



PARLIAMENT WATCH

For attention:

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25 October 2018

Dear Hon Mbete

Closing of National Assembly committee meetings

Parliament Watch and the additional organisations undersigned have become increasingly concerned at the growing number of meetings in the National Assembly that are entirely or partially closed to the public. In very few cases are reasons for closing the meetings provided.

Yesterday, after the meeting commenced, it was unanimously agreed by the Committee that the scheduled Portfolio Committee on Public Enterprises meeting to consider the first draft of the Eskom inquiry report be closed to the public. Justification for this closure was not put forward until after the meeting.

We note Section 59(1)(b) of the Constitution which requires that the National Assembly and its committees conduct their business in an open manner and hold their sittings in public, and Section 59(2) which instructs

that the National Assembly may not exclude the public or the media unless it is '*reasonable and justifiable to do so in an open and democratic society*'. Rule 184(2) of the Rules of the National Assembly further require that any decision to exclude the public from a committee meeting or part thereof must be taken 'after due consideration' by that committee.

In addition to yesterday's Public Enterprises meeting we are aware of the following ten meetings being entirely or partially closed during the course of 2018:

- Portfolio Committee on Water Affairs and Sanitation 17 October 2018
- Portfolio Committee on Public Enterprises on 17 October 2018
- Portfolio Committee on Economic Development 17 June 2018
- Portfolio Committee on Social Development on 25 April 2018
- Portfolio Committee on Finance 27 March 2018; 18 April 2018; 15 May 2018; 22 May 2018; 31 May 2018; 5 June 2018.

The closed meetings listed above included discussions on issues of significant public interest, including SAA, SASSA, and Eskom amongst others.

Closing meetings of the National Assembly undermines the first and critical principle that the National Assembly provide a national forum for **public consideration** of issues. Implicit in the constitutional requirement that meetings may only be closed to the public when it is reasonable and justifiable in an open and democratic society, is the requirement that committees and the National Assembly be able to provide this justification to the public. We note that the Rules do not require the justification of why a meeting is closed to be placed on the public record and contend that this is at odds with the spirit of the Constitution.

Furthermore it is not uncommon for some documents tabled before committees to be withheld from the public and the media. This undermines the constitutional requirements that Parliament conduct its business in an open and public manner effectively frustrating public engagement.

Taking as our starting points that legislatures should not be a 'law unto themselves' and that it is the public to whom legislatures and elected representatives should be accountable we hereby require:

1. A record of all meetings which have been fully or partially closed to the public since the opening of the 5th Parliament in May 2014 and the reasons put forward for closing these meetings. We request this information by Friday 23 November 2018.
2. Amendments to the Rules of the National Assembly to clearly stipulate that in the event of a meeting or part thereof being closed, 1) due consideration must be given to the question of public interest prior to a decision being taken; 2) reasons for closing these meetings shall be made public; and 3) prior notice of the closure of the meeting be reasonably provided to the public. We consider it important that these amendments should be considered and finalised prior to the closing of the Fifth Parliament in 2019, and should allow for public engagement in the process.
3. In the interim we request intervention by your office to prevent Committees from closing meetings without following robust process and providing public justification for doing so.

Sincerely

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On behalf of

Parliament Watch Members

1. Equal Education Law Centre
2. Parliamentary Monitoring Group
3. Public Service Accountability Monitor
4. Right2Know Campaign
5. Social Change Assistance Trust
6. Social Justice Coalition
7. Witzenberg Rural Development Centre
8. Women and Democracy Initiative, Dullah Omar Institute
9. Women on Farms Project

And

10. amaBhungane Centre for Investigative Journalism
11. My Vote Counts
12. Open Democracy Advice Centre

And the following individuals:

13. Adv. Gary Pienaar
14. Ms. Felicity Harrison

About Parliament Watch

Parliament Watch is a collective of ten independent organisations working towards the advancement of social justice, the realisation of human rights, and strong constitutional democracy in South Africa. Parliament Watch recognises that legislatures are central to our democracy, and their duties to oversee effective service delivery and advance social justice and transformation in South Africa as crucial. Recognising that Parliament is a public institution established to give meaning to both representative and participatory democracy, and that the legislatures must provide a 'national forum for public consideration of issues' Parliament Watch seeks to monitor the performance of committees in legislatures against their constitutional mandates for openness and accessibility; independence and holding the executive to account; and responsiveness to the public.