

# **OVERVIEW OF PARLIAMENTARY OVERSIGHT TOOLS AND MECHANISMS**

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## EXECUTIVE SUMMARY

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Oversight is one of the three main functions of parliament, alongside law making and representation. It is through oversight that the parliament asserts the system of checks and balances on the executive branch of government and acts as the defender of citizens' interests. It ensures that government policies and actions are both efficient and commensurate with the needs of the public, helps identify misconduct or deficits and allows for remedial actions against the executive. As parliamentarians represent the citizenship at large, legislative bodies are well positioned in terms of legitimacy to ensure transparency, accountability and effective government actions in all areas. In that sense, parliamentary oversight is a central means of ensuring good governance and holding the executive to account to prevent or sanction the abuse of authority.

To perform this important oversight function, parliaments require tools and mechanisms to hold government to account. This paper provides a comprehensive overview of these instruments, which include hearings, written or oral parliamentary questions, interpellations, summons, votes of no confidence, committees, post-legislative scrutiny, and oversight on government budget proposals and spending, among others. The tools and mechanisms are organised in terms of three main functions: political control, financial oversight and legislative scrutiny. By providing this menu of options, parliaments, CSOs and other stakeholders will be able to understand the available channels and opportunities that are in place in their contexts but not fully utilised, or that are not available and should be.

However, the mere existence of parliamentary oversight tools and mechanisms does not translate neatly into their effective use in holding government to account. Effective oversight requires careful consideration of the enabling factors that provide spaces for meaningful review, monitoring and supervision of government activities by parliament. These include opportunities for opposition and independent MPs to perform oversight that may include opposition or independent MPs as committee chairs through proportional distribution, special question time or debates, right of reply or possibility of attaching minority reports. It is also imperative that the parliament establishes and maintains good working relationships with other state and non-state actors providing oversight. Adequate and independent resources should be made available to parliament. Lastly, robust behavioural standards for parliamentarians, such as codes of conduct, conflict of interest policies, and assets and income declarations, also play a key role in enabling and ensuring effective oversight.

# WHAT IS PARLIAMENTARY OVERSIGHT?

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Parliamentary oversight is defined as “the means by which parliament and parliamentarians, on behalf of the people, hold the government to account between elections” (IPU and UNDP 2017: 13). It is one of the main functions of parliament – alongside law making and representation – and it entails parliament reviewing, monitoring and supervising activities by government (Yamamoto 2007: 9). The scope of parliamentary oversight generally covers all activities of government as a whole, including public agencies, such as state-owned enterprises, as well as agencies responsible for the day-to-day delivery of services to citizens (IPU and UNDP 2017: 6).

As officials elected to represent citizens, parliamentarians play an important role in ensuring that public voice and interests are expressed and reflected through their unique political mandate to hold the government to account. The key goals of parliamentary oversight include the following (see Yamamoto 2007: 9; AGORA no date):

- **Upholding the rule of law:** parliaments aim to protect the rights and freedoms of citizens by investigating and addressing abuse of power, arbitrary behaviour, or illegal and unconstitutional conduct by the government and public agencies.
- **Improving the efficiency and effectiveness of government’s financial activities:** parliaments aim to hold the government to account in respect of how taxpayers’ money is raised, managed and spent, and such oversight is also essential to confronting corruption within the apparatus of government and public agencies.
- **Monitoring the government’s achievement of outcomes set by legislation and its own programmes:** parliaments ensure that laws by parliament and programmes initiated by government are implemented and delivered to the benefit of citizens, with a view to improving the performance of public services.
- **Increasing transparency of government operations and enhancing public trust in the government:** parliaments provide a transparent and public platform where the policies and actions of government are debated, scrutinised, clarified and subjected to public opinion.

Robust parliamentary oversight improves government accountability and responsiveness (Stapenhurst 2008; IPU and UNDP 2017: 14). It also strengthens governance through rigorous scrutiny and monitoring of government actions to ensure that governance processes and decision-making are transparent, inclusive and representative. Additionally, parliamentary oversight can improve economic and human development by reviewing and modifying laws and policies to ensure that they serve the public interest (see IPU and UNDP 2017: 15; National Democratic Institute 2007: 1). It also plays a key role in reducing corruption, as explained in the box below.

