

# OUTA PRESENTATION ON THE PARLIAMENTARY OVERSIGHT REPORT

DATE: 30 SEPTEMBER 2022

Presented by: Stefanie fick, Rachel fischer & Liz mcDaid

## BACKGROUND TO OUTA

#### **OUTA IS A CIVIL ACTIVIST ORGANISATION**



The Organisation Undoing Tax Abuse (OUTA) is a registered non-profit civil action organisation that focuses on exposing government corruption and the abuse of taxes and public funds through investigation, research, communication, empowerment and litigation. We are apolitical and rely on public funding to hold those guilty of corruption and maladministration to account.

### NAME CHANGE



OUTA changed its name to the Organisation Undoing Tax Abuse (previously Opposition to Urban Tolling Alliance).

# CLEAR MANDATE



#### Vision

A prosperous country with an organised, engaged and empowered civil society that ensures responsible use of tax revenues throughout all levels of Government.



#### Mission

Challenging and taking action against maladministration and corruption and where possible, holding those personally responsible to account for their conduct and actions.

#### Mission

Challenging decisions, legislation and the regulatory environment as and when deemed as irrational, unfit or ineffective for their intended purpose.

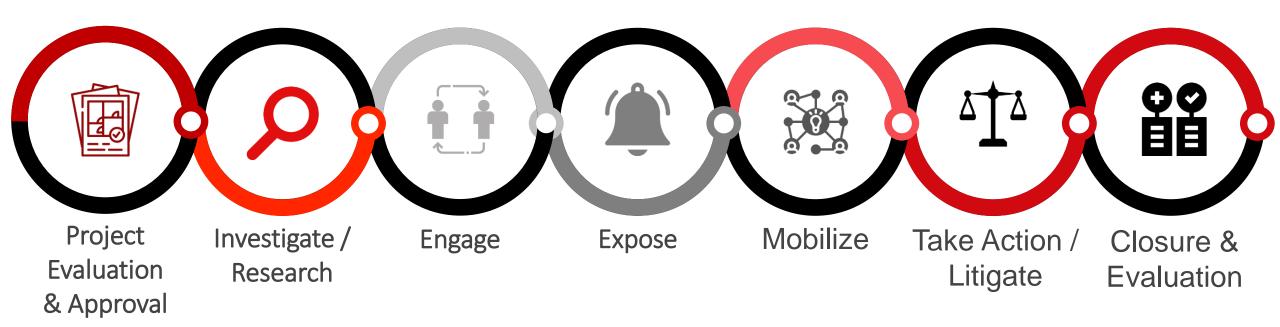
#### Mission

Working with civil society and authorities in improving administration and service delivery, within all spheres of Government.

# CLEAR METHODOLOGY

Each case is managed through a formal project management process.

### Using a 7-Step Methodology:



# Background to the parliamentary oversight reports (pors)



- The PORs tend to be critical of the failure by Parliamentarians to hold the Executive to account.
   Despite government's claimed opposition to the erosion of state institutions due to state capture, this report finds no significant improvement in accountability by Parliament.
- 2019: The first oversight report
- 2020: MPs asleep at the wheel
- 2021: MPs dragging their feet
- 2022: Kicking the can down the Road
  - The fourth report in OUTA's annual series of reports on the Oversight of Parliament will be released soon. Some elements are captured in this presentation.

# Briefing on the 2020/21 report



#### is parliament a failed institution?

- This report forms part of that civil society drive to push for greater accountability of the executive and to ensure that Parliament puts the interest of the public first and cooperates with civil society to strengthen its oversight role.
- Annual review from 1 July to 30 June:
  - Budgetary Review and Recommendation Report (BRRR) process, State of the Nation Address (SONA), Annual Performance Plans (APPs).
  - Number of meetings a portfolio committee held each year, whether the minster attended, how many times the committee held public hearings (this relates to oversight) and whether their reports reflect the inclusion of civil society inputs.
- There is space for improvement to protect our democracy.
- The improvement we are looking for is a responsive Parliament, that holds the executive accountable, whose operations take place in a transparent manner and which shows a welcoming and proactive stance towards public participation.

