the governance processes that ought to yield a healthy, functional, and vibrant democracy (Plaatjies, 2013). South Africa has been experiencing declining voter participation in the general elections which is concerning because elections are formal mechanisms of citizen participation in the governance of their country (Plaatjies, 2013). A declining voter base signals a declining interest in the governance affairs of the country (Plaatjies, 2013).

In South Africa, Parliament has mechanisms that seek to take the institution to the people and encourage people's participation in the democratic governance of the institution (South African Government, 2022). For example, all meetings and proceedings of Parliament and its committees are open to the public unless there is a matter of national security that warrants a closed session. Citizens can make submissions, representations, and petitions, and participate in oversight and public hearings by Parliament (South African Government, 2022). Additionally, each MP has a constituency office where citizens can interact with Parliament through the office of that MP. The constituency office belongs to Parliament and not the party (South African Government, 2022). All citizens, regardless of political affiliation, ought to utilise the constituency offices for governance matters (South African Government, 2022). Aforementioned are ways in which Parliament aims to function in a way that is not detached from people's lived realities.

Democratic governance in the context of Parliament achieves the vision of participatory democracy where active citizenry is a focal point. Democratic governance affirms the dignity of the people, where all people are heard and treated with respect and dignity (Plaatjies, 2013). Ultimately, when there are positive changes in the lives of the people, through service delivery and addressing of their concerns, people will be more engaged in the democratic processes (Koenane & Mangena, 2017). When Parliament listens to concerns of the people and drafts laws that are responsive to people's aspirations, and hold the Executive accountable in delivering on their mandate, Parliament would enjoy the confidence of the people (Plaatjies, 2013).

Plaatjies posits that "A constitutional democracy cannot prosper without effective institutions and solid and responsive checks and balances for all three branches of

government. Good governance and public accountability are public values and goods that increase citizens trust and ensure that the branches of government govern with the consent of its citizens” (Plaatjies, 2013, p. 216).

2.3 Parliamentary Governance

Corder as reported by Chirwa and Nijzink (2013) contends that the initial Parliament was characterized by openness and vibrancy, with MPs exhibiting independent thinking and displaying high levels of competence. As a result, an efficient parliamentary system was established, incorporating a framework of multiparty portfolio committees. This environment aimed to foster public engagement, while internal governance mechanisms were developed within Parliament. It should be noted that these internal governance systems are subject to legal scrutiny if they infringe upon provisions outlined in the Constitution (Chirwa & Nijzink, 2013).

MPs gain entry into Parliament through a party list system. Additionally, a multi-party system governs the affairs of Parliament (Sebake, 2015). Various mechanisms such as the Chief Whips Forum, Rules Committee, and Programming Committee, facilitate the functioning of Parliament. These mechanisms are driven by party whips. Whips are representatives of political parties to enforce discipline, facilitate the implementation of party strategies, ensure attendance and voting in debates (Napier & Labuschagne, 2014).

The predominant aspect of parliamentary governance in the functioning of Parliament revolves around adherence to the party line, whereby political parties determine the course of action, and party MPs utilize appropriate parliamentary structures to convey the party's stance (Calland, 2013). In a party list system, MPs are deployed by their respective parties to serve in Parliament. The electoral mandate bestowed upon political parties by citizens grants them the authority to serve in Parliament. MPs are thus responsible for implementing the party's manifesto and policies, signifying that all MPs are deployed by their respective parties to advocate for the party's interests and viewpoints. This creates an inherent conflict as Andrew Feinstein (MP) contended in relation to the arms deal, as MPs essentially need to be insulated from party influence for them to be effective in their oversight work (Camerer, 2009).

Cadre deployment and adherence to the party line constitute integral mechanisms aimed at upholding the democratic centralism principle, facilitating the fulfilment of electoral commitments (Lotshwao, 2009). Within the framework of a democratic

system of proportional representation, employing the party list system for the election of MPs, instruments such as cadre deployment and party line constitute a key components of parliament practice. The utilization of open ballot voting assumes paramount significance in preserving party discipline, thereby enabling MPs to effectively execute directives of their respective political parties. The role of political parties within the parliamentary context serves as a means through which citizens can hold parties accountable, particularly during electoral processes. Elections themselves represent a crucial mechanism through which citizens exercise their agency in holding political parties accountable (Mhlongo, 2020).

2.4 Parliamentary Accountability

Parliamentary accountability refers to state organs accounting for policy, actions, decisions, expenditures, and the full responsibility they have been assigned. Corder defines accountability as a process to explain decisions, correct any faults, and put in measures to prevent a recurrence (Corder, 2022). Therefore, accountability can be viewed through the lens of good governance (Manona, 2015). Parliamentary accountability can enforce good governance across all state organs, which goes a long way in promoting ethical public service, provision of basic services, and improvement in the material conditions of the people (Gumede, 2021).

In South Africa, Parliament consists of the NA and the NCOP (Constitutional Assembly, 1996). The NA has a mandate of electing the President, creating a forum for public consideration, scrutinizing, and overseeing Executive action. The NCOP may also initiate legislation within the realm of its functional areas in instances that Parliament as well as the provincial legislatures have power which is concurrent and it also considers, amends or proposes amendments to legislation, while it may also reject it (Constitutional Assembly, 1996).

Parliament's role in enforcing accountability from the Executive is challenging. The Executive is not distinct from Parliament, as members of the Executive are chosen from Parliament and therefore, it is often a difficult task to hold the Executive accountable (Corder, Jagwanth, & Soltau, 1999). Parliament and its committees are effectively not independent, and the lack of standards of accountability are the reasons why Parliament fails in its mandate of holding the Executive accountable (Corder, 2022).

Parliamentary accountability in South Africa requires that a distinct organ of the state, Parliament, exercises its oversight power over the Executive (Corder, Jagwanth, & Soltau, 1999). In reality, the Executive is not distinct from Parliament as the ruling party has control of both Parliament and the Executive. Accountability cannot therefore be viewed independently from the political arrangement that both institutions are subjected to. The Executive is checked by being held accountable by an organ of the State which is distinct from it, in South Africa this is complex (Corder, 2022)..

The African National Congress (ANC), as the ruling party has dominance in Parliament with members of the Executive and the majority of Members of Parliament. As such, the principle of separation of powers in such a politically entangled system is substantially theoretical (Corder, Jagwanth, & Soltau, 1999). This entanglement has hampered effective oversight as MPs from the ruling party are reluctant to hold the Executive to account because it is made up of their own party members (Corder, Jagwanth, & Soltau, 1999).

Annual Auditor-General reports indicate widespread irregular expenditure and maladministration. Parliament has the authority to summon any Executive department, state-owned entity, provincial department, and municipality (Parliament, 2022b). These powers enable Parliament to demand accountability from all entities in the public service. The composition and mandate of the committees in Parliament enable the institution to ensure that all public institutions are held accountable. The agility of Parliament in establishing ad hoc committees to respond to various government interventions ensures there are no government actions that could fall through the cracks and evade parliamentary scrutiny (Parliament, 2022b). However, in practice, it rarely happens that Ministers, heads of Chapter 9 institutions, provincial departments, and municipalities are summoned to account, or that tangible actions are taken against wrongdoers (Gumede, 2021).

This failure to act against wrongdoers in the public service for transgressions within the scope of Parliament enables a culture of impunity and lack of accountability. Lack of accountability leads to dysfunctional entities that do not provide services to the people (Gumede, 2021). It creates an environment of state failure, compromising the aspirations of the democratic dispensation, which are to provide good quality of life for all. The lack of accountability feeds other ills in the public sector including but not limited to corruption, maladministration, and irregular and wasteful expenditure (Gumede, 2021). There has been an increase in partisan power relations in the

proceedings of Parliament and that has led to a lack of accountability and transparency (Nijzink & Piombo, 2004). Mpani (2022) argues that leadership of political parties ought to be bold and frankly discuss accountability.

Auditor General reports in recent years have painted an increase in irregular and wasteful expenditure of public funds, corruption, and maladministration. Parliament has never fostered a culture of demanding accountability based on Auditor General reports which paint a true picture of governance in the country, exposing public institutions that betray their mandate (Gumede, 2021).

The principle of “separation of power” enforces and encourages checks and balances to create a healthy relationship between all arms of the State. Parliamentary accountability must be analysed with solutions crafted to consider the intra and inter-political party dynamics that affect the arms of the State (Judiciary, Legislature, and Executive). By mitigating the political machinations that have hindered accountability in the past and strengthening collaboration across opposition parties, Parliamentary accountability can be achieved. Parliament is in dereliction of its constitutional obligation when it does not make state organs account (Gumbi, 2022). It is important to note that, accountability in general and parliamentary accountability in particular, is not limited to financial accountability.

2.5 Corruption

The use of public office by public representatives for personal gain is one of the most widely used definition of corruption (Schwind-Bayer & Tavits, 2016). The citizens elect public representatives to assume public office and work as representatives of the people in public affairs. Public representatives’ actions are a subject of scrutiny as the citizens expect public representatives to always be exemplary and act in the best interests of the public (Ndou, 2022). Public representatives are elected to govern on behalf of the people. Economic, political, administrative, social, and cultural factors enable and foster corruption; public accountability is the ability of the citizens to hold the public representatives accountable for their actions (Camerer, Pikoli, & Schmidt, Handbook on Ethical Leadership and Public Accountability, 2021).

Corruption is endemic in South African society with Parliament being no exception. Corruption by MPs contributes to the weakening of Parliament as an institution that can be trusted to function in the best interests of the people (Ardé, 2022). Examples of corruption in Parliament include irregular awarding of contracts, and improper

financial conduct on the finances (Ardé, 2022). Former Speaker of the NA, Frene Ginwala (MP) stated MPs are not immune to corruption, therefore there must be mechanisms to prevent abuse (Sangweni & Balia, 1999).

MPs may work with public officials and the private sector to overlook inappropriate conduct in exchange for benefit (Monama, 2022). This form of corruption weakens Parliament's ability to function in line with its mandate. In the absence of proper oversight and accountability mechanisms, Parliament is unable to fulfil its obligation of fighting corruption (Corder, Jagwanth, & Soltau, 1999).

Parliament must have moral authority by setting a good example when dealing with corruption (Ashworth, 2012). Parliament must have effective tools to identify, prevent and penalize corruption among MPs. The Code of Ethical Conduct for Members of Parliament is one such mechanism (Ashworth, 2012). Free, fair, and competitive elections contribute towards a formal accountability mechanism between public representatives and citizens (Ashworth, 2012). The National Anti-Corruption Strategy designates Parliament as a key stakeholder in the fight against corruption. Through the oversight and accountability function, Parliament and MPs are key role players in the success of the strategy (South African Government, 2020).

The Standing Committee on Public Accounts (SCOPA) is an important tool to curb corruption (South African Government, 2020). As a committee, it has the authority to instruct the Auditor-General to institute a forensic audit and ensures public officials are accountable for how they spend public funds. SCOPA is a critical component in the financial oversight role of Parliament and contributes immensely to the fight against corruption.

2.6 Code of Ethical Conduct and Disclosure of Members' Interests

Codes of Conduct are enacted in order to improve the conduct of the members that fall under the Code. They also serve to affirm to society that an organization is committed to ethical behaviour (Pelizzo & Stapenhurst, 2007).

The Code of Ethical Conduct serves as a reference for Members of Parliament in discharging their duties, prescribing minimum ethical standards of behaviour including outlining ethical values citizens can expect of public representatives (The Joint Committee on Ethics and Members' Interests, 2014).

The inaugural Chairperson of Parliament's Joint Committee on Ethics and Members' Interests Prof Kader Asmal stated in 1996:

Parliament lies at the heart of our new democracy. The standards it keeps or does not keep, are crucial to the well-being of the whole nation and it is incumbent on the leaders in Parliament to take steps to ensure that its integrity is beyond question. We should not have to be dragooned into setting high standards in public life. We should willingly seek maximum openness about what our public representatives do and receive (February & Gertse, 2014).

In March 2014, the revised Code of Ethical Conduct was adopted by the Joint Committee on Ethics and Members' Interests to promote the ethical conduct of MPs and to maintain the integrity of Parliament. The Code provides an ethical framework for MPs when discharging their duties. The Code identifies certain principles MPs must adhere to. These are selflessness, integrity, objectivity, openness, honesty, and leadership (The Joint Committee on Ethics and Members' Interests, 2014).

