

CIVIL SOCIETY INTERVENTIONS TO ENHANCE PARLIAMENTARY OVERSIGHT

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EXECUTIVE SUMMARY

Parliaments, as the political representatives of citizens, take a central role in holding government to account. Parliamentary oversight ensures government actions are scrutinised when they are still being developed, during as well as after their implementation, to ensure that they serve the needs of the public. This involves activities such as approving and scrutinising the government's financial activities, monitoring government actions, and assessing the implementation and compliance with policies and laws. Oversight also entails political control over the executive through various activities such as votes of no confidence, motions of censure, impeachment, as well as ensuring transparent appointment procedures of executive appointees.

Parliamentary oversight is an ongoing and continuous exercise that should be practiced by parliamentarians at different stages of government action, that is, before, during and after implementation. However, given the complexity of parliamentary oversight and, at times, the reluctance or inability of parliamentarians to use the tools at their disposal, active involvement by civil society organisations (CSOs) becomes a key factor in strengthening democratic accountability, particularly to ensure robust and effective parliamentary oversight of government actions at different stages.

To strengthen cooperation and coordination between these two bodies of citizen representation, this paper focuses on a variety of non-exhaustive ways that CSOs can enhance oversight actions by parliament before, during and after government action. Each stage has entry points for CSO invention, and the paper identifies such entry points and shares case studies on how CSOs can enhance the core parliamentary function of oversight.

CAVEAT

This is a basic guide on how CSOs can enhance parliamentary oversight, with non-exhaustive examples of possible entry points for intervention. It was mainly developed for national chapters of Transparency International under the Strengthening Accountability Networks among Civil Society (SANCUS) project, but may be useful for other CSOs who would like to get more involved in parliamentary work.

INTRODUCTION

As officials elected to represent citizens, parliamentarians are tasked with holding government to account on behalf of citizens through reviewing, monitoring and supervising all areas of government activities. Such oversight is one of the key functions of parliament, alongside law making and representation.

Oversight should be exercised by parliament at all stages of government actions: before, during and after. These three phases of oversight are inextricably linked to one another. For instance, oversight during the planning or drafting stage of government activities is the first instance for parliament to ensure transparency and accountability of government by backing and approving proposals that serve the best interests of citizens. A good example is parliament's approval of the budget proposal before expenditure by government. Oversight during government actions tackles evolving issues, while oversight after government action is a last control option after actions have been taken. Hence, oversight in all three stages is required to fully ensure checks and balance on government actions.

However, the mere existence of powers for parliament to hold government to account does not automatically translate to their effective use at different stages of government actions.

Parliamentarians may be unaware, reluctant or unable to effectively use their oversight powers, making intervention from external actors necessary. As such, civil society organisations (CSOs)¹ are well positioned to intervene and enhance parliamentary oversight to ensure transparency, accountability and effective government actions. This is particularly important as civil society plays an important role in bridging the gap between citizens and state institutions, and both CSOs and parliaments represent the interests of citizens and are important players in the accountability system.

The paper will examine these three phases of government actions – before, during and after, and how CSOs can identify entry points for intervention at each stage to enhance parliamentary oversight.

BEFORE GOVERNMENT ACTION

Accountability does not necessarily start when a government acts; the trajectory of government activities is often pre-determined by plans, developments and events before any action is taken. For example, accountability of financial activities before government action aims to ensure that the budget prepared by government is transparent and serves the public interests, which will also be critical for accountability during and even after government financial actions.

A central step in holding government to account is to ensure a transparent and inclusive control structure is in place early. In other words, there should be clear procedural rules in place that

¹ For the purposes of this paper, civil society refers to a wide array of organisations such as formally organised non-governmental organisations; thinktanks; issue advocates; watchdog groups; member based or activist organisations; organised but informally structured citizen groups or networks; as well as various community development initiatives.

require governments to introduce and justify their planned actions or ideas to the parliament and public before they start the process. This can help to ensure that a planned action is in the best interest of citizens, as well as to strengthen accountability and facilitate better oversight later.

Consultation and approval of budget

Budgetary oversight is one of the most important oversight activities for parliaments, particularly considering that the budget determines and funds all other government actions during the financial year.² Moreover, the budget affects debt restructuring and its consequences for investment projects in the years to come.³ Given the importance of budget allocation for citizen's well-being and the functioning of the state, parliaments should be able to scrutinise and approve budgetary proposals before the beginning of the financial year and be involved in the scrutiny and approval of debt arrangements.