## Role of parliament in anti-corruption

Parliaments play an important role in controlling corruption. Through their lawmaking function, they establish legal measures that prevent and curb corruption (see IPU 2001; Stapenhurst et al. 2006: 3; Harutyunyan 2021: 7-12). In addition, parliaments can lobby governments to ratify international instruments such as the United Nations Convention against Corruption. As representatives of the people, parliamentarians can also create the political will to fight corruption by reflecting public concerns related to corruption and mobilising widespread support for anti-corruption reforms (see Chêne 2007: 5).

Through their oversight function, parliaments contribute to anti-corruption (see IPU 2001; Harutyunyan 2021) through their demand for transparency and accountability. Examples of parliaments' contribution to anti-corruption efforts include the following:

- Improving transparency and accountability of government, such as through questions and optimal use of committees to scrutinise government activities. According to Harutyunyan (2021:13), “committees possess the most potential in anti-corruption work, as they can conduct cross-examination inquiries, and investigations, and uphold ethics and integrity”.
- Approving and overseeing the use of public resources throughout the budget process, which can minimise looting or misuse of public funds, and demanding redress for any failings uncovered by supreme audit institutions (Stapenhurst et al. 2006: 4). In addition, parliamentarians may also use their powers to conduct investigations or summon government officials to address allegations of corruption.
- Promoting the establishment of oversight agencies that hold government to account, such as an anti-corruption commission, auditor or controller general and ombuds office. In addition, parliaments can work to ensure that other oversight institutions are adequately resourced, operate independently from executive influence, and that their reports or other outputs receive due attention and action is taken to address any wrongdoing.
- By instituting appropriate mechanisms to lift immunity of high level officials suspected of corruption, sanctioning public officials who cannot account for their actions, as well as impeaching or removing corrupt heads of government from power.

Effective oversight by parliament has been long identified as a cornerstone of democracy, required to ensure checks and balances on the executive (Born et al. 2003; Stapenhurst and Pelizzo 2012). Its importance has become increasingly critical in recent years, given the growing concentration of power in the executive branch seen in many countries. For instance, the COVID-19 pandemic witnessed an unprecedented increase in the discretionary power of executives around the world to address the pandemic, which necessitates greater oversight by parliament to provide effective checks on the use of these powers (Kuehn et al. 2021; ParlAmericas 2021; Gordon and Cheeseman 2022). Even before the pandemic, the Inter-Parliamentary Union and United Nations Development Programme had recommended parliaments to establish their oversight function “as a top priority” that should be exercised at all times – including times of national emergencies (see IPU and UNDP 2017: 99, 101).

To perform this important oversight function, parliaments require tools to hold government to account. Among others, these tools include questions, summons, interpellation, votes of no

confidence and impeachment, and are usually laid out in legal instruments such as the constitution, national laws, rules of procedure or standing orders, or in parliamentary practice (IPU and UNDP 2017: 28).

## Parliamentary oversight in different systems of government

Located at the centre of the relationship between the legislature and executive, the nature of parliamentary oversight may vary depending on the system of government in place in a given country.

- **In a parliamentary system**, there is a fusion between executive and legislative branches, where executive lies within parliament and its members are also usually members of parliament. As a result, there is close and frequent interaction between the two branches. The parliament also holds significant political control and elects the head of government (prime minister), whom it can also remove through a majority vote (OECD 2022). The prime minister is usually chosen from the party that controls the most seats in parliament, which is also critical for supporting the government agenda and protection against removal from office.
- **In a presidential system**, there is a clear separation of powers between the executive and the legislature, and the former does not lie within the parliament nor are its members required to be members of parliament. The executive is headed by a president who is elected directly by citizens through popular vote. The president does not depend on the parliament to assume power – but can still be removed from power through impeachment by parliament. Although presidential systems are based on the separation of powers, there is a tendency for the executive to engage in an attempt to form a majority in the parliament, to support the implementation of the executive's agenda and protect the president from impeachment (OECD 2022).
- There are also **hybrid political systems** that include elements of both parliamentary and presidential systems. For instance, a semi-presidential system entails a separation of powers between the legislature and the executive, which is usually made up of a president and prime minister.