Complementary factors that contribute towards the effectiveness of Codes of Conduct include sanctions; institutionalization, attitudes and culture; and training (Stapenhurst & Pelizzo, 2004).

The Code explicitly details the standards of ethical conduct MPs must adhere to:

"4.1 Members must:

- 4.1.1 abide by the principles, rules, and obligations of this Code;*
- 4.1.2 by virtue of the oath or affirmation of allegiance taken by all elected Members, uphold the law;*
- 4.1.3 act on all occasions in accordance with the public trust placed in them;*
- 4.1.4 discharge their obligations, in terms of the Constitution, to Parliament and the public at large, by placing the public interest above their interests;*
- 4.1.5 maintain public confidence and trust in the integrity of Parliament and thereby engender the respect and confidence that society needs to have in Parliament as a representative institution; and*
- 4.1.6 in the performance of their duties and responsibilities, be committed to the eradication of all forms of discrimination"* (The Joint Committee on Ethics and Members' Interests, 2014).

The standards articulated in the Code are clear in shaping the ethical conduct of MPs, however, these are not easily enforceable. There have been notable transgressions

to the Code by MPs which has brought sharp attention to the effectiveness of the Code in enforcing ethical conduct. Former Ethics Committee chairperson, Ben Turok (MP) stated ‘Initially, when the code was conceived, it was preventative rather than punitive’ (February & Gertse, 2014). However, it is important to note that the existence of ethical codes, rules, and regulations on their own will not end the culture and conduct of unethical practice. It is therefore incumbent that the political leaders in Parliament who are MPs, are indoctrinated with attitudes and virtues that guide their conduct (Cheteni & Shindika, 2017).

Salzwedel argues majority of MPs do not have an interest of scrutinizing actions of the Executive and thereafter institute disciplinary processes against wrongdoers. The guidelines are there, however the enforcement of guidelines on transgressions is discretionary (Salzwedel, 2021). The Joint Committee on Ethics according to Liezl van der Merwe (MP) was not empowered and the structure of the committee was such that party members protect one another (National Assembly Table, 2022). Considering the hindrances to the work of the committee, referrals to the Joint Committee on Ethics will not necessarily lead to desirable outcomes that affirm Parliament’s as an ethical institution where MPs abide by high ethical standards.

2.7 Political Leadership

Leadership is the ability and process to influence followers or a particular group toward a certain goal (Downe, Cowell, & Morgan, 2016). Leaders utilise different leadership styles to be effective and engender commitment from their followers. In the political area, MPs influence citizens and relevant stakeholders to believe in and support their political ideas, and in turn, they create political programmes to implement their political ideas.

Members of Parliament are elected leaders who use popularity as a means of influence and to also stay relevant to continue to be elected into office. It has been noted that “Certain conceptions of being an effective political leader, held in some competitive party-political environments, do not readily equate with being an ethical leader”. (Downe, Cowell, & Morgan, 2016, p. 7).

Given the fact that the scope of the work of MPs is not limited to holding the Executive accountable, but also extends to ensuring private sector compliance with applicable legislation, it can be argued that this places an even greater need for MPs to abide by the principles of ethical leadership.

Political leaders ought to have a strategic vision, capability to execute the strategic vision, have decision making sense, political management and communication and invest in future generation of leaders (Calland & Sithole, 2022).

McLennan (2018) states that lack of academic and professional background of MPs negatively impacts Parliament. Makanya (2021) found MPs in SCOPA did not have the required technical knowledge to effectively scrutinize budgets. A Professor of higher education at the University of Kwa-Zulu Natal, Professor Teferra (2018) argues that an “MP must be capable of comprehending, reviewing, analysing, critiquing, sanctioning, endorsing, ratifying and passing a multitude of laws, policies, and documents”. Former Secretary General of the United Nations (1953-1961), Dag Hammarskjöld stated that political leaders who are appropriately implementing their public responsibilities needed to acquire knowledge as a basis for sound decisions and policy (Lipsey, 2020).

Servant leadership is a type of leadership that can provide a solution to the crisis of leadership that manifests in abuse of power, corruption, and lack of public accountability. The key principles of servant leadership which are service, humility, stewardship, and leading by example can contribute to turning the tide in the quality of public leadership (Kgatle, 2018).

Service stems from the understanding that authority vested in public representatives is rendered on behalf of others. When public representatives exercise their authority on behalf of the people that elected them, Parliament would be seen as truly acting in a way that is centred on the interests of the greater public (Kgatle, 2018). Humility is the ability of leaders to humble themselves before the people they serve. Humility breeds a caring public service where Parliament listens to the concerns of the people and is not arrogant with the power handed over to them by the people. Humble leaders are always cognisant of the people that put them in power (Kgatle, 2018).

Stewardship is being faithful and taking responsibility for the authority and resources administered on behalf of the people. A steward leader understands that authority and the country’s resources belong to the people. The chants often used in political formations “**Amandla!! Ngawethu!!**” translated “Power belongs to the People” affirms the need for leaders to always remember that authority belongs to the people and they need to exercise that leadership with responsibility (Kgatle, 2018). Leading by example is a principle that guides leaders to walk the talk. Leaders who lead by example can transform society and bring about the changes required in the country (Kgatle, 2018).

Thomas Isidore Sankara who was the President of Burkina Faso between 1984 and 1987 was such a leader (Yesufu, 2022). These principles if applied by MPs can effectively create a culture and environment that is centred on putting the people first as espoused by the Batho Pele principles of public service.

2.8 Ethical Political Leadership

Ethical Political Leadership is defined as “A socio- political process where the leaders are duly elected, guided by principles, motivated by public values and trust, and act within the socio-legal framework to impact the lives of citizens” (Mozumder, 2021, p. 824). Ethical principles and values are inspired by a set of personal values and are grounded on one’s view of morality (Sekerka, Bagozzi, & Charnigo, 2008).

Ethical leadership particularly in the public sector is about the ability to influence people toward ethical conduct. MPs are leaders who through their conduct can influence others to act in an ethical manner and therefore have an opportunity to exhibit ethical leadership. Ethical leadership gives rise to leaders who have moral authority and enjoy natural respect afforded to them by the citizens (Camerer, Pikoli, & Schmidt, 2021).

MPs are often handicapped by their own selfish desires of attaining political mileage to the detriment of ethical leadership and the cause of the greater good. This desire may create ethical blindness where MPs may not realise the ethical implications of their decisions and may unknowingly make unethical decisions (Camerer, Pikoli, & Schmidt, 2021). Ethical public representatives act in the interest of the common good (Ehrich, Cranston, & Kimber, 2004)

Ethical awareness becomes important for MPs to be aware of their conduct. This is critical as MPs aren’t professionals who are required by law to receive ethical training courses to aid their leadership competency. Whilst there is progressive legislation to prevent corruption, unethical conduct, and abuse of power, the country suffers from unethical leadership that finds ways to bypass laws and regulations to engage in unethical conduct (Camerer, Pikoli, & Schmidt, 2021).

Danley’s ethical leadership theory states leaders must develop habits for excellence (Danley, 2005). Leaders must practice habits of ethical conduct to instinctively know how to act. Her research further states the four critical factors required to develop habits of ethical conduct as courage, integrity, fairness, and generosity (Danley, 2005).

3. THEORETICAL FRAMEWORK

The study uses the concept of Parliamentary oversight as the key conceptual framework and comparative studies are considered.

3.1 Parliamentary Oversight

Parliamentary oversight is the key conceptual framework of this study. It can be defined as scrutinizing and overseeing Executive action and any organ of state (Parliament, n/a). The committees of Parliament are established by the Constitution and play a key role as instruments to provide oversight and accountability over the Executive. The NA Rules mandates the committees to oversee meaning “monitor, investigate, enquire into and make recommendations concerning any such Executive organ of state, including the legislative programme, budget, rationalisation, restructuring, functioning, organisation, structure, staff and policies of such organ of state” (Parliament, 2016, p. 142). Oversight is effectively done by committees where each Executive Department has a subsequent Portfolio or Select committee in Parliament for oversight and accountability purposes. In the 6th Parliament, there are 26 Portfolio Committees, 4 Standing Committees, 11 Select Committees, 5 Joint Standing Committees, and the joint standing committees comprise of members from the NA and NCOP (Parliament, 2022a).

The mechanisms for oversight available to MPs are budget vote debates, written and oral questions, members’ statements, notices of motion, the motion of no confidence, oversight visits, plenary debates, constituency work, and parliamentary committee work. The mechanisms are further bolstered by the freedom of speech enjoyed by MPs, and the privileges and immunities in the houses of Parliament. Subject to the rules of parliament, Section 58 (1) and 71 (1) of the Constitution provides that MPs may not be held liable for civil or criminal proceedings, arrest, imprisonment, or damages for anything they may have produced or said in any of the houses of Parliament and its committees, or anything that may be revealed as a result of their utterances in the houses or its committees (Constitutional Assembly, 1996).

February (2018) asserts that the country to have a sustainable democracy, Parliament needs to exercise its oversight function effectively, MPs need to ensure that processes are transparent and the Executive is held to account.

Parliamentary oversight is minimal in the political culture of democratic South Africa, where the legislature is weak. Theoretically, Parliament ought to have more power than the Executive as it is mandated to play an oversight role over the Executive. In practice, the most senior members of the ruling party form part of the Executive and junior members are in Parliament. The party that has a majority in Parliament dictates the agenda in Parliament. Calland explains that there is “*Fundamental tension in many parliamentary systems of loyalty while carrying out the parliamentary duties of oversight and accountability. It shows the weakness of individual MPs. More importantly, it shows the strength of the Executive arm of government vis-à-vis the legislature. Far from the Executive obediently carrying out the orders of the legislature, in fact, it is the legislature that is to all intents and purposes the subordinate institutional partner*” (Calland, 2006, p. 106).

In South Africa, the ruling party appoints presiding officers, Speaker and Deputy Speaker in the NA, Chairperson and Deputy Chairperson in the NCOP, house and committee chairpersons. Regular party caucuses and study groups are held to discuss and determine the line that MPs from the party will follow both in the committees and the house. This makes it difficult for junior members to hold their political bosses accountable (February, 2018). Parliament, fails to exercise oversight over the Executive and has abrogated its Constitutional duty in this regard. Mottiar (2015) posited opposition parties have a role of driving healthy political debate which is a critical component of oversight.

The presiding officers and committee chairpersons are controlled by the party in executing their functions. There is only one committee that does not have an ANC Chairperson. The ANC has adopted the principle of deciding which opposition party chairs the Standing Committee on Public Accounts (SCOPA). Themba Godi (MP) from the African People’s Convention (APC) was a chairperson for 14 years from the end of the 3rd Parliament until the end of the 5th Parliament. In the 6th Parliament, the chairperson of SCOPA is Mkhuleko Hlengwa (MP) from the Inkatha Freedom Party (IFP). Themba Godi (MP) testified at the Commission of Inquiry into State Capture

arguing that SCOPA was the only committee that took its oversight mandate seriously (Corruption Watch, 2021). Mkhuleko Hlengwa (MP) stated “the challenge with Parliament is that portfolio committees see themselves as an extension of the Executive and end up protecting those who are meant to account, not holding them into account. Then the rot sets in.” (Skiti, 2019). February argues that having an opposition MP chair the SCOPA resulted in an effective, non-partisan, and authoritative committee within Parliament (Buhlungu, Daniel, Southall, & Lutchman, 2006).

3.2 Comparative Studies

According to a study conducted on the Canadian Parliament by Atkinson and Thomas (1993), it was discovered that the Parliament faces challenges in effectively overseeing the Executive branch. The study also revealed that enthusiastic and well-informed MPs contribute to the efficiency and effectiveness of the institution. However, the lack of power among MPs and the influence of party directives were identified as obstacles to effective oversight. The suggestion to bring about an attitudinal change and relax party directives in order to empower MPs was met with opposition, as it was believed this could expose MPs to lobbying groups and weaken the role of the Executive in policymaking (Atkinson & Thomas, 1993).

In Australia, two former Prime Ministers advocated for ministerial accountability to become an election issue. Looney (2008) argues that the enemies of Executive accountability in the modern context include party dominance in Parliament, strict party discipline leading to debates occurring within the party rather than in Parliament, the dominance of the Executive over Parliament, weak opposition parties focused on scandals rather than accountability, outdated parliamentary practices that do not match the complexity of government activities, and a lack of understanding among MPs regarding accountability.