# Key messages & recommendations





1. The Constitutional requirement for oversight: Failed



2. The Parliamentarians' oath of office: Failed by some MPs



3. Public communication: YouTube helps but it is not participation



4. Public participation: Often ignored



5. Oversight: Inadequate



6. Oversight: Insufficient independent information

# Key messages & recommendations





7. Oversight: What happened to OVAC?



8. Oversight: Even MPs may not be heard



9. Oversight: Absenteeism



10. Constituency work:
No oversight of
constituency offices

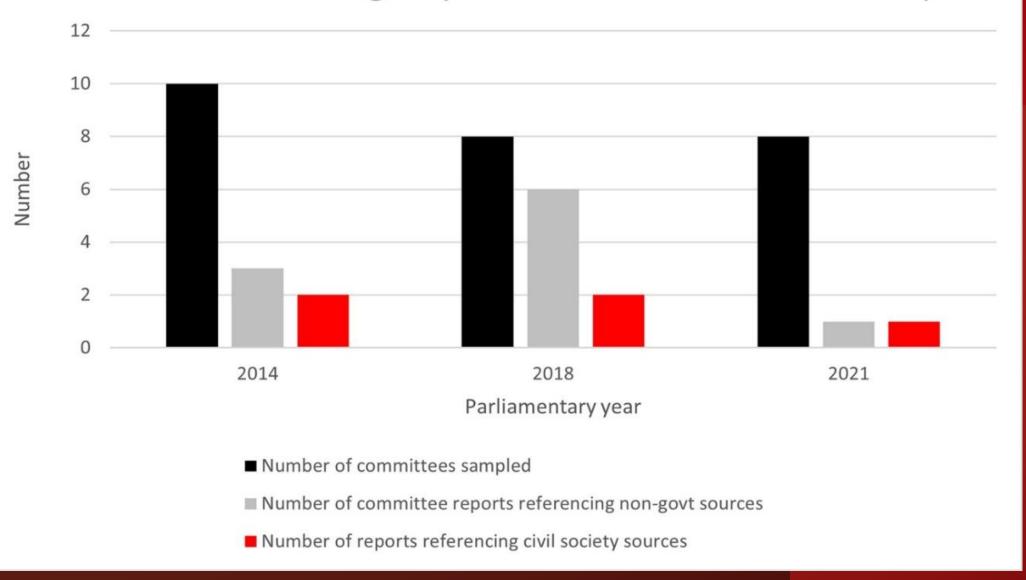


11. Structural reform:Overhaul required



12. Ethics: Inadequate leadership

### Sources referred to in Budgetary Review and Recommendation Reports



# SIX MAJOR THEMES IDENTIFIED



- 1. Theory & Practice
- 2. Public Participation



- 3. Public Interest
- 4. Constituency Engagement



- 5. Structural Reform
- 6. Ethics Committee
  Interaction



# Timeline of Engagement

### with Parliament's internal oversight structures



#### 25 March 2021:

Engagement with Parliament's Core Business Division Team on Parliament's linkages to the People



#### 21 July 2021:

Engagement with Parliament's Research Unit on its services to MPs for oversight & how sources of information are used



#### 24 March 2021:

Engagement with the House Chairpersons of Committees Cedric Frolick (NA) and Jomo Nyambi (NCOP) on OUTA's Oversight Review Report, MPs asleep at the Wheel



#### 14 June 2021:

Engagement with
Parliament's Division
Head for Knowledge
and Information
Services on
parliamentary
oversight



#### 24 August 2021:

Engagement with Parliament's Committee Section team on the process and principle of oversight