Though the budget preparation stage is generally considered the purview of the executive, it is becoming increasingly recognised that parliament should be able to provide input into the budget during its formulation before it is formally approved.⁴ More importantly, parliaments have the important task of budget approval. As such, parliament may carry out the following activities as part of budget preparation and approval: collecting information about the budget from government, consulting with the public on their budgetary needs and financial priorities, consulting with civil society and other stakeholders on budget related issues, analysing the budget through relevant parliamentary committees and reporting to parliamentarians so they make an informed decision when approving the budget; and approval of the budget.⁵

CSOs can play a crucial role in enhancing parliament's ability in pre-budget scrutiny and approval in various ways:

- CSOs can support public participation by promoting participatory budgeting and creating platforms for citizens and MPs to meet and discuss budget related issues before the budget is submitted and approved by parliament. Uganda's 2012 health budget became the product of a close cooperation between CSOs and MPs. Young MPs from the opposition, together with the caucus of female MPs, as the largest organised group in parliament, met with CSOs at the annual meeting of the Inter-Parliamentary Union in the Ugandan parliament. During that meeting, CSOs could provide analyses to MPs and helped to draft a resolution that was later used in parliamentary committees to modify the health budget and approve it in the plenary, despite strong government resistance.⁶
- They may also monitor and increase pressure on the submission of the draft budget to parliament at least three months before the start of the financial year to ensure members of parliament have enough time for in-depth scrutiny. This is in line with international best practices such as the IMF's code on fiscal transparency.⁷
- CSOs can further scrutinise the proposals and offer possible changes when the draft budget is officially introduced to parliament.

² IPU & UNDP. 2017, p.18.

³ Dubrow. 2020.

⁴ See Dubrow. 2020, p.3.

⁵ IPU & UNDP. 2017, pp.63-64.

⁶ Loozekoot (2021).

⁷ See <https://www.imf.org/external/np/fad/trans/Code2019.pdf>, p.11.

- CSOs can enhance parliamentary performance in scrutinising the budgets by pushing for open budget standards, which include the expectation that budget information is made available on time and on a recurring basis. The public can participate in the budget process and CSOs can sit in and monitor parliamentary work related to the budget.
- CSOs can ensure that the draft budget is evaluated by at least one committee and provide budgetary expertise to ensure that committee members possess all the relevant information to evaluate the draft.⁸
- CSOs can ensure that budget modifications by parliament are in the best interests of citizens, and not meant to serve the personal interests of parliamentarians. In 2021, Gambia Participates, a CSO in the Gambia, challenged the constitutionality of parliamentarians awarding themselves a loan scheme from the national budget presented to them by the executive. The Supreme Court of Gambia ruled in favour of Gambia Participates, declaring the conduct of parliamentarians to be unconstitutional.⁹

Approval of debt arrangements

Given the importance of debt arrangement and restructuring, parliaments should be involved in the issuance process and should ratify any new arrangement to ensure that debt arrangements are effective and transparent.¹⁰ MPs should have the right to appraise debt arrangement, be involved in the investment choices, have access to financial estimates of a set of investment options and be able to monitor these projects later.¹¹ CSOs can ensure that governments share their investment preferences and support MPs by ensuring evidence based selection criteria (for example, impact assessments; see next entry point) and offering training on debt restructuring plans and prudential financial planning.

An example is the Jesuit Centre for Theological Reflection, a CSO in Zambia, which engaged with the monitoring and management of debt to foster an understanding of prudential financial behavior. It offered research to MPs, proposed a bill to establish a debt management systems and organised workshops on key concepts related to MPs' oversight of government action. The proposed bill drafted by the CSO included advice on parliamentary oversight on annual borrowing limits.¹²

Public consultation and impact assessments

The principle of transparent, evidence based and inclusive policymaking ensures that governments outline policy proposals to the public before their implementation. Governments ought to provide evidence of the economic and societal benefits of any new policy idea through impact assessments and allow stakeholders to express their opinion through public consultations. Impact assessments should ideally be made available to the broader public,

⁸ IPU & UNDP. 2017, p.63.

⁹ See <https://gambiaparticipate.org/blog/54-4-million-loan-scheme/>

¹⁰ Dubrow. 2020, p.26.

¹¹ Dubrow. 2020, p.27.

¹² See <https://www.agora-parl.org/sites/default/files/agora-documents/en-civil-society-parliament-factsheet.pdf>

subject to feedback from public consultations, and modified accordingly.¹³ Where regulation processes do not exist, CSOs could advocate for the enactment of processes that require public participation and impact assessments before government actions in areas such as extractive industries.