According to Looney (2008), Executive accountability lies at the core of the governmental system and is based on the principles of separation of powers, parliamentary scrutiny of the Executive, and Ministerial responsibility.

A comparative study of 88 national Parliaments identified several key functions of Parliamentary oversight, as outlined by Yamamoto (2007). These functions include detecting and preventing abuse and unconstitutional conduct by the government and public agencies, holding the government accountable for the use of taxpayer money to improve government operations' efficiency and effectiveness, ensuring the delivery of policies and programs announced by the government, enhancing transparency in government operations, and fostering public trust in the government (Yamamoto, 2007).

The United Kingdom has a standing committee on Standards in Public Life that has an objective of promoting high standards of behaviour in the public sector. These standards are measured through the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership (Committee on Standards in Public Life, 2023). These standards form the basis in which the conduct of public representatives is measured by in the United Kingdom.

4 METHODOLOGY

4.1 Research Design

Research design is a framework utilised to answer research questions. Research design is critical in reducing the possibility of concluding incorrect inferences from the data collected (Kirshenblatt-Gimblett, 2006). Using a case study approach, the research seeks to understand the political climate in which MPs find themselves in and how this influences their conduct. Explanatory research is necessary to develop explanations for why a phenomenon is as it is. A case study of MPs in South Africa in the 6th Parliament was explored.

4.2 Research Approach

A qualitative research approach was utilized that includes in-depth interviews and desktop research. This ensured that the social phenomenon of the strengthening of Parliament is studied under its natural context (Mason, 2002). It is the most appropriate method as the study investigates complex research questions based on lived experiences, perceptions of people and institutional frameworks. Consequently, the qualitative research component of the in-depth interviews approach ensured that there is a description of changes that are emerging (Bloomberg & Volpe, 2012). The research is conducted ethnographically, from the perspective of MPs (both current and former, across party lines) who are active players in the functioning of Parliament.

4.3 Sampling and Selection

The Researcher conducted in-depth interviews with fifteen current and former Members of Parliament to attain a wide range of views and experiences. Twelve of the respondents are from opposition parties and three are from the ruling party. Therefore, the insights from the respondents will largely be from an opposition party MP point of view. The respondents were asked to address issues in general, and focus on Parliament as an institution and its shortcomings, rather than ruling or opposition party MP conduct. An additional interview was conducted with Emeritus Professor Hugh Corder, an expert on Parliament oversight. Academic journal articles, newspaper reports and other reports were considered. In selecting respondents, gender, age, committee leadership, and party diversity were considered.

RESPONDENTS PROFILE

Respondent	Ruling/Opposition	Current/Former MP	Role
Respondent 1	Opposition Party	Former MP	Ordinary MP
Respondent 2	Opposition Party	Former MP	Ordinary MP
Respondent 3	Opposition Party	Current MP	Party Whip
Respondent 4	Opposition Party	Former MP	Committee Chair
Respondent 5	Ruling Party	Current MP	Committee Chair
Respondent 6	Opposition Party	Current MP	Ordinary MP
Respondent 7	Opposition Party	Current MP	Ordinary MP
Respondent 8	Opposition Party	Current MP	Ordinary MP
Respondent 9	Opposition Party	Current MP	Ordinary MP
Respondent 10	Opposition Party	Current MP	Party Leader
Respondent 11	Opposition Party	Current MP	Party Leader
Respondent 12	Opposition Party	Current MP	Party Whip
Respondent 13	Ruling Party	Current MP	Committee Chair
Respondent 14	Ruling Party	Current MP	Ordinary MP
Respondent 15	Opposition Party	Current MP	Committee Chair

4.4 Data Collection

The research relies on both primary and secondary data sources. Primary data was sourced from in-depth interviews that were conducted using an interview schedule via virtual platforms in light of the Covid-19 pandemic. Interview questions were open-ended to allow space for any additional ideas that arose. Sample of questions included: How can MPs be capacitated and resourced to provide effective oversight over the Executive and organs of the State? How can Parliament as an institution be strengthened to be an effective instrument of oversight? What can be done to improve the ethical awareness of MPs in line with their work?

Interviews allowed for acquiring the participant's reflections and opinions (Mwangi & Bettencourt, 2017). An interview protocol was drafted to align the study's research questions and research objectives of the study. Secondary sources in the public domain included Parliament committee meeting proceedings and minutes, government documents, policy frameworks, academic works such as books and journal articles, media reports and opinion pieces with a focus on ethical leadership, parliamentary oversight and accountability, and role of Parliament. Data is securely stored in a digital facility. It is password protected to ensure no one besides the Researcher has access to the data.

4.5 Data Analysis Methods

The data collected was dense with information that is relevant to the study. The interviews were coded. The Researcher sifted through the data, coding for themes and interpreted its meanings based on the existing literature. Thematic and content analysis was utilized to focus on the content and to organize the data according to key themes (Caulfield, 2019).

4.6 Limitations of the Study

Ways in which the effectiveness of Parliament as an oversight body can be strengthened have not been exhaustively researched and documented in this study. The Researcher is an opposition Member of Parliament. Legitimate concerns arose about access limitations, as some MPs might not be comfortable being interviewed by a leader from a different political party. Despite this concern, the targeted objective of 15 participants for the in-depth interviews was achieved and all interview questions were answered satisfactorily. A small sample of 15 out of 490 Members of Parliament has provided limited findings for the in-depth interviews. The Researcher focused the interview primarily on the respondent's individual experience and views as a Member of Parliament rather than representing a particular political party.

4.7 Ethical Considerations

Ethics approval of the study protocol was obtained from the departmental ethics task team of the Nelson Mandela School of Public Governance. The appropriate procedures for acquiring authorization for documents where necessary were followed. Informed consent was attained from all Members of Parliament who took part in the study. The participation and views of all respondents have been kept anonymous and confidential. Participant confidentiality has been respected and their views are protected and utilized solely for the research project. The responses cannot be attributed to any Member of Parliament. Parliament granted organisational approval for the research to be conducted.

5 RESULTS

This chapter presents the findings from the in-depth interviews and sheds light on issues of accountability, ethical leadership, and conduct as well as strengthening Parliament as an oversight body.

The research questions:

- What factors impede MPs from upholding the oath of office, the Code of Ethical Conduct?
- What role can Members of Parliament as individuals play in strengthening the effectiveness of Parliament as an oversight body?
- What changes can be made to how Parliament functions as an institution to make it more effective as an oversight body?

Findings have been grouped under the three main questions.

5.1 Findings

Research Question 1: What factors impede MPs from upholding the oath of office, the Code of Ethical Conduct?

Question: How can the Code of Ethical Conduct be made more adequate and effective?

Respondents raised the issue of lack of independence and politicization of the Joint Committee on Ethics as playing a role in rendering the Code ineffective. Issue of Code violations brought before the Joint Committee on Ethics follows a politicised partisan approach when dealing with the violations creating an impression that the Code is inadequate and ineffective. Ruling party (ANC) MPs who sit on the Joint Committee on Ethics have used the committee to downplay transgressions of those in the ruling party who are MPs and Cabinet Ministers.

Respondent 4, a former opposition party committee chair, stated that: *“There must be much more independence to deal with the ethical conduct of MPs. Political rivals can never be fair in such a process. There must be an independent voice coming to strengthen the level of impartiality”*.

The lack of consequences for wrongdoing is highlighted as a determinant of the Code being perceived as inadequate and ineffective. Respondent 3, an opposition party whip, stated, *“there must be consequences on issues brought to the attention of the*

committee. Ethics committee must do its work without being hindered by party affiliation of the MPs who are reported”.

This sentiment is echoed by respondent 7, an opposition MP, who highlighted that the Code is adequate but not effective due to the lack of independence by the Speaker and presiding officers. The respondent stated that the work of the Joint Committee on Ethics ought to be independent of political party influence. The politicisation of the Joint Committee on Ethics is identified as a deterrent to an effective Code. Since breaches are largely administrative, administrative and legal prescripts need to take precedence over political considerations.

Respondent 9, an opposition party MP, had a view that the Code needed to be revised and the committee processes be speeded up: *“The Code must be revised all family members should fall under that definition for doing business with the government. There must be a quicker turnaround time to deal with ethical complaints. MPs must have an inherent sense of right or wrong”.*

Question: How can MPs navigate the politicization of Parliament to implement their duties effectively?

Respondents raised the nature of Parliament as an institution that is political in nature and MPs should not seek to navigate around politics. Respondent 7, an opposition party MP, stated *“MPs are politicians, they shouldn’t navigate around politics in doing their work. If MPs know they will be held accountable (by the voters), they will uphold high ethical standards”.* This view is alluded to by respondent 13, a ruling party committee chairperson, who stated *“In the political setting like Parliament. MPs cannot avoid politics; the issue is blind loyalty where MPs can’t question anything. The interest of the individual supersedes the interests of the country”.* Respondent 14, a ruling party MP, further alluded by stating *“The system itself is designed in a way that you cannot divorce the politicisation of Parliament. Chief Whips marshal the MPs of the different parties, which leads to politicisation. Party caucuses are active participants in the political structures they come from. The Speaker is a politician and takes a mandate from the party she comes from”.*

The role of opposition parties in the well-functioning of Parliament is highlighted by Respondent 2, a former opposition MP, who stated *“All opposition political parties must have deliberations on issues of common interest, in order to avoid the majority party using Parliament to rubber stamp their decisions”.*

This view is alluded to by Respondent 4, a former opposition committee chairperson, that stated *“Give more oppositions the role of Chaiing committees, vote with the secret ballot when there is a need. Power in Parliament must be decentralised”*.

Respondents highlighted the issue of MPs receiving protection to effectively fulfil their mandate given the party-list election system. Respondent 9, opposition party MP, stated *“MPs acting in good faith must be protected from losing their seats should they act against the party lines. The legislation to protect such MPs must be brought with speed”*. Respondent 6, an opposition MP, stated *“rules of Parliament must protect MPs from politicisation. Members must use the rules to protect themselves and advance oversight/accountability”*. Respondent 3, an opposition party whip, contributed to this view by highlighting the secret ballot voting method by stating *“Allow MPs to vote through a secret ballot in order for MPs to avoid politicisation”*.

Respondent 10, an opposition party leader, highlighted the issue of capacity and resource allocation to MPs for MPs to implement their duties effectively by stating *“MPs must be developed and capacitated to provide independent oversight over the Executive. Researchers must be assigned to each MP, not the parties who abuse those resources for party gain”*.

Question: What can be done to improve the ethics awareness of MPs?

Respondents highlighted the importance of ethics training as a key driver of ethical awareness of MPs. Respondent 3, an opposition party whip, stated *“Trainings, trainings, regular trainings of MPs. To enable MPs to have ethical awareness in their work”*. This view is supplemented by respondent 1, a former opposition MP, who stated there must also be annual lectures on ethics and ethical responsibilities of MPs. The respondent further stated that MPs ought to be examined on ethical codes and principles to ascertain if indeed MPs do live by the ethical codes. Respondent 8, an opposition party whip, stated *“Training must not be confined to legislation and legislative processes. Ethical training must be inherent in all trainings conducted in Parliament. There must be a dedicated office in Parliament focusing on ethics”*.

A few respondents highlighted the importance of consequences for wrongdoing as a means of raising ethical awareness. Respondent 2, a former opposition MP, stated, *“The Code of Ethical Conduct must be rewritten. There must be lifestyle audits. The conduct of MPs doesn’t inspire confidence in the society, there must be a consequence for the actions of MPs”*. This view is supported by respondent 7, an

opposition MP, who stated *“If no actions are taken against individuals who break the laws, there will not be changes. There must be consequences”*.

A few respondents placed the primary responsibility of ethical awareness on MPs and argued that Parliament ought to supplement the MPs in their ethical responsibility. Respondent 4, a former committee chairperson, stated *“MPs must view themselves as the moral standard in the country. They must be trained and capacitated on ethical behaviour. Reading out an oath is not enough, there must be clear standards on ethical behaviour”*. This is supported by respondent 5, a ruling party chairperson, who stated *“Politicians are at the centre of corruption. Individual MPs need to have a change of doing things to change the ethical legacy of what people perceive politics as about. Good consciousness must be the order of the day”*.

- **Research Question 2: What role can Members of Parliament as individuals play in strengthening the effectiveness of Parliament as an oversight body?**

Question: How adequately capacitated and resourced are MPs to be able to fulfil their parliamentary duties?