Most parliamentary oversight tools are relevant to all systems of government. The difference in applicability of tools is minimal, for instance votes of no confidence are available mainly in parliamentary systems whereas presidential systems rely on the tool of impeachment. The frequency in the use of oversight tools, however, may to some extent depend on the system of government. For example, parliamentary systems generally see more frequent use of tools such as questions and debates, due to the fact that the executive sits in parliament, which holds significant political control over the government's survival. This is less common in presidential systems where the executive is less dependent on the support of parliament for survival.

Nevertheless, the availability of parliamentary oversight tools has been associated with lower levels of perceived corruption across all forms of government system. In a 2014 statistical study of 82 national parliaments, Staphenurst, Jacobs and Pelizzo (2014: 299) demonstrated that the availability of oversight tools explained up to 70 per cent of the variance in perceived corruption in presidential systems and 36 per cent of the variance in hybrid systems.

# PARLIAMENTARY OVERSIGHT TOOLS AND MECHANISMS

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This section presents various oversight tools and mechanisms at the disposal of parliaments. These are classified according to three functions:

- i. **political control**: this refers to tools and mechanisms used by parliaments to politically constrain executive power through checks that can hold the executive to account. these include questions, summons, interpellations, vote of no confidence, motions of censure and impeachment
- ii. **financial oversight**: this relates to tools and mechanisms deployed by parliaments to oversee the financial activities of the government, including budget and debt arrangements
- iii. **legislative scrutiny**: linked to its legislative function, this entails tools and mechanisms for parliaments to monitor the implementation of laws

It is important to note that the literature on parliaments uses “tools” and “mechanisms” interchangeably to refer to the various instruments available to parliaments to hold governments accountable. For instance, AGORA (no date) refers to parliamentary “tools” such as questions, interpellation and votes of no confidence, and mentions that “other tools include mechanisms related to budgetary oversight, impeachment”. Lema et al. (2020) tend to also use the terms interchangeably in their study examining parliamentary oversight in Ethiopia. Similarly, Jasutis et al. (2020:45) also used both terms in their report studying parliamentary oversight in military intelligence agencies. The same applies to a study on Ghana (Draman 2019), with the parliament of Ghana also [referring](#) to “parliamentary mechanisms/tools”.

## POLITICAL CONTROL

Through oversight, parliament can exercise political control over the government and its activities using various tools and mechanisms. These are outlined below, starting with most frequent tools such as questions, summons and committees, to less frequent ones such as impeachment.

### Questions

Parliamentary questions, both oral and written, are a fundamental oversight instrument in a modern parliament (IPU and UNDP 2017: 58). Members of parliament (MPs) keep check on government using this tool by asking public officials to provide explanations for the government’s position on any matter of public interest. A key feature is the formal requirement in many countries for government to publicly respond to these questions, including on government shortcomings, which can make an important contribution to democratic accountability (Beetham 2006: 133).

The timeline for answering questions vary. In Ghana, ministers are required to respond to a question within three weeks (Parliament of Ghana 2000: 40), whereas ministers in Denmark and Norway only have six days (National Democratic Institute 2007: 49). Failure to meet the legal requirement to respond to parliamentary questions is often associated with formal processes against the government official who has ignored the question. For example, in Canada, if a minister does not

provide a satisfactory response to a written or oral question, the speaker can decide to apply sanctions including issuing a reprimand or allowing for urgent questions or debates (IPU and UNDP 2017: 31). This makes formal parliamentary questions a more powerful instrument than questions asked by other actors such as journalists or citizens, which may exert political pressure on officials but where the failure to respond does not carry any formal sanctions (IPU and UNDP 2017: 58).