- CSOs can advocate and support individual MPs and parliamentary committees to start scrutinising policy ideas at the earliest stage and help to foster public platforms where MPs meet stakeholders and communities to discuss proposed government policies. Such processes will then support MPs later when policies are officially introduced and debated in parliament. CSOs can put pressure for an open process to be available to various stakeholders such as CSOs, industry, trade unions and individual citizens to ensure that information about consultation procedures are widely communicated and consultations allow respondents to become informed about new policy drafts.
- Impact assessments can serve as benchmarks for MPs against which policy outcomes are monitored and checked later. However, they can be manipulated by decision-makers who exert undue influence to ensure that their preferred policy option receives “evidence based” support while hiding alternative policy opinions from parliament and the public. This can be problematic since evidence suggests that policies that were subject to an impact assessment are less likely to be modified later.¹⁴ Hence, CSOs could consider developing their own independent impact assessments parallel to the ones by the government. While such alternative impact assessments should ideally rely on a quantifiable cost-benefit analysis – both to ensure comparability and increase credibility – the network structure of CSOs can provide a unique opportunity for more qualitative assessments based on interviews to scrutinise proposals before any government action. They could then be distributed widely and used both for public consultations and parliamentary committee meetings as an alternative, evidence based source of information.

Approval of executive appointments

Approving executive appointments to independent institutions is a crucial oversight tool for parliaments. Such appointments can have significant consequences since independent institutions can play a crucial oversight role on government actions, such as the anti-corruption commission, supreme audit institution and human rights commissions.

It is crucial for parliaments to be involved in approving the appointment and dismissal of members of independent institutions as part of checks and balances on executive powers. The appointment of officials can become highly politicised and might rely more on political bargaining than expertise. Such horse-trading can increase the chances of venality, favouritism and corruption later, especially if it takes place behind closed doors. Similarly, dismissal of appointees can be problematic as the executive may dismiss officials for being effective watchdogs that unearth misconduct by the executive.

¹³ Baldwin. 2010.; OECD. 2019.

¹⁴ Brenner & Fazekas. 2021.

- Where parliaments do not enjoy formal powers to approve the appointment and/or dismissal of members of independent bodies, CSOs may advocate for necessary legal reforms to provide such powers to parliament accordingly.
- Where such powers exist, CSOs can support the vetting process by probing the candidates' qualification based on verified background information including academic qualifications and their professional or personal history that may affect their credibility to effectively perform the job in an impartial and transparent manner. The information could then be shared with parliamentarians.

DURING GOVERNMENT ACTION

A variety of tools are at parliaments' disposal to oversee government actions during their execution to ensure that the executive will not deviate from policy commitments. A particular focus will thereby be placed on parliamentary committees. While parliamentary committees are important bodies before government actions, they can also provide an efficient forum for MPs to ensure executive commitment – especially when combined with civic engagement.

Monitoring executive commitments and implementation of policies

Executive members usually make commitments to parliament and the general public on any issue of public interest, be it opening up civic space or to be more transparent in decision making. Yet there are relatively few examples of mechanisms to monitor whether these undertakings are implemented (IPU and UNDP 2017: 56). In addition, the executive is also responsible for implementation of national policies and plans. Accountability on implementation may lack as MPs may not monitor implementation of commitments and policies by government. The broader public may also lack the means to understand and follow the complexity of policymaking processes or to follow up on commitments.

As such, CSOs play an important role in putting pressure for government MPs can use various tools, such as requesting information from the minister on the commitment, asking oral or written questions about the commitment, or even passing a vote of no confidence for the minister's failure to honour the commitment or implementing the policy.

If the executive commits to a specific policy but drags (or stalls) the process over a longer period, CSOs may inform the broader public or flag this issue among MPs – which may be in cooperation with media and news outlets. The difficulty in this entry point is to uncover such patterns. CSOs are advised to ascertain the position of ministers and the other government representatives based on public statements and track these positions over time.

Civic engagement during government actions

Public pressure can be a powerful tool to increase government transparency and accountability – especially if they diverge from commitments made before government actions. Civic engagement in parliament during this stage can be powerful to get the public involved. Members of parliament can organise public hearings and invite the public to participate in the deliberation to increase awareness of ongoing issues. This increases the range of citizen

opinion represented and encourages civic engagement. If targeted at specific policy issues, such outreach can also improve the policy later via public pressure, especially where governments were resistant to amendments proposed by parliamentarians. While civic engagement can help to strengthen parliamentary oversight, the support of CSOs is needed for both organising MPs and the broader public. CSOs can raise the importance of such civic engagement among MPs as a tool to create public support for parliamentary oversight, especially in circumstances where the government is reluctant to consider parliament's position on a certain issue. It is also important for CSOs to further support the representation of citizen interests and ensure that the input is representative of the broader public rather than a small group of organised interests that already has access to MPs via informal lobbying.