A significant number of respondents, ten out of fifteen, stated that MPs, in general, are not well-capacitated to fulfil their parliamentary duties. While there is an assumption made by Parliament as an institution that MPs who went through the party list process of selection ought to have a particular capacity in order to fulfil their parliamentary duties, respondent 1, a former opposition MP, stated *“Parliament does not engage in capacity building programmes for MPs. It assumes political parties facilitate the capacity building of MPs”*. Respondent 2, a former opposition MP, commented on the training offered by Parliament and how it is inadequate in equipping MPs to execute their parliamentary duties: *“Training offered is about the role of Parliament and administration in parliament (flights, claims, etc). No training given as legislators and how MPs can be best effective in law-making and oversight”*.

The majority of respondents, eleven out of fifteen, stated training offered by Parliament did not adequately cover the substance of the work of an MP in general and in particular in the committees. Here, specific knowledge and expertise is needed to play an oversight role over specific departments. Whilst few respondents, three out of fifteen, noted the improvement in the capacity-building programmes of Parliament, respondent 1, a former opposition MP, highlighted the imbalance between the administrative and political functions of MPs: *“MPs come from different backgrounds;*

thus, it places them on different scales. Parliament has resources to enrich the capacity of MPs, Parliament work is largely political, not administrative, thus political party mandates might not be in line with the administrative capacity of each MP”.

Six out of fifteen, respondents commented strongly that not enough training and support is given to MPs. This is highlighted using an example of MPs who join Parliament mid-term and are at times clueless almost about everything that pertained to Parliament, depending on other MPs to show them the ropes, provided that they have the time. Another issue raised by participants is the lack of preparation done by MPs before meetings. MPs did not read nor engage critically with research reports prepared by the support staff of Parliament as well as the presentations from the departments. The consequence of this is a reduced quality of engagements and scrutiny by MPs in committee meetings where they are meant to play a critical oversight role.

Question: Does Parliament have effective accountability mechanisms in place to keep MPs accountable? Are they working?

Seven out of fifteen respondents stated that whilst Parliament has rules and procedures in place to guide the processes and conduct of the institution and as well as its members, it is heavily reliant on political parties to hold their MPs accountable. Respondent 2, a former opposition MP, stated, *“The rules of Parliament are often enforced in a politicised manner whereby the majority party MPs will always be protected from sanctions, and opposition party MPs are often subject to sanctions due to the majoritarian and partisan approach used by the presiding officers and committee members.”*

Eight out of fifteen respondents decried Parliament’s lack of mechanisms and appetite to keep MPs accountable. Respondent 6, an opposition MP, stated *“Only political parties can keep MPs accountable. Parliament outside of the ethics committee has no accountability mechanism for oversight and constituency work. In my party, there is an agreement on the performance per quarter and an MP gets to be evaluated based on that”*. Respondent 2, a former opposition MP, stated *“There is no accountability to ascertain the work of MPs. Parliament is overly reliant on political parties to enforce accountability on MPs whereas its Parliament pays MPs, not the parties. Parliament needs to hold MPs accountable”*.

Furthermore, respondent 3, an opposition party whip stated, *“There is no tool to ascertain if MPs are accountable to their constituency and people who elected them.*

There is no assessment to check if MPs are doing what they are paid to do". The respondent highlighted how MPs have constituency offices and how they are expected to raise issues in the committees, houses of Parliament, and ministers from those constituencies. However, Parliament has no mechanism to ascertain how MPs interacted with their constituencies and the nature of the oversight work that emanated from that constituency work.

Question: How can MPs be capacitated and resourced to provide effective oversight over the Executive & organs of the State?

A wide range of views in support of Parliament having an effective capacity-building programmes were received from respondents. Respondent 11, an opposition party leader, stated *"There must be a compulsory education programme for all MPs e.g., governance and leadership, public policy. MPs must receive training in line with the committees they will serve in. Compulsory workshops on oversight and accountability must be done by former judges, speakers, etc"*. Respondent 10, an opposition party leader, addressed the budgetary element of Parliament for training and the balance of the political and administrative role of MPs by stating *"Parliament must assign a budget for the capacitation of MPs in order to understand the administration of the department. MPs are politicians, who sometimes lack administration expertise. The research budget to employ staff is assigned to a party, not to a particular MP. Researchers in political parties at times prioritise party issues instead of Parliament work"*.

Due to the nature of the electoral system currently used to elect MPs, one respondent suggested that MPs are fully accountable to their political parties that deployed them to Parliament and as such, MPs could not independently exercise oversight. The respondent suggested that when sworn in, MPs should take an oath to be loyal to the Constitution. This viewpoint on political parties dictating the oversight work of an MP is echoed by respondent 8, an opposition MP, who noted: *"Oversight is a political function, if a party decides they will not support a particular line, views of the individual MP don't matter. Parties dictate the level of oversight each MP must have"*.

The overwhelming view is that Parliament ought to do more to capacitate and avail resources for MPs to conduct effective oversight. One respondent highlighted the failure of Parliament to force the government to act on issues picked up by MPs in their constituency work. Even though issues are raised via letters and questions to the Ministers, members' statements, motions, and the like, nothing is being done by Parliament as an institution to force the respective government department or entity to

act on the issues raised. If Parliament does not force accountability by departments to resolve such issues, the mechanisms in place in Parliament are reduced to a tick-box exercise, inevitably reducing the enthusiasm of MPs to conduct their duty of oversight work.

Question: What could be done to prevent MPs from being corrupted by the private sector?

Recognizing the important role MPs play in protecting the public interest. The question sought to identify what safeguards are in place concerning undue influence by the private sector.

The majority of respondents highlighted the role of ethics as being a key factor in MPs not having a corrupt relationship with the private sector and other stakeholders. Respondents highlighted the ethical foundations of integrity and values as key determinants of the conduct of an MP. Respondent 8, an opposition MP, stated *“If the ethical grounding is weak, MPs will be corrupted. The extent to which service and serving are always at the fore. There must be moral persuasion for MPs to act ethically. MPs must be subjected to lifestyle audits, and loopholes in the disclosures must be dealt with”*. The strong view is that MPs must have an inherent sense of ethics and a belief in right and wrong. Respondent 3, an opposition party whip, stated *“It goes with MPs’ integrity. Personal values trump ethical training and codes of conduct”*.

A respondent spoke about the need for Parliament to create an environment where ethics, integrity, and values guide the conduct of MPs. The respondent strongly suggested that there needs to be tough action taken against MPs who violated the rules. This is alluded to by another respondent who highlighted that MPs ought to be prosecuted for wrongdoing as this would set an example. The respondent referred to Section 7(2) of PRECCA which encompassed the responsibility of MPs to report fraud, theft, and corruption.

Another respondent emphasized the need for the country’s state intelligence division to play a role in curbing the corruption of MPs. The respondent stressed that MPs are overseers of state functioning. They have a critical role to play, given the nature of the important task assigned to them, and need to be kept in check. This is reinforced by another respondent who spoke on the importance of Parliament in enforcing honest and complete disclosures (of financial interests) coupled with the necessary action taken against wrongdoers. Respondent 10, an opposition party leader, stated *“Parliament must enforce honest and complete disclosures. MPs declare what is*

known, parliament does not impose effective punitive measures on the MPs who don't fully disclose. Parliament is inconsistent in applying the rules when ruling party MPs are in the wrong."

- **Research Question 3: What changes can be made to how Parliament functions as an institution to make it more effective as an oversight body?**

Question: How does the method of voting in Parliament (open or secret ballot) contribute to the oversight function of Parliament?

The respondents aired a variety of views on the method of voting that enforces effective oversight, highlighting the different issues in Parliament that require voting. A strong view is that an open voting method placed MPs at the mercy of their political parties. An open vote did not engender effective oversight as MPs are compelled to follow the party line whereas a secret ballot enforces real accountability, allowing MPs to vote differently from a party mandate that might shield the Executive from accountability. Respondent 3, an opposition party whip, stated "*Secret ballot strengthens the oversight function of Parliament. It allows MPs to vote with their conscience and there won't be consequences for an MP's action. Open ballot encourages Executive to be protected even if they destroy the country*". This view is echoed by respondent 5, a ruling party committee chairperson, who stated "*In a secret ballot, it's a member and the ballot, thus voting with their conscience enforces oversight.*"

There is a view that how decisions are taken could not always be taken through a secret ballot. A second argument raised by respondents is that voting ought to be discouraged in committees and ought only to be utilised when there is a deadlock, at a point where persuasion among MPs has failed. The strong view is that committees ought to make decisions based on consensus and not voting.

A respondent raised a view that there are critical and sensitive motions that require a secret ballot to protect MPs and allow them to vote according to their conscience. Motions such as that of no confidence in the President, Speaker, or Cabinet; and others pertaining to contentious issues such as same-sex marriages, the death penalty, and the like, would be best done through a secret ballot to enable MPs to truly vote with their conscience. This is alluded to by respondent 8, an opposition party MP, who said "*It would be cumbersome to have a secret ballot on everything, there must be issues of national importance that should be voted on a secret ballot. Secret ballot*

goes a long way in ensuring people vote according to their conscience, however, MPs can still be bought”.

This view is supported by respondent 15, an opposition party committee chairperson, who stated *“Parliament must be steadfast in maintaining transparency in voting however there must be due consideration of the polarisation of the political system in which the party comes first for many MPs, stifles the independent thought of MPs. A secret ballot is complex as it’s not absolute nor effective. the current voting method using the hybrid sittings sets MPs on a collision course with their party”.*

Question: How does the functioning of committees impact the oversight role of Parliament?

The committee functioning in Parliament is regarded by respondents as the “engine” of Parliament. The question received varied views from the respondents and the views of the respondents were at opposing ends in some regards. A respondent stated that committees did not enforce real accountability as recommendations of the committee were not enforced. The respondent further stated the Executive did not respect the recommendations of the committee while respondent 3, an opposition party whip, had an opposing view by stating *“Committees are functioning well and are giving desirable results. Officials must be capacitated, and issues must be dealt with even before they receive the attention of the Committee. Oversight work of committees enforces accountability to ascertain if reports tie up with the realities”.*

A respondent spoke about the fact that committees that performed better were committees that have MPs who were driven by the notion of holding the Executive accountable regardless of party affiliation. The view is that when MPs are united in a committee, they can hold the Executive accountable. Critical to that is the role of the Chairperson who drives the work of the committee and set the climate for a particular committee in terms of how the work of the committee would proceed.

The dominance of the ruling party MPs in a committee and how they have veto powers is highlighted as a key factor in hindering committee work in many instances. This is affirmed by respondent 8, an opposition MP, who stated *“The ruling party dominates the work of a committee and sets the oversight tone of a committee. If the Standing Committee on Appropriations were to be chaired by an opposition party MP, financial oversight would be much stronger. SCOPA deals with after the fact”.*

Considering the current state of Parliament, the burning of the buildings, and COVID-19 regulations, a few respondents highlighted how the virtual functioning of Parliament

has reduced the oversight capabilities of MPs. Respondent 6, an opposition party MP, stated, “*Committee work during COVID-19 has limited the capability of Executive oversight as some ministers hide behind network issues in order to evade accountability*”.

Question: What can be done to enforce changes to Parliament as proposed in the Corder Report, Zondo Commission Report, and other bodies that have made progressive recommendations to improve the functioning of Parliament?

The respondents dealt with the functioning and structural design of Parliament. Respondent 14, a ruling party MP, stated “*Recommendations from Zondo need to be implemented. An MP belonging to the majority versus the opposition MP are different. The ANC is able to call a study group with the Minister and Department to account for something they will account for on the PC meeting (before). ANC MPs already know what the department will present, and what are the responses. This is to prepare the Executive not to embarrass the party. There must be a line drawn, that the Executive in the PC accounts to the Committee not the ruling party via these study groups. Study groups privilege one party over the other*”. This view is deliberated by Respondent 2, a former opposition MP, who stated “*MPs are political party deployees who are dependent on the party directive. As long as MPs are controlled by their parties, Parliament will be subjected to party views on its work*”. The issue of the oversight role of Parliament and the oversight model is captured by different respondents. Respondent 8, an opposition party MP, stated “*Parliament adopted the oversight and accountability model which encompasses some of the Zondo recommendations. However, implementation is lacking. There is no political will to enforce oversight and accountability*”.