PC on MRE
Case study
period of
2020/21

# MINERAL RESOURCES & ENERGY CASE STUDY 2020/21



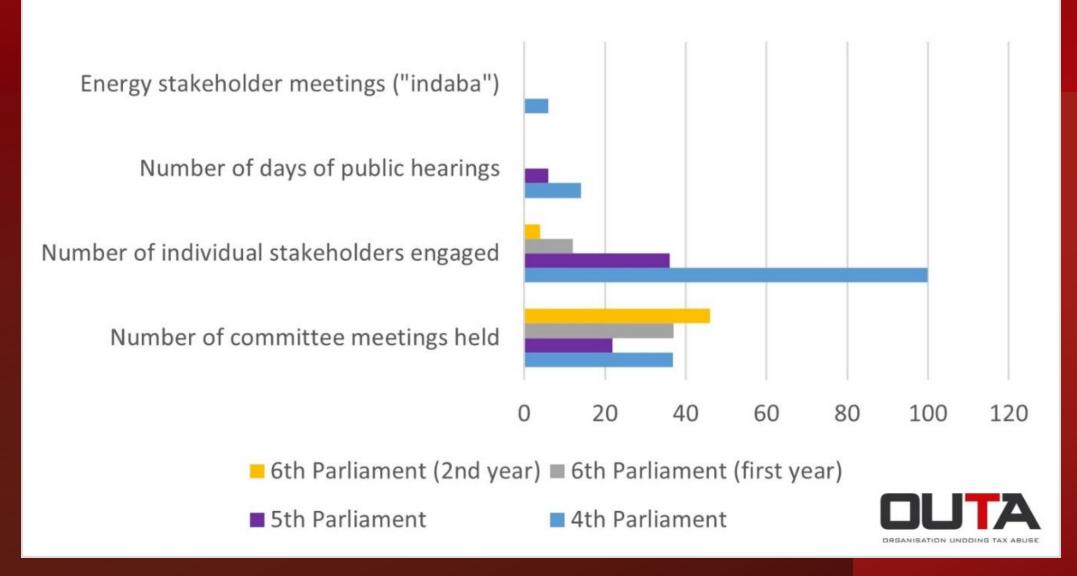
In our 2020 Parliamentary oversight report, we noted that the 2019 BRRR contained 22 recommendations to the Department of Mineral Resources and Energy (DMRE).

Several of these included investigating the failure of the Nuclear Energy Corporation (NECSA) to table its annual financial statements timeously, to provide robust oversight on the Central Energy Fund (CEF) and NECSA, and several investigative issues, including ensuring that there is consequence management and investigations.

There is a history of the PC on MRE asking and recommending action but not seeing action. One of the legacy mining issues is the South African Human Rights Commission on the mining impacts on affected communities and the necessity of instituting measures to protect the rights of mining-affected communities.

Based on the POR analyses, the PC did raise the issue of renewable energy delays, but it does not seem that the NDP or other documents have been considered by the committee.