### International standards/benchmarks on parliamentary questions

The Commonwealth Parliamentary Association's [Recommended Benchmarks for Democratic Legislatures](#) stipulate that countries should establish clear and effective procedures that require the executive to provide timely responses to oral and written questions from parliaments.

The [Indicators for Democratic Parliaments](#) developed by the Inter-Parliamentary Union (IPU) and partner organisations provide the following benchmarks for parliamentary questions:

- There should be a constitutional or equivalent provision authorising members of parliament to submit both oral and written questions to the government and officials of the executive. The executive should be obliged to respond to these questions in a timely manner. Breaching this requirement might result in interpellation or a debate with the intention of sanctioning the executive authority.
- The rules of procedure should provide clear regulations for question time, prime minister's hour or other forms of oral question opportunities, which allow members to put questions to government and ministers on matters of political urgency.
- MPs should be able to ask supplementary questions following the initial question, to seek clarification on points that the government may wish to keep vague or not address at all.
- The rules of procedure should provide the speaker or president of the chamber with the authority and obligation to fairly manage floor time in the plenary, allocate an adequate amount of speaking time to the opposition and maintain a constructive atmosphere during the procedure.

### Oral questions

Oral questions are one of the most common tools used by parliaments around the world. Specific times, known as question times or prime minister's hour, are usually allocated for parliamentarians to ask oral questions to an elected government official (IPU and UNDP 2017: 58). In Jamaica, the rules of procedure provide for the right of parliamentarians to ask questions and it also make provisions for prime minister's question time and minister's question time, during which these officials are required to attend and answer questions from parliamentarians (see Articles 17B and 17C of the Standing Orders). The oral questions are not only a means to seek information from the government but also a way to draw the attention and scrutiny of the public. In some parliaments, the rules of procedure may permit MPs to ask follow-up questions, which are more detailed questions, normally termed supplementary questions, and may lead to a debate or interpellations (IPU and UNDP 2017: 58).

### Written questions

Compared to oral questions, written questions are often used to solicit more detailed information from the government on a specific issue (World Bank and GOPAC 2013; IPU and UNDP 2017: 59). These questions are usually provided and shared in advance, with the expectation of a more

detailed response from government. Legal mechanisms requiring that ministers answer MPs' written questions in a timely manner exist in many countries and typically stipulate the exact timeframe in which a response must be given (National Democratic Institute 2007: 49).

A common challenge associated with written questions is the response time. While oral questions receive an immediate response, responses to written questions are often delayed despite stipulated deadlines. This hinders parliament's oversight authority and effectiveness. As such, a minister's response or lack thereof may be referred to a standing committee, or may be scheduled as a priority question during oral question time. A debate can also be rescheduled when members are not satisfied with a minister's response to a written question (or its timeliness). Unsatisfactory response from a minister to a written question submitted by an MP may even lead to an interpellation and later a vote of no confidence if they fail to provide a satisfactory answer within a certain period (IPU and UNDP 2017: 60).

## Summons

The power to summon government officials or to produce documents in plenary and committees is an important tool for parliament when seeking information to fulfil oversight goals (NDI 2007: 29). Summons can be useful for parliaments as they enable parliamentarians to scrutinise even confidential documents or to call officials to provide information in the aftermath of corruption scandals. For instance, an anonymous contributor from Kenya noted in the 2017 Global Parliamentary Report that almost every corruption scandal reported in the news usually resulted in the implicated officials being summoned to account before legislators, thereby demonstrating the political benefits of summons (IPU and UNDP 2017: 92).

### International standards/benchmarks on summons

The [Recommended Benchmarks for Democratic Legislatures](#) (3.2.1): "Committees shall have the power to summon persons, papers and records, and this power shall extend to witnesses and evidence from the executive branch, including officials".

According to the [Indicators for Democratic Parliaments](#):

- There should be a clearly defined legal framework permitting parliament and its committees to summon government representatives, including cabinet members and those in charge of military, law enforcement and intelligence services.
- Parliamentary rules should provide detailed regulations for summoning ministers or other government representatives, and for ensuring transparency, stakeholder engagement and the rights of the opposition.
- Established practice includes the collection of a wide range of evidence and information from relevant sources/stakeholders prior to the summoning of ministers or other government representatives to ensure the effectiveness of oversight and questioning.