The issue of a committee to dissect and ascertain which recommendations can Parliament take up is captured by Respondent 4, a former opposition party committee chairperson, that stated “*There must be a committee set up by Parliament to ascertain progressive recommendations from the Zondo commission can be implemented*”. Respondent 9, an opposition party MP, contributed a view on the role of opposition parties in driving oversight reforms in Parliament by stating “*Opposition must use persuasion to implement recommendations that improve Parliament as an instrument of oversight*”.

The role of politicians in the functioning of Parliament and the monopoly of power by politicians is addressed. Respondent 5, a ruling party committee chairperson, stated

“Too much power rests with the politicians over the work that is done by politicians. In relation to Parliament, more powers must be given to other entities in order to improve the functioning of Parliament. Whilst Respondent 10, an opposition party leader, stated “Mixture of the party representations and independent candidates will remove the monopolisation of the political parties in Parliament. It will lead to skills boost in Parliament”.

Respondent 11, an opposition party leader, stated the issue of allegiance between party and country by stating *“MPs must pledge allegiance to the Constitution according to the oath of office. They must separate being MPs and party MPs. The conduct of MPs must inspire confidence in the technocrats they must provide oversight over”.* This alluded to the issue of party lines and directives that constrain the work of MPs versus the expectations of MPs to always act in the best interests of the country.

Question: How can Parliament as an institution be strengthened to provide effective oversight?

Independence and the importance of impartiality by the presiding officers in carrying out their functions in Parliament.

In Parliament, the role of the Speaker and Chairpersons came out as an important element that could strengthen Parliament if they remained impartial and independent in carrying out their duties. Respondent 7, an opposition party MP, stated *“Speaker must be independent of political party affiliation. He/she must exercise her/his power without needing to account to a political party for their work as Speaker of Parliament”.*

Respondent 4, a former opposition committee chairperson, raised the issue of opposition party chairpersons by stating *“There must be opposition party chairpersons of committees to strengthen the voice of accountability. The ruling party cannot hold itself accountable. Officials in Parliament must be well incentivised in order to attract and retain the best skills in the country.”*

The view of members of the opposition chairing committees is echoed by respondent 9, an opposition party MP, who also addressed the issue of Ministers attending ruling party study group meetings. The respondent stated, *“Implement Zondo recommendations that strengthen Parliament. Ruling party Ministers must not be allowed to attend study groups before committee meetings. Opposition must chair more committees”.*

The issue of the capacity of both the MPs and the officials in Parliament came out strongly. The respondents stated there must be more direct and relevant training for

MPs in line with their oversight duties. The respondents stated that the training ought to be ongoing for it to be effective. The respondents also highlighted the need for Parliament to work with parties to reduce the MP turnover rate. Respondent 8 took the responsibility of strengthening Parliament to the electorate by stating, it is the electorate that must have high standards of MPs. Respondent 8, an opposition MP, stated *“It requires courage, political courage, and conviction to do what is right. Population and the political party must set higher standards for MPs, punish and reward MPs according to those standards during elections”*.

5.2 Summary & Conclusion

This chapter has presented the findings from the in-depth interviews wherein respondents stated numerous issues that impede the ability of MPs to abide by the oath of office, the Code of Ethical Conduct, as well as their overall ability to execute their oversight duties.

The most notable of the issues raised by respondents are issues of party rules and directives impeding the work of MPs by forcing party loyalty, majority party dominance is highlighted as a key factor in aiding a weak oversight role by MPs in Parliament, and the voting mechanisms used in the business of Parliament such as the open voting and secret ballot processes are weighed in respect of how they weakened and strengthened oversight respectively in different instances.

The respondents further highlighted that cross-party collaboration and trust, ethical leadership, as well as MPs transforming their leadership quality to have political will and moral courage for MPs could contribute towards the improvement of the role MPs play in strengthening the effectiveness of Parliament as an oversight body.

The respondents further gave insight into the changes that could be made in the functioning of Parliament as an institution to make it an effective oversight body. They cited changes in the Code of Ethical Conduct, Increase in Parliament Funding, and a Comprehensive Capacity Building could yield good results for the Parliaments' role of oversight.

6 DISCUSSION

This chapter discusses the findings of this study in relation to the literature. The chapter outlines and highlights the gap that the study sought to fill.

6.1 Factors that Impede MPs in Executing Oversight Duties

6.1.1 Party Rules and Directives

As the literature posits in South Africa, MPs attain seats in Parliament through a party-list system. As such oversight was not at the full behest of the individual MP, but rather that of the party (Plaatjies, 2013). The evidence provided by the findings of this study also points to the fact that parties have a dominant influence on the oversight work of the MPs. The respondents of the study indicated that party rules and directives significantly influence the oversight work of MPs. The current electoral system in the country leads to contradictions in the outlook of MPs as a result of MPs being elected through a party-list system. The in-built contradiction on the part of MPs is that when they get sworn in as MPs, the oath they take compels them to be loyal and faithful to the Constitution and the people of the country and, if necessary, even to the detriment of the political party they represent in Parliament.

Conflicting loyalties arise between the party that 'owns' the parliamentary seat and the MP who swore to be faithful to the Republic. MPs need to navigate around party directives to play an effective oversight role. Independent political analyst, Judith February argues the balance between the independence of MPs and party loyalty is difficult to navigate (February, 2018).

The study also looked at the constitutions of the ruling party (ANC), the official opposition (DA) as well as that of the second largest opposition in Parliament (EFF) to supplement the point raised about the contradiction of the oath and party expectations: Section 25.3 of the ANC Constitution states "Any member, office bearer or public representative who fails, refuses and/or neglects to abide by the provisions of the Constitution of the ANC, its Standing Orders, Rules, Regulations, Resolutions, and policies adopted or made in terms of the Constitution shall be liable to be disciplined in terms of this Constitution" (ANC, 2017).

In section 2.5 of the Constitution of the Official Opposition, the DA, which addresses the issue of the standard of conduct for party members states:

2.5.4: Any member, including a public representative, is guilty of misconduct if he or she:

2.5.4.1: publicly opposes the Party's Values and Principles or repeatedly opposes published Party policies, except in or through the appropriate Party structures;

2.5.4.7: unreasonably fails to comply with or rejects decisions of the official formations of the Party (DA, 2020).

In the Constitution of the 3rd biggest party in Parliament, the EFF, Section 20 defines the organisational principles of the EFF. Section 20.4 states "The whole organisation must observe unified discipline. The guiding principle is that at all times the individual is subordinate to the organisation, the minority is subordinate to the majority, the lower level is subordinate to the higher level, and the entire EFF is subordinate to the CCT" (EFF, 2019).

The guiding and paramount documents of the three biggest parties in Parliament, therefore all direct members of the party, including MPs, to be subservient to the party. These documents state that members, including public representatives, opposing, and not implementing the decisions, resolutions, and policies of the respective organisations will be committing acts of misconduct. Therefore, MPs are bound by the decisions of the structures and need to enforce decisions of the party in Parliament failing which, they will be disciplined for misconduct.

The study found Parliament is overly reliant on parties to enforce discipline, attend meetings, engage in constituency work, and be more effective in their role as MPs. Institutionalization of the MPs in being guided by their parties is apparent, through party whips in the affairs of Parliament. There is evidence from the findings of the study that Parliament has created layers which, indirectly led to MPs being reliant to a significant extent on a direction from their party whips to implement their parliamentary duties. Stone Sizani (MP), Chief Whip of the ANC in the NA between 2013 and 2016 stated the ANC whips are mandated to maintain order and discipline of the ANC caucus, and act as a link between the ANC Parliamentary caucus and the ANC as an organisation (Napier & Labuschagne, 2014).

The respondents stated that the party lines they are subjected to impede their desire to abide by the Oath of Office and be faithful to the Republic. In such a party-list system where an MP's seat effectively belongs to a party, whenever MPs have to choose between the party and the country, they are most likely to choose the party. However,

mechanisms to create a platform for MPs to vote with their conscience on a matter i.e., voting through a secret ballot, might impact this choice. Andrew Feinstein (MP) argued committees of Parliament have to rise above party politics to succeed in their oversight responsibilities and MPs need to be “insulated” from political party influence (Camerer, 2009).

In a recent case, the Chief Whip of the ANC, Pemmy Majodina (MP) instructed Mervyn Dirks (MP) from the ANC to withdraw the letter Dirks wrote to the Chairperson of SCOPA to investigate claims by President Ramaphosa that he is aware of ANC members misusing state resources for party campaigns (Khoza, 2022). Natasha Mazonne (MP) instructed Phumzile van Damme (MP) to stop pushing for Facebook to account to the PC on Communications. Phumzile van Damme (MP) had to follow the instruction of her Chief Whip and not fully play an oversight role by the Oath of Office she took or risk running into conflict with the leadership structures of the DA. Aforementioned cases illustrate difficulty experienced by MPs confined by party lines, obligated to stay within party prescriptions when exercising oversight responsibilities. Acting Secretary General of the ANC, Paul Mashatile, stated that ANC MPs who defied the party line on the NA consideration of the Section 89 Independent Panel report vote would be disciplined (Mahlali & Khumalo, 2022).

The attitude of senior political leaders towards MPs towing the party line is accurately defined by President Ramaphosa in the State Capture Commission of Inquiry when he stated “Our political system granted by the Constitution is that of a party system... That is our system. They [MPs] don’t go represent themselves and their jacket” (Merten, 2021a). This is alluded to by Calland who stated that parties have complete power over MPs who are in Parliament through party electoral lists. Due to socio-political and socio-economic realities in the country, MPs are inclined to almost do anything to hold on to their membership in Parliament where they earn a good salary and enjoy widespread benefits (Calland, 2013).

6.1.2 Majority Party Dominance

At the time this study was conducted, the ANC had a majority in the NA as it had 230 out of 400 seats (57.5%). It can dominate all the processes of Parliament by dominating in the committees that run Parliament. These committees are the Rules;

Programming; Chief Whips; Powers and Privileges committees. Through such dominance in these committees, it can dictate the agenda of Parliament. Respondents concurred that given this predicament, opposition parties ought to have a skilful way of navigating around this dominance to fulfil their roles as MPs. The dominance of the ruling party in the affairs of Parliament has led it to be an institution that operates in a way that is embedded in the politics of the ruling party (Stone, 2022). This view is echoed by Professor Corder that the majority party dominance and party whips system is the crux of the matter. He further states, the party list system is a constraint for effective oversight, due to dominance of a particular grouping.

In the Select (NCOP) and Portfolio (NA) Committees, the ANC has the majority of members who can either assert or block oversight. Respondents of this study point to the fact that the ANC's dominance is being used to frustrate the opposition from holding the Executive accountable. ANC caucuses in these committees have study groups which are meetings held to discuss and adopt a particular direction before the meetings of the committees, particularly when there is an issue of critical importance (Calland, 2013). It has been a trend that Ministers and senior officials in the respective departments sometimes attended these study groups to make the committee engagements more palatable for them. Resoundingly from the respondents of this study, this occurrence is deemed as defeating the purpose of oversight, which is to broadly guard the Executive from wrongdoing.

In 2015, the ANC in Parliament used its majority to adopt a report that exonerated President Zuma from paying for non-security features for the upgrades on his Nkandla homestead. 93 MPs voted against the adoption of the report, some MPs staged a walkout in protest, and 198 voted in favour of the report (News24, 2015).

The actions of Parliament in adopting the report would later be the subject of court proceedings and the Constitutional Court ruled Parliament had acted inconsistent with the Constitution (Merten, 2021b). It is ANC MPs who used their majority to adopt a report that absolved President Zuma and through their dominance in the committees and the house, essentially blocked Parliament from playing an effective oversight role. Further, recently in the year 2022, the ANC used its majority to block the establishment of an ad hoc committee to investigate the role of state institutions in the Phala Phala scandal. The opposition party MPs voted in favour of the motion except the GOOD Party which voted against the motion. ANC used their majority to block an impeachment inquiry on the Phala Phala scandal. This is after an Independent Panel

report penned by former Chief Justice Ngcobo found President Ramaphosa may have seriously violated the Constitution and laws of the country, and may have committed serious acts of misconduct (Ngcobo, Masipa, & Sello, 2022).

This prompted the Chief Whip of the DA, Siviwe Gwarube (MP) to state “The ANC is beyond the point of self-correction. They have learned no lessons from the past decade, instead, they continue to hollow out Parliament in order to shield many in their ranks from accountability. It is truly a sad day in our democracy when a logical motion meant to enable Members of Parliament to do their work is shot down due to narrow political interests” (Gerber, 2022).