### Public engagement: PC on Mineral Resources & Energy



# MINERAL RESOURCES & ENERGY CASE STUDY 2020/21



#### Issues identified by the PC:

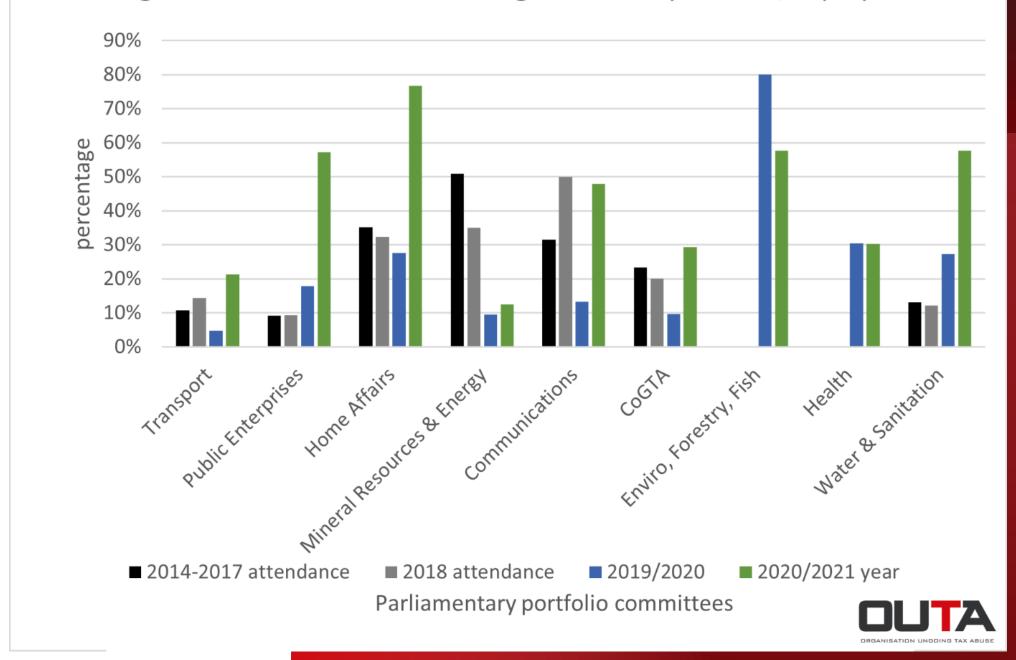
- High levels of UIFW
- Perpetual postponement of legislation to Parliament
- The need to align some legislative reform with Eskom restructuring
- To address these issues the PC made 13 recommendations.
- Of the 13 recommendations made by the committee, six refer to measures to improve audit outcomes.
- The committee has also asked for feedback on progress for ensuring improvement in the audit outcomes.

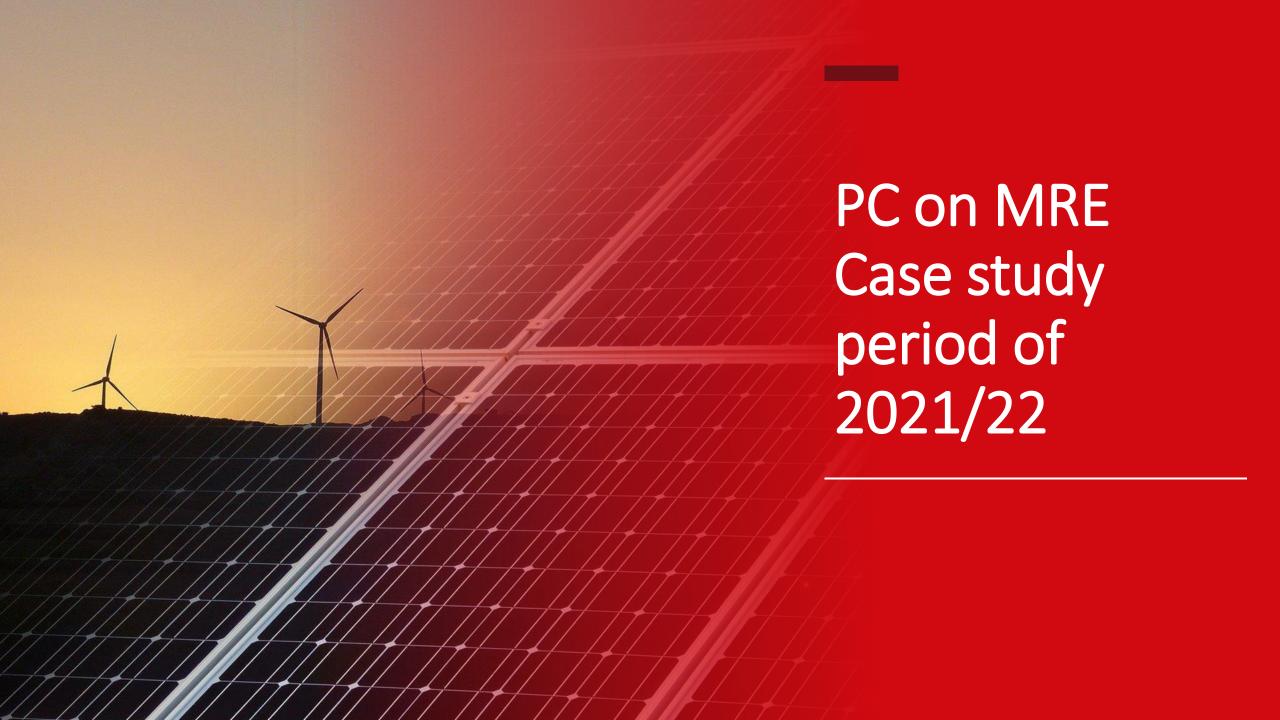
- None of the recommendations dealt with performance except in the mining portfolio.
- There were no recommendations regarding solar water heater rollout, or renewable energy achievements.
- There was no substantive recommendation regarding climate change.