## Interpellations

An interpellation “is a formal request for information on or clarification of the government’s policy” (Yamamoto 2007: 59). However, unlike written or oral questions, an interpellation requires the support of more than one parliamentarian or the party, with the required threshold varying across parliaments from just five members to one-third of the members. In addition, it is often differentiated from ordinary questions by its content, in that they usually address matters of national importance (Yamamoto 2007: 60).

Parliamentarians can use an interpellation to formally schedule a debate in plenary to demand justification for certain policies, or for unsatisfactory or untimely responses by the executive (World Bank and GOPAC 2013). An interpellation has two essential features which makes it an important oversight tool. First, it leads to a general debate on issues of national interest in the plenary and brings the matters into the public domain. Second, the debate can culminate in a formal resolution from parliament such as a motion expressing either the satisfaction or the dissatisfaction of the house with the explanations furnished by the government, or a vote of no confidence. In Kuwait, the legal framework provides that MPs can use interpellations to call for a vote of no confidence, and in practice the motion often leads to ministers agreeing to adopt recommendations from the legislature before it goes to vote (IPU and UNDP 2017: 61). Therefore, it is a useful tool that can put a significant amount of pressure on the government to act in a transparent and accountable fashion (World Bank and GOPAC 2013; Whaley 2000).

### **International standards/benchmarks on interpellations**

According to the [Indicators for Democratic Parliaments](#), benchmarks for interpellations include the following:

- There should be a constitutional framework authorising parliament to summon government representatives to the chamber/the plenary. MPs, political groups or parliamentary committees are mandated to initiate debates on matters of concern and to question executive officials.
- Parliament should be able to launch debates on issues of its own choice by using interpellation (or alternatives) or questions for a debate.
- Parliamentary rules should define the procedure for holding such debates and the law should require executive officials to respond to interpellation in person in the plenary. The law should also define clear procedures for interpellation, including initiation, timeframe, guaranteed speaking time for the opposition and the possibility to resume a debate on a motion or a resolution. Holding debates should be possible on issues or questions that the government failed to answer or to which it did not respond fully within the established deadline.
- The summoning of government officials to the plenary is a significant part of parliamentary work and should take place on a regular basis.

## Motions and debates

A motion is a formal proposal for a debate or vote by parliamentarians in the plenary. It is distinguished from other oversight tools by its “urgent” tone to deliberate on an issue of national importance (IPU and UNDP 2017: 57, 61). Once a motion has been initiated, it is followed by a debate. The debate provides time and space for individual MPs and their party, as representatives of the public, to voice their opinion and make proposals on issues of public interest (Yamamoto 2007: 62; National Democratic Institute 2007: 19).

Motions and debates can be initiated in various situations (Yamamoto 2007: 62-64), such as at the initiative of individual parliamentarians to address issues that are chosen by MPs (including through the use of interpellations) or to highlight the work of parliamentary committees. Opposition and independent MPs are usually the main initiators of motions in order to draw attention of the parliament and general public to the issues at hand or shortcomings of the government. For instance, motions of no confidence in government may be unlikely to pass when the ruling government enjoys support of the parliamentary majority, but they are important in drawing the public’s attention to concerns about the government. The simple fact of having a motion and debate on an issue compels the government to justify its actions and policies, thereby becoming more accountable to parliament and the public (IPU and UNDP 2017: 58).

### **International standards/benchmarks on motions and debates**

According to the [Recommended Benchmarks for Democratic Legislatures](#):

- Parliament should establish and follow clear procedures for structuring debates and determining the order of precedence of motions tabled by MPs.
- Adequate opportunity should be afforded for MPs to debate bills before votes.
- Plenary debates and votes in parliament should be made public.
- Where the applicable laws provide for the use of multiple working languages, parliament should make every reasonable effort to provide for concurrent interpretation of debates and translation of records.