6.1.3 Voting Mechanism

As the literature posits, MPs took up an oath to be faithful to the Republic of South Africa (Constitutional Assembly, 1996). MPs often found it difficult to abide by the oath due to the party-list system of electing MPs and the party directives that at times are contrary to what is best for the country. As the respondents have stated, the voting mechanism currently in use, open ballot, does not create an environment in which the MPs could be protected and encouraged to be loyal to the Republic instead of their parties. Particularly during the time of COVID-19 and the burning of Parliament in which Parliament sittings are held via a hybrid method where the party whips indicate to the presiding officers, the way the MPs of those political parties vote. It is up to an individual MP to indicate that they are voting differently from their party, this is almost impossible as it would compel MPs to openly oppose their party. This voting mechanism did not protect MPs from potential victimisation from parties as respondent 12, an opposition MP, stated, “*The open ballot system undermines democracy and weakens the oversight function of Parliament*”.

The findings of this research study have indicated that the voting mechanism did not enable MPs to vote in a manner that is in the best interest of the country. An open ballot method of voting would most likely compel MPs to toe their party lines. It took a high level of courage for MPs to defy their parties and openly vote against party wishes. It could be argued that MPs when faced with contentious issues of national importance, know what is best for the country and they are often handicapped by the voting mechanisms that could open a flood of victimisation from their political principals. Rule 104 of Parliament (National Assembly, 2016) indicates in a manual

voting method, names of members and votes must be printed in the Minutes of Proceedings. It is common practice for political parties to go through such minutes to ascertain MPs who voted differently from party lines to “discipline” such MPs.

The research found, on contentious issues of oversight e.g., motions of no confidence, impeachment motions, adoption of contentious reports e.g. (Nkandla Report, s89 Independent Panel Report), MPs are often forced to abide by the party directives that do not embolden effective oversight over the Executive.

ANC MPs were instructed to vote against the adoption of the Section 89 Independent Panel report (Hunter & Khumalo, 2022). The adoption of the report would have enabled Parliament to investigate the conduct of the President in the Phala Phala scandal and fulfil its oversight obligation. Respondent 3, an opposition party whip, stated “*Secret ballot strengthens the oversight function of Parliament. It allows MPs to vote with their conscience and there will not be consequences for an MP’s action. Open ballot encourages Executive to be protected even if they destroy the country*”.

In the Constitutional Court case of the UDM vs. Speaker of the NA on the secret ballot where the Chief Justice said “*Members are required to swear or affirm faithfulness to the Republic and obedience to the Constitution and laws. Nowhere does the supreme law provide for them to swear allegiance to their political parties, important players though they are in our constitutional scheme. Meaning, in the event of a conflict between upholding constitutional values and party loyalty, their irrevocable undertaking to in effect serve the people and do only what is in their best interests must prevail. A way must be found to draw a line between allowing voting according to Members’ true conscience and the important responsibilities or obligations Members have to their parties, which would at times be in conflict*” (United Democratic Movement v Speaker of the National Assembly and Others, 2017).

6.2 Role MPs can Play in Strengthening the Effectiveness of Parliament

6.2.1 Cross-party Collaboration and Trust

In the 5th Parliament, opposition parties worked together to hold President Zuma accountable. The collaboration is founded on the need for parties to work as a unit in their oversight role. The collaboration is further bolstered by Court rulings that chastised the Executive for breaches of the oath of office and violations of the Constitution. Opposition parties spoke in one voice and voted together in the motions

of no-confidence against President Zuma. Opposition party cooperation was more common during this Parliamentary term (February, 2018).

The 5th Parliament displayed the level of accountability that could be achieved through opposition-party collaborations. In a matured democracy, despite differences in ideologies and policies, opposition parties must be bound by set principles of ensuring Executive accountability- particularly for intolerable breaches of the Constitution, oath of office, and human rights. Opposition parties have a voice in Parliament and that voice is stronger when they speak in unison.

In view of the Phala Phala scandal that engulfed the country, opposition parties in Parliament except for three parties (VF+, GOOD, and AL JAMAA) discussed and agreed in principle to hold President Ramaphosa accountable. The accountability mechanisms included but were not limited to, a motion of no confidence, a section 89 impeachment motion, an ad hoc committee on Phala Phala, and utilising the Parliament question and answer session for the President. The collaboration yielded positive results as the President refused to answer a question on Phala Phala in his Question and Answer session on the 30th of August 2022, citing legal advice. The opposition parties spoke with one voice demanding the President answer the respective question.

The Speaker in the NA's programming committee acceded to the call by opposition parties to schedule another session in which the President accounts by answering that question. As the Presidency does not have a parliamentary committee overseeing it, as espoused in section 92 (2) of the Constitution, regular question and answer sessions amongst others, are one of the mechanisms to hold the President accountable.

The success of forcing the Speaker to schedule another session could be attributed to opposition-party collaboration. More opposition-party collaboration on pertinent issues could yield success in ensuring accountability and oversight. Opposition parties at times are disjointed and not organised, this benefits the Executive which can escape scrutiny over their decisions and conduct. Opposition parties must be encouraged to create forums in which they can discuss issues of mutual concern to work together both in the committees and the house to ensure accountability.

The research found that opposition parties needed to display leadership and principles of service before narrow party-political gain. Opposition parties at times are fixated on which party attains political mileage on issues driven in Parliament. Leadership is the

ability to see the bigger picture and not worry about who gets the credit for doing what. The Researcher argues that opposition parties are often handicapped by the desire to always want to achieve political popularity at the expense of broader national interests. The desire for political popularity creates friction and tensions within opposition parties, which in turn creates stumbling blocks for collaboration.

Data collected from this data suggests MPs need to understand layers of leadership as MPs. MPs have roles as individuals, and as part of political parties, and political parties have roles as part of a broader collective of parties represented in Parliament. Layers of leadership breed strong and robust oversight mechanisms when implemented optimally. The layer of political parties as part of the broader collective of opposition parties, is not explored sufficiently as a means of driving and enforcing oversight over the Executive.

One of the facets of leadership is influence, thus opposition parties ought to exercise it by soliciting support from one another on issues that require collective support. For Parliament to be strengthened as an oversight institution, opposition parties would need to collaborate more. A Parliamentary system endorses an official opposition and the leader of the opposition in accordance with legislative requirements. The official opposition should therefore exhibit stout/stalwart leadership and create a platform for collaboration, a forum that could lead discussions with the Head of State, Speaker, and amongst each other as opposition parties on issues of concern.

The official opposition, the DA could do more in this regard by providing leadership amongst the opposition in accordance with the title of being an official opposition and leader of the opposition comes with more resources. Therefore, with greater resources comes greater responsibilities and the drafters of the Constitution foreseen a need for the opposition to be marshalled in certain instances. Section 57(2)(d) of the Constitution directed the NA to recognise the leader of the largest opposition party. The role of the opposition is to ensure the presence of healthy political debate which in turn empowers MPs to ask difficult questions and expose abuses of power – this is a critical element of oversight (Mottiar, 2015).

6.2.2 Ethical Leadership

Personal values such as honesty, fairness, respect, responsibility, and compassion have a nearly universal appeal. Professional and organisational value ethics, to a large extent, complement personal values and one's view on morality (Sekerka, Bagozzi, & Charnigo, 2008). Therefore, the ethical conduct of MPs is largely informed by one's values rather than the organizational and professional ethical principles and guidelines. To have an effective ethical conduct framework, the focus should be placed on the inherent personal values that inform an individual's ethical foundations and views (Sekerka, Bagozzi, & Charnigo, 2008).

It has been established in the literature that ethics in the public sector is not limited to addressing corruption, service delivery to the citizens, and efficiency (Ehrich, Cranston, & Kimber, 2004). Ethics in the public sector also involves pursuing justice, fairness, equity, respect for human dignity, and the pursuit of the common good in the best interest of the public (Ehrich, Cranston, & Kimber, 2004). Therefore, ethics is not constrained to individual morals and values, but actions entrenched in seeking to act in the best interest of the greater public. Plaatjies argues "Good, ethical leadership, in its collective form, is at the centre of good governance and public accountability" (Plaatjies, 2013, p. 215).

The research established that ethical competency is not a requirement for a citizen to be an MP. OUTA reported ethical competence of MPs could be increased through training (OUTA Parliamentary Engagement Office, 2023). MPs come from different backgrounds and have different cultures that inform their ethical underpinnings. Their experiences and inherent value systems may not be in line with the ethical standards expected of public representatives.

Context of MPs upbringing and experiences, created a subconscious bias that led to ethical blindness as MPs may not be well-vested in the ethical implications of their actions. Majority of respondents cited ethical training and awareness as a potential intervention in(to) empowering and elevating MPs conduct in as far as ethics are concerned, consequently strengthening Parliament. Ethical leadership is "The ability to convey honesty and integrity, through words and actions, and induce those same characteristics in others" (Camerer, Pikoli, & Schmidt, 2021, p. 5).

Internationally the ethical climate is enforced by the ethical standards public leaders are held to (Timsit, Adam, Booth, & Suliman, 2022). Boris Johnson, Prime Minister of Britain had to resign after 50 cabinet ministers resigned in 48 hours citing not having faith in Johnson due to a series of scandals (Timsit, Adam, Booth, & Suliman, 2022). The public, civic society, opposition parties, and even his government called for his resignation. This is evidence of an ethical climate that enforces ethical standards in the political leadership in a country.

It has been reported in many instances that South Africa and many developing countries struggle to enforce an ethical climate. When political leaders are mired in sexual, criminal, ethical, and corruption scandals, they stubbornly avoid being held accountable. The Researcher argues through exemplary behaviour, ethical political leaders inculcate an environment in which all public representatives can consider ethical values as a critical element in their duties as public representatives.

The Researcher argues strong ethical leadership is important to strengthen Parliament as an effective institution of oversight and accountability-an effective Parliament will enjoy legitimacy among South African citizens. When MPs act ethically and abide by the oath of office and Code of Ethical Conduct, there are increased levels of effectiveness in Parliament (Cheteni & Shindika, 2017). Leadership in such circumstances must have the moral authority to positively influence the conduct of MPs, officials, all governmental stakeholders, and the entire society.

The study also found that the Joint Committee on Ethics has a punitive outlook and waits for the MPs to be in the wrong. Whilst majority of respondents highlighted the need for ethical awareness and training. Respondent 13, a ruling party committee chairperson, argued that MPs are generally ethically aware, by stating *“MPs are ethically aware. MPs want to ascend in their careers, which creates self-interest. MPs must be helped to be empowered economically so they don’t see themselves as careerists in politics. When politics becomes a career, consciousness flies through the window, because you have to survive in politics. Parliament must have interventions (academically, economically, and financially). That way MPs will not sell their souls to survive, they will act in the best interest of the country”*. This assertion is supported by respondent 15, an opposition party committee chairperson, who stated, *“Ethical awareness is fundamentally there for each MP; it is quite prevalent”*.

Several respondents asserted that Parliament ought to empower MPs during the Parliamentary term. The respondents stated that empowered MPs who are not anxious about what would happen to their lives after the end of the parliamentary term would act ethically. MPs who are vulnerable would be susceptible to gratifications that would impugn the ethical value system of MPs. Respondent 12, an opposition party MP, stated, *“The state must take care of their MPs properly so there is no incentive for MPs to be corrupted. The state does not provide financial assistance to MPs as it does to the Judiciary and Executive”*.

6.2.3 Political Will and Moral Courage

The means of success in a country’s politics is not always ethical, fair, and above board. There have been instances where the climate was toxic and highly charged to the extent of danger being posed to the lives of MPs. On the eve of the consideration of the Independent Panel report on Phala Phala by the NA, Bantu Holomisa (MP) and Mzwanele Nyhontso (MP) received death threats if they were to vote in favour of adopting the report (Mokgatlhe, 2022). Therefore, in light of the toxic nature and the battles fought in the political terrain, respondents of this research have emphasized the fact that MPs need to have moral courage to do what is right. Frene Ginwala (MP) argues the starting point and end point in the fight against corruption is political will (Sangweni & Balia, 1999).

MPs have in the past been proven to have lacked the requisite leadership and courage to act against the private sector which has been found to have been complicit in acts of corruption that involves public representatives (Felix, 2021). The Steinhoff scandal in South Africa has been identified as South Africa’s biggest corporate fraud case that did not receive an appropriate response from MPs (Felix, 2021).