#### Conclusion:

- More than 90% of the budget has been spend in achieving barely 50% of its targets.
- Lack of consequence management.
- The PC on DMRE could be regarded as largely irrelevant in that it fails to impose any change on the DMRE.







# MINERAL RESOURCES & ENERGY CASE STUDY 2021/22



Over the last three years, there have been recurring problems of entities that have failed to report to parliament, of AG reports which show shortcomings in the audit outcomes and for 2021-2022, the performance of the DMRE showed a dismal 61% of its outcomes while spending 95% of its budget.

Consequence management is delayed and individuals leave the department before investigations are finalised. the PC-DMRE has flagged entities that are recurrent transgressors but has failed to use its powers to hit them in pocket, i.e. to reduce the budgets of non performers.

The PC MRE does not have a strong relationship with civil society stakeholders

#### A major current issue is Karpowership:

Civil society requested in 2021to investigate the Karpowership debacle. Parliament had initially rejected the idea of an investigation, then opted to investigate and then in March 2022, eight months after receiving a letter from 13 civil society organisations, resolved to rescind the RMIPPPP inquiry. At no time, did the committee engage the civil society organisations that wrote the letter.

In addition, the committee mentioned that they had received three letters from other civil society groups including a mining affected community. The committee resolved to meet with the mining affected community but did not resolve to meet with the other groups.

# MINERAL RESOURCES & ENERGY CASE STUDY 2021/22



#### Issues identified by the PC:

- Department's low percentage of reaching targets (between 43-61%)
- Lack in consequence management
- Few meetings on the APPs and BRRRs
- Lack in follow-through on the BRR recommendations
- Budgetary concerns include:
  - Despite the concerns over the missing corporate plans and the department's solar water heater programme, the portfolio committee considered the budget from the department and approved it. There was no decision to adjust the budget in light of the findings of the AGSA, or the committee's own concern
- To address these issues, the PC made 12 recommendations.

- Of the 2021 BRRR recommendations, only two found their way in some form into the APP for 2022.
- Of the issues raised in the BRRR, the PC-MRE had dealt with outstanding NECSA and CEF reports and financial statements to some degree in meeting during the first half of the year.
- In its May 2022 recommendations, the PC-MRE failed to address various BRR report recommendations and repeated other recommendations.
- The PC-MRE committee did not engage the executive on load shedding despite the Minister of Energy being responsible for Energy security in the country.

# GENERAL EXPECTATIONS

- REPRESENTATION OF THE PUBLIC'S INTERESTS
- POLITICIANS AND MPS MUST BE ACTIVE CITIZENS THEMSELVES
- MPs must uphold the highest moral code and act with integrity
- MPs must oversee the executive





### **CONCLUDING REMARKS**



- It is required of Parliament to level-up and rise to the challenges currently confronting us. Parliamentarians hold the privileged position of not only representing the public.
- Another requirement for Parliament is to engage with civil society more constructively. Civil society could strengthen the
   Parliamentary oversight processes by enabling politicians to access alternative sources of information.
- Open governance and transparent operations should mean that Parliamentary researchers should engage with academics and civil society organisations, and exchange information to improve accountability.
- The BRRR process and its importance for oversight cannot be over-emphasised and OUTA is concerned that certain SOEs
  have opted not to account to Parliament. CEF and NECSA produced legal opinions to support their views that they did not
  need to account.
- OUTA believes that MPs would benefit from listening to experts who are familiar with the subject content of their portfolios but espouse a different view to government.



# THANK YOU



# QUESTION & ANSWER SESSION