AFTER GOVERNMENT ACTION

Parliamentary oversight continues after government action to spot any abuse of power or mismanagement that may have emerged at later stages. At this stage, parliaments evaluate enacted laws and policies, follow up on reports by independent oversight bodies and hold government officials to account based on their conduct.

Ex-post scrutiny of laws and policies

Parliamentarians have a crucial role in monitoring and evaluating enacted laws and policies. A key mechanism for parliaments is to establish post-legislative scrutiny by including clear timelines into a policy or law during the policymaking process that specifies that a law or regulation will be reevaluated a few years after its implementation. The UK, as a forerunner in post-legislative scrutiny, requires such evaluation after three years in order to provide enough time for a law or regulation to have a first effect.¹⁵ Ideally, the benchmark against which such policies are evaluated derive from the impact assessments, as mentioned earlier. Yet, for any evaluation and investigation by parliament on specific issues of public importance, sufficient information and data accessibility is key. This information is often drawn from reports produced by external institutions and agencies or, for example, from supreme audit institutions in the case of government spending.¹⁶ CSOs may encourage MPs to establish systematic approaches for review or evaluation of post-legislative scrutiny of laws and policies. Where systematic approaches exist, CSOs could contribute to the ex-post evaluation of laws and policies by conducting their own assessments, collect and publish legislative data, analyse their effects and provide reliable reports that will be shared with MPs.¹⁷ The reports could also be simplified and shared with the MPs and broader public. In addition, CSOs can follow up with parliament on actions taken to address findings and recommendations from the ex-post scrutiny.

Follow up on reports from oversight bodies

¹⁵ OECD. 2010.

¹⁶ Griglio. 2020.

¹⁷ Fox. 2001.

There are other independent bodies, besides the parliament, that play crucial roles in overseeing the executive. Since parliaments may use reports from oversight bodies (such as the supreme audit institution, human rights commission, anti-corruption commission, gender commission) to hold the government to account, their political independence and technical expertise is crucial. In the case of supreme audit institutions, for example, MPs should ensure that these bodies consist of professional staff with budget expertise that can produce baseline estimates of revenues and expenditures, and create budget projections beyond a single year.¹⁸ To support clear budgetary oversight structures, there should be clear submission deadlines for budgetary drafts before approval, and budget participation by stakeholders should be encouraged.¹⁹ Yet, even if those budgetary oversight bodies are established, governments might attempt to reduce their influence and pressure for more government friendly assessments in their reports, and MPs might lack interest in incorporating their reports into their oversight.²⁰ Supreme audit institutions also matter for debt restructuring by scrutinising the effects and consequences of government actions.²¹

CSOs may monitor the work of such bodies to ensure that the reports they produce are unbiased and can be used by MPs for their oversight function (for example, policy scrutiny). In the context of ideological changes in government, budgetary oversight bodies can face profound political challenges that might undermine their autonomy.²² Since a changing political climate can destabilise these bodies and threaten their existence, direct CSO advocacy is needed to convince policymakers of the value of such bodies and the benefits of their reports in supporting parliamentary oversight.

CONCLUSION

Parliamentary oversight is a continuous activity that should be exerted at all stages of government actions. CSOs can play a vital role in ensuring the effective application of various parliamentary oversight mechanisms before, during and after action by governments. CSOs and parliaments both represent the interests of citizens, and are important players in the accountability system. The paper demonstrates there is merit in CSOs' active involvement to strengthen parliamentary oversight mechanisms, and this is worth emphasising. Given the information asymmetry between MPs and the government, limited resources and time constraints, oversight ought to be seen as a common endeavour that cannot be done sufficiently without broader support. As shown in this paper, CSOs can intervene at all stages of government actions to ensure the optimal use and effectiveness of parliaments in holding government to account.

¹⁸ Ríos et al. 2016; Straussman & Renoni. 2011.

¹⁹ Ríos et al. 2016, IBP. 2019).

²⁰ Straussman & Renoni. 2011.

²¹ Dubrow. 2020, 15.

²² Straussman & Renoni. 2011.

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