Former MP, Phumzile van Damme (MP), was reported to have tried to bring Facebook to account to the PC on Communications on whether it played a role in misinformation related to politics and was stopped by the Chief Whip of the DA (Eyewitness News, 2021). This example of Natasha Mazzone (MP), DA Chief Whip, curtailing an MP from exercising their oversight function, is evidence of the limitation MPs are subjected to on their parliamentary functions.

Moral courage, leadership in general, and ethical leadership in particular are critical for strengthening Parliament as an oversight institution. The budget for Parliament could be increased, and changes could be made to the rules and operational

mechanisms of Parliament. However, in the absence of courageous leadership, none of these changes would yield positive results in strengthening Parliament as an effective institution of oversight.

In the 5th Parliament, SCOPA played an important role in the termination of a Cash Paymaster Services (CPS) contract. Cash Paymaster Services was contracted to disburse SASSA grants to more than 18 million recipients, the contract was declared irregular (Parliament Communication Services, 2019).

SCOPA also played a role in the South African Social Security Agency (SASSA) to negotiating with the South African Post Office (SAPO) which led to the state saving substantial amounts of money. SCOPA referred cases of possible corruption to the Anti-Corruption Task Team and intervened in State Owned Entities and various municipalities by scrutinising contracts and the awarding of tenders (Parliament Communication Services, 2019). These are the tangible results when there is political will in Parliament. However, if MPs lack courageous, moral, and ethical leadership, Parliament would not have seen tangible changes. As the respondents of this study have emphasised, political will is at the core of the strengthening of Parliament as an oversight body. Calland (2013) asserts that a backbencher of the ruling party needs courage to stand up against a party senior, similarly the younger and newer you are in Parliament, the less likely you are to do so.

This notion is alluded to by Professor Calland in testifying before the Zondo Commission when he stated “Political will is the crux of the matter. Parliament tells departments to do more with less, prioritise and ensure the efficient use of resources- the same should be expected from it” (Doyle, Rault-Smith, & Alli, 2022, p. 22). This is echoed by respondent 8, an opposition party MP, who stated “*It requires courage, political courage, and conviction to do what is right*”. Respondent 15, an opposition party committee chairperson, shared the same sentiment by stating “*None of the rules and constitutional injunctions are insufficient. What is absent is political will, to do what the law and constitution require*”.

The Researcher argues MPs are concerned with their political growth and longevity in the political domain. This is derived by doing political work for their parties and always being on the right side of the party whenever there are critical moments in Parliament. MPs then prioritize political party work over being effective MPs. The attitude of MPs is not of members who want to do a diligent job in Parliament, hence MPs often put party considerations before Parliament duties. Calland argues if MPs see Parliament

as a place to clock in and just vote; it's unlikely that would encourage diligence and expertise (Calland, 2013).

Considering victimisation and suspensions MPs are subjected to by their parties when they did not tow the party lines, the Zondo recommendation of Parliament crafting legislation to protect MPs from being suspended and removed from Parliament for exercising oversight in good faith over the Executive is important. MPs using the oversight and accountability tools at their disposal must take it upon themselves to strengthen Parliament as an institution and not outsource that responsibility to courts and persons outside the institution.

The proposed recommendation has the potential of having the same progressive outcomes as the legislation passed to block MPs from floor-crossing. Floor crossing was a system in which public representatives could move to a different political party or form a new party, and take their seats with them (February, 2018).

The power and ease with which parties have in removing MPs is a major determinant of the type of attitude MPs have towards exercising real oversight over the Executive. As identified in the Corder report, the oversight process of Parliament is not operating at maximum and there is reluctance to make the system more effective, and the lack of political will is central to these inadequacies (Buhlungu, Daniel, Southall, & Lutchman, 2006).

The Executive and MPs from the ruling party are inter-twined by belonging to the same party. As the literature posits, MPs from the ruling party are not inclined to hold the Executive accountable (de Vos, 2021). This assertion is supported by Makanya (2021) who alluded that the single-party dominance of the ANC has incentivised ANC MPs to be accountable to their party and they rarely take an opposing position to the Executive led by the ANC.

6.3 Changes that can be Made in Parliament

6.3.1 Code of Ethical Conduct

Th public representatives' actions are a subject of scrutiny as the citizens expect the public representatives to always be exemplary and act in the best interests of the public (Ndou, 2022). Therefore, the Code of Ethical Conduct for Members of Parliament serves as an ethical guide on the conduct of the MPs. The MPs are expected to abide by the Code.

The study established that the Code's effectiveness has been tested through instances where MPs were reported to the Joint Committee on Ethics for ethical violations. The Code is affirmed of having loopholes that have been exposed such as the case of Zweli Mkhize (MP) regarding the Digital Vibes scandal.

The study furthermore discovered that the enforcement of the Code is largely dependent on MPs who belong to parties that follow a partisan approach in dealing with matters before them in the Joint Committee on Ethics (National Assembly Table, 2022). This rarely led to a principle-driven approach in dealing with complaints as the functioning of the committee consequently led to political considerations trumping principles. The interpretation of the Code and subsequent sanctions to MPs for violations is to a great extent determined by the political parties. This is predominantly due to the practice of political parties taking a position and directing their members to drive that position on any matter before committees of Parliament. This defeated the purpose of the Code, as defined in Section 2.3 of the Code which is "to create public trust and confidence in public representatives and to protect the integrity of Parliament" (The Joint Committee on Ethics and Members' Interests, 2014). The Joint Committee on Ethics which enforced the Code is unable to perform its functions without fear, favour, and prejudice.

It is also found in this research that the Joint Committee on Ethics is constrained by the political considerations of the MPs who served on the committee, the MPs are often required to drive a party mandate to the detriment of the principle of good ethical conduct. Respondent 15, an opposition party committee chairperson, stated "*There is a bias to MPs being accountable to political parties which have different standards as to how they hold MPs accountable. The Ethics Committee is more political and subjective instead of being rules and standards-based. Ethics committee makes political considerations as opposed to the accountability-based outlook*".

As indicated in the literature, Section 9.17.8 of the Code defines a close family member as a minor dependent. The complaint against Zweli Mkhize (MP) fell away due to his son being an adult male not dependent on the member. The report stated "In respect to part one, the committee noted that the Code defines immediate family member as a Member's spouse, permanent companion, or dependent. Thus, Zweli Mkhize's (MP) son does not fall within the confines of an immediate family member as per the Code, as the son is an adult male who is not financially dependent on the Member"

(Parliamentary Communication Services, 2022). This rendered the Code inadequate for its intended purpose.

The Code has an inherent weakness of not providing for the monitoring of MPs' declarations whether they are complete, truthful, or not. Respondent 15, an opposition party committee chairperson, stated, "*A far more thorough assessment of those declarations should be done, declarations are taken at face value hoping the member would be honest*". As the literature posits, a Code of conduct specifies standards to which a member's behaviour must comply (Stapenhurst & Pelizzo, 2004). Therefore, the declaration of members' interests appeared to be a tick-box exercise that served no real purpose as there is no monitoring of the completeness and truthfulness of submissions.

In light of the weaknesses of the Code in determining if declarations are complete and truthful, and the evolving nature of politics, a timeous review of the Code is necessary to fulfil the objectives of a Code of Ethical Conduct.

6.3.2 Increase in Parliament Funding

As per the Constitution of the Republic of South Africa, the structure of the State in South Africa is in such a way that informed three arms of the State being the Legislature (Parliament), Judiciary, and Executive. The budgeting and financial allocation of the State is housed in the Executive. It is therefore the Executive that allocates and provide funding to Parliament, an organ that is responsible for exercising oversight over the Executive. As the Executive and Parliament are both run by the ANC majority, Parliament has always passed the budget allocated to it, has never rejected it, even though presiding officers have repeatedly complained about Parliament's constrained budget.

The budget of Parliament was R 2 683 billion for the 2022/23 financial year encompassing remuneration of members, legislation and oversight, administration, and associated services and transfer to political parties (Mapisa-Nqakula, 2022). The budget for Parliament had been reduced for 2021/22 by R 256 million, for 2022/23 by R 338 million, and for 2023/24 by R 296 million. Parliament reported it would be challenged to fund its strategy as cost reductions and reprioritisation of funding and resources would occur (George, 2022).

Committees of Parliament are at times constrained by budgetary limitations in their oversight programmes over the Executive. The limited funding of Parliament confines

the oversight work that committees could be engaged in. Committees have to make an application to the House Chairperson and motivate why they need to do oversight visits to Departments, Municipalities, and entities. This rigid structure made it difficult for committees to match the work of the Executive that can take visits to any entity without red tape. The committees of Parliament are constrained by the institutional processes that hinder their flexibility in their oversight work.

An increase in Parliament funding also means increasing the support staff of the respective committees. By means of illustration the Portfolio Committee on Mineral Resources and Energy did not have a researcher servicing the committee between 2019 and 2022, and neither was there a content advisor for the Energy portfolio for five years between 2016 and 2021. The PC on Mineral Resources and the Portfolio Committee on Energy were merged in 2019 at the start of the 6th Parliament.

The support staff allocated to each PC does not meet the committee requirements and capacity becomes constrained. Generally, Portfolio Committees in Parliament are resourced by one Secretary, Researcher, Content Advisor, and Administrative Assistant (OUTA Parliamentary Engagement Office, 2022). The Department on the other hand would have a Director General, Deputy Director Generals, Directors, Chief Directors, and other myriad of staff that are responsible for the technical work of the department.

The NCOP committees are similarly under-resourced. Select Committees dealt with multiple subjects e.g., the Select Committee on Land Reform, Environment, Mineral Resources, and Energy would have one Researcher and one Content Advisor who would have to provide quality support and advice to the committee on all four subjects. The expertise of the Researcher and Content Advisor would not be of exceptional quality for all areas of focus for the Select Committee.

Therefore, in South Africa where the situation is entirely different as illustrated above, the researchers find it difficult to service the committees in their entirety as the programme of committees is at times very expansive. Committees are under-resourced in this regard (YouTube: Portfolio Committee on Mineral Resources and Energy, 30 September 2022., 2022). Respondent 15, an opposition party committee chairperson, stated *“There is no researcher attached to an MP. Researchers are attached to parties, committees, and clusters. In comparison to the world, the resources allocated to MPs to do their work. The funding of Parliament is skewed, it does not assist Parliament to perform its most basic of Constitutional responsibilities”*.

This means MPs are generally dependent on themselves to do research. The nature and quality of the research cannot be verified. This is because it is entirely up to the MP to have the political will to take the initiatives to be equipped with quality research.

6.3.3 Comprehensive Capacity Building

The work of MPs requires a person to have a minimum set of skills i.e., reading and writing, communication skills, conflict management, critical thinking, and teamwork (PMG, 2019). McLennan (2018) argues the lack of MPs with an academic or professional background, was one of the biggest challenges in the South African Parliament. Parliament as an institution is only as strong as its members (Calland, 2013). The majority of respondents stated that MPs often lack the capacity to play an oversight role. The lack of capacity is two-fold, firstly MPs may lack the literacy skills to carry out their parliamentary duties. Secondly, MPs may lack the capacity to understand and carry out their duties as MPs in general and, duties pertaining to the respective committees they served in.

At the start of the 6th Parliament, 42% of the MPs were new with no prior experience in the legislature (PMG, 2019). The issue of the capacity of MPs in Parliament is further compounded by the turnover of MPs both in committees by reshuffling and in Parliament through resignations.

An MP serving in the SCoA may best excel when they have the financial expertise to interrogate reports, analyse the financial performance of departments, and the like. The Speaker of the NA, Nosiviwe Mapisa-Nqakula (MP) stated in the budget vote debate, “The Secretary to Parliament has also been tasked with ensuring that Members receive adequate training on key financial legislation to avoid oversight failures highlighted by the Commission in relation to Parliament’s role” (Mapisa-Nqakula, 2022). The study found, in the absence of such expertise, departments could get away with avoiding thorough scrutiny of their financial performance reports and plans, and this hampers effective oversight. Parliament could close the expertise gap through comprehensive capacity-building programmes for MPs considering individual requirements. These could include research skills or post-graduate qualifications to support oversight interventions.