## Parliamentary committees

A parliamentary committee is a group of parliamentarians appointed to perform certain specified tasks (Yamamoto 2007: 15). It either receives these tasks from the chamber or is empowered to choose matters to examine. There are two types of committees, which will be explained below in more detail: i) long-standing, permanent committees lasting the duration of the parliament’s term; or ii) issue-based, ad-hoc, or inquiry committees that dissolve once they have served their purpose.

Committees are arguably the primary instigator of parliamentary oversight. In the words of the IPU and UNDP (2017: 46), they are in their modern form “probably the single most significant and agile instrument of parliamentary oversight”. They are considered the centrepiece of parliamentary oversight given their capacity for in-depth analysis and high potential for impact in terms of driving policy and political change.

By assigning a given task to a smaller group of legislators, more time and research is dedicated to a topic or an issue that is later presented to parliament. This enhances the parliament’s understanding of complex issues and reduces workload for the plenary where MPs make important decisions that

affect citizens (National Democratic Institute 2007; IPU and UNDP 2017: 47). In addition, by participating in committee work, MPs gain expertise in the areas within the committee's purview and can become specialists on the procedures and techniques of oversight (IPU and UNDP 2017: 47).

### **International standards/benchmarks on parliamentary committees**

The [Recommended Benchmarks for Democratic Legislatures](#) and the National Democratic Institute (2007: 25-29) provide for the following standards on committees:

- The parliament should have the right and adequate resources to form permanent and temporary committees.
- Each committee must include both majority and minority party MPs, and should reflect the political composition of the parliament.
- The parliament should create and follow a transparent approach to select or elect the chairs of the committees (without any outside influence).
- Once established, committees should meet regularly in a timely and effective manner.
- All committee votes and substantive decisions, and the committee's reasons for them, should be made public in an accessible and timely manner.
- Committees should have power to summon persons, papers and records, scrutinise laws and recommend amendments or amend the legislation; the right and adequate resources to consult and/or employ experts; to seek and receive submissions from the public; hear evidence from diverse people; generally hear evidence in public; protect informants such as whistleblowers or witnesses presenting relevant information to them; and the right to vote for members of the committee

The 2017 [Global Parliamentary Report](#) also echoes these standards by stating that some of the characteristics of an effective committee include that "it meets regularly, typically has a mostly stable membership for the length of a parliament, engages with a wide range of government and outside bodies, civil society and the public, and is serviced by a permanent cadre of procedural and subject-specialist staff" (IPU and UNDP 2017: 46).

At the heart of oversight by committees is their power to summon and seek evidence from individuals and organisations under investigation (IPU and UNDP 2017: 52). Hearings provide broader engagement as well as input from experts, thereby leading to sound, evidence-based appraisals and relevant recommendations. In addition, committees can also promote public participation and inclusion in their work, through consultations with different stakeholders as well as making their work public unless there are exceptional circumstances (IPU and UNDP 2017: 52).

As the basic function of parliamentary committees is to prepare for deliberation in the full chamber (Yamamoto 2015: 16), committees usually report back to parliament orally or in written form, explaining what they have found during investigations and making recommendations on the way forward. Representatives of the committee may also participate in plenary debates on the reports (Yamamoto 2007: 16). In most parliaments, committee reports are usually adopted by consensus, while in some instances committee members are allowed to attach a minority report which expresses discontent with majority opinion on the committee (IPU and UNDP 2017: 53-54).

### **Permanent or standing committees**

Permanent or standing committees are part of a “systemic oversight framework” established to hold the government to account on a single focus area, such as health or public finance (IPU and UNDP 2017: 51). These committees usually monitor activities of individual government departments and ministries and conduct investigations into important aspects of their policy and administration (IPU 2006: 128; IPU and UNDP 2017: 51).

Many parliaments have aligned their committee systems to parallel the respective government departments, thereby enabling members to develop considerable expertise on the subject matter, which over time may also strengthen the quality of oversight in the committee (Yamamoto 2007: 16). A well led