Findings from this study indicate that research budgets are attached to a political party, not an individual MP. A party could use the research budget personnel for party interests to the detriment of the research needs of the individual MP. Researchers in

practice are utilised for party purposes not MP research requirements for oversight work. MPs are inadvertently forced to capacitate themselves. Head of Energy at OUTA, McDaid reported that in Parliaments in the northern hemisphere, each MP has a researcher assigned to the individual MP. In countries in the southern hemisphere, researchers are assigned to committees, and a budget for a researcher is assigned to the party. Thus, leading to MPs holding the Executive accountable based on what is presented to them by the departments instead of research independently done by their research unit or themselves. As reported by OUTA on the Karpower issue, the PC on Mineral Resources and Energy relied on information presented by the Department and failed to consider alternative evidence (OUTA Parliamentary Engagement Office, 2023).

Findings in this research study indicate that there are no mechanisms to monitor the work of MPs in the House and their constituencies. There are no key performance indicators (KPIs), and assessments done on MPs. There are also no basic minimum requirements for the running of constituency office of MPs, for example; frequency of meetings, community engagements, motions, and questions to Ministers directly from the constituency. This assertion is echoed by OUTA which found there is little evidence to ascertain if MPs did undertake constituency work (OUTA Parliamentary Engagement Office, 2022). There are no mechanisms for Parliament to enforce the resolution of issues raised by MPs to government departments. MPs raise issues on behalf of communities; however, Municipalities, Provinces, National Departments, and other organs of state do not necessarily act on those issues. This non-action creates a perception that MPs are not working or are not effective in doing their oversight work. This perception reduces the enthusiasm of some MPs to be diligent in their work.

The majority of respondents stated capacity building of MPs could contribute to improving the oversight function of Parliament. This view is asserted by PMG (2019) that stated, "Parliament's performance is dependent on the calibre and capability of individuals elected to serve in it". The respondents commented that the induction and training offered by Parliament focused on the basic administrative issues and are not the core function of MPs which is law-making and oversight. This is alluded to by PMG (2019) that stated the induction programmes are insufficient as they tended to be brief and only covered the most basic details.

7 CONCLUSION AND RECOMMENDATIONS

7.1 Conclusion

The focus of the mini-dissertation was to examine how Parliament as an institution can be strengthened as an oversight body through individual MPs who exercise ethical political leadership to enhance Parliamentary oversight and accountability.

The mini-dissertation set out to answer three main research questions:

- What factors impede MPs from upholding the oath of office, the Code of Ethical Conduct?
- What role can Members of Parliament as individuals play in strengthening the effectiveness of Parliament as an oversight body?
- What changes can be made to how Parliament functions as an institution to make it more effective as an oversight body?

Fifteen MPs were interviewed, with twelve from different opposition parties and three from the ruling party. Future studies can benefit from a broader sample of respondents of the 490 Members of Parliament. Based on the data collected from the interviews the conclusions are stated below.

Oversight and accountability are functions to a large extent of opposition parties. Further, findings of the study indicated that MPs within the ruling party rarely took it upon themselves to effectively enforce oversight to hold the Executive accountable. As identified by the study, it is particularly difficult for MPs from the ruling party to perform their oversight role over the Executive as they are identified in this study as senior members of the ruling party, a move that would be career limiting.

The study further revealed that the Code of Ethical Conduct that is in place, is not fit for purpose in terms of encouraging ethical behaviour, as the code is indicative of being outdated and has a number of loopholes that render it ineffective. As an example, it was discovered there is no provision in the Code to ascertain if declarations made by MPs are complete and truthful. Furthermore, MPs are not required to undergo lifestyle audits, by virtue of this, Parliament is being hampered in verifying independently if MPs indeed declared all interests. Parliament is inherently obscured from ascertaining if MPs lifestyles are sustained through legitimate and verifiable means.

Consequently, the study found that the existing composition and functioning of the Joint Committee on Ethics led to biased enforcement and sanctioning of MPs for ethical violations. Professor Corder argues the Joint Committee on Ethics must have a mixture of MPs and independent experts, and MPs must not be dominated by a single party.

The findings of the study also alluded to the fact that the Constitution and rules of Parliament have grey areas that are not clear on how Parliament could be empowered in exercising its oversight duty. The Constitution is found to be clearer on the voting method for the election of the President and Speaker; however, it is silent on the motion of a no-confidence voting method for the President and Speaker, which the Researcher argues is an important mechanism for holding the Executive accountable. This grey area allows whoever held the position of Speaker to determine the voting method to be utilized. As illustrated by this research study, the Parliaments' role of ensuring oversight is done effectively, is hugely impacted by the immense role the Speaker has to assume in honouring oversight duties in this regard. The study found that the role of the Speaker is occupied by a senior member of the ruling party and the position is therefore not seen as independent as many respondents indicated certain actions of Speakers from the ruling party which were found to be biased.

To a large extent, there appears to be no political courage and conviction to hold the Executive accountable and objectively speak out against wrongdoing of the Executive. MPs to a considerably larger degree are found in the study to have been comfortable continuing with the embedded political culture and climate in Parliament. There is no political will to raise uncomfortable issues that would strengthen the role of Parliament as an oversight institution. MPs appear to be constrained by party lines and loyalties that dictate how they ought to exercise their parliamentary duties. The study revealed that MPs rarely went against the wishes of their political parties.

Findings of the study reveal that internal party rules have a significant influence on the oversight duties of MPs. It has further been revealed that Parliament funds political parties through party leader allowances. However, there are no directives from Parliament as an institution to political parties for MPs to improve their oversight function. It is highlighted in the study that Parliament has no mechanisms to work with parties to improve the oversight performance of MPs. For example, parties in collaboration with Parliament do not have a minimum threshold on MP attendance, questions to Ministers, member statements, motions without notices, and other

oversight mechanisms. Parties aren't compelled to contribute to the skills development of their members to ensure well-capacitated MPs. An expert on Parliamentary oversight, Professor Hugh Corder stated, Parliament must take it upon itself to strengthen Parliament and not delegate the responsibility of strengthening Parliament to the courts.

7.2 Recommendations

Based on this research and research findings, to strengthen Parliament as an effective oversight body the following is recommended:

- An increased budget for Parliament and its committees to be able to meet its oversight requirements relative to the departments they oversee.
- Relevant and customised, specialised training for MPs on their functions and powers to exercise oversight over the Executive.
- Definite categories of issues that must clearly be defined that a secret ballot is the preferred method of voting, e.g., the election of and motion of no confidence against a President, Speaker, and the Cabinet. An opportunity to consider exceptional circumstances must be kept open.
- A capacity needs analysis for all MPs, a comprehensive and mandatory capacity-building programme for all MPs, and specifically for committees they serve on.
- Regular ethics awareness programmes and training MPs to shape the virtues that guide the conduct of MPs.
- The Code of Ethical Conduct must be reviewed to ensure a relevant and fit-for-purpose Code.
- The Joint Committee on Ethics must be comprised of a combination of MPs and independent experts, and MPs must not be dominated by a single party.
- Incentives for parties to return MPs to Parliament to ensure low MP turnover that would retain and strengthen experience and capacity in Parliament.
- The processes in motion to consider and implement recommendations from Chief Justice Zondo and Professor Hugh Corder must be strengthened to improve Parliament's oversight function.
- Review the existing oversight model and develop an oversight model taking into account the experiences and lessons of the past Parliamentary terms.

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PARLIAMENTARY GOVERNANCE

A: CODE OF ETHICAL CONDUCT

<https://www.parliament.gov.za/code-conduct>

B: OATH OF OFFICE

<https://www.justice.gov.za/constitution/SACConstitution-web-eng-s02.pdf>

C: CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

<https://www.gov.za/documents/constitution-republic-south-africa-1996>

D: OVERSIGHT AND ACCOUNTABILITY MODEL

<https://www.parliament.gov.za/storage/app/media/oversight-reports/ovac-model.pdf>

E: RULES OF THE NATIONAL ASSEMBLY

https://www.parliament.gov.za/storage/app/media/Rules/NA/2016-09-28_NA_RULES.pdf

30 May 2022

Student Name: Vuyolwethu Zungula

Student Number: zngvuy002

REF: REC2022/05/0062022

Degree: Master of Philosophy in Development Policy and Practice

Thesis Topic: How can ethical political leadership restore Parliament as an effective oversight body?

Supervisor: Dr Marianne Camerer

We are pleased to inform you that your ethics application has been approved. Unless otherwise specified this ethical clearance is valid until July 2023.

Please be aware that you need to notify the Research Ethics Task Team immediately should any aspect of your study regarding the engagement with participants as approved in this application change. This may include aspects such as changes to the research design, questionnaires, or choice of participants.

The ongoing ethical conduct throughout the duration of the study remains the responsibility of the principal investigator.

We wish you well in your research.



Dr Deirdre Rule

Chair: Research Ethics Task Team

The Nelson Mandela School of Public Governance

For any queries please contact Ms Zikhona Sikota on +2721 650 1769; zikhona.sikota@uct.ac.za



26 September 2023

Vuyolwethu Zungula
The Nelson Mandela School of Public Governance
University of Cape Town

Student Number: zngvuy002

Degree: Master of Philosophy in Development Policy and Practice

Thesis Topic: How can ethical political leadership restore Parliament as an effective oversight body?

zngvuy002@myuct.ac.za

Dear Mr Zungula

REQUEST FOR PERMISSION TO CONDUCT RESEARCH - VUYOLWETHU ZUNGULA

Thank you for your request to conduct research in Parliament.

Please accept our sincerest apologies for the inadvertent oversight in that approval was not reduced to writing prior to the commencement of your project.

Please accept our assurance that your request was reviewed and approval granted.

Parliament supports your endeavours and we are confident that your work will contribute valuable insights and help further our collective knowledge.

Best wishes for the successful completion of your research project. We look forward to seeing the results of your research.

Your sincerely

Xolile George
Secretary to Parliament

INTERVIEW INFORMED CONSENT FORM

(To be read out by researcher before the beginning of the interview.)

My name is Vuyolwethu Zungula; I am a Masters' student at the University of Cape Town (UCT) currently studying towards an Master of Philosophy in Development Policy and Practice (student number ZNGVUY002). As part of the requirements for my degree, I am conducting a research study on restoring the effectiveness of Parliament as an oversight body. The purpose of the study is to to examine the factors that inform ethical leadership amongst Members of Parliament and how these factors might impact the effectiveness of Parliament in exercising its oversight function. This study has been approved by the Departmental Research Ethics Task Team. Please take note of the following:

- Your participation in this research study is voluntary, and you may opt to withdraw from the research at any time. This research will only be used for the purposes of the research.
- The interview will take approximately 45 minutes to complete, and you are free to decline to answer any questions you may not feel comfortable with
- As part of the interview proceedings, you will not be requested to provide any identifiable information. This is to ensure the anonymity of your responses.
- The interview responses will be kept strictly confidential and will be available only to members of the research team. Excerpts from the interview may be made part of the final research report, but no specific details with respect to respondents' names, addresses, contact numbers or organisation will be disclosed.
- Should you desire a copy of the final research report to be shared with you, this can be arranged. If you should require additional information or have any questions regarding the research, please feel free to contact the researcher, Vuyolwethu Zungula via e-mail ZNGVUY002@myuct.ac.za.

Please verbally acknowledge that you have understood the information shared and provide your informed consent to participate in the study.

INTERVIEW SCHEDULE

A. Ice Breaker

- How long have you been a Member of Parliament?
- Which committees have you served on and currently serving on?

B. Experiences

RQ1 What role can MPs play in strengthening the effectiveness of Parliament as a resilient oversight body?

- Are MPs well capacitated and resourced to fulfil their parliamentary duties?
- How can MPs be capacitated and resourced to provide effective oversight over the Executive & organs of the State?
- Does Parliament have effective mechanisms in place to keep MPs accountable? Are they working?
- What could be done to prevent MPs from being corrupted by the private sector?

RQ2 What changes can be made in the way Parliament operates in order to make it an effective oversight body?

- How does the method of voting in parliament (open or secret ballot) contribute to the oversight function of parliament?
- How does the functioning of committees impact the oversight role of parliament?
- What could be done to enforce proposed recommendations to Parliament from the Corder Report, Zondo Commission and other institutions that have made progressive recommendations to improve the functioning of Parliament?
- How can parliament as an institution be strengthened to provide effective oversight?

RQ3 What factors impede upholding the oath of office and the code of ethical conduct for Members of Parliament?

- How can the code of ethical conduct be made more adequate and effective?
- How can MPs navigate the politicization of parliament to implement their duties effectively?
- What could be done to improve ethical awareness of MPs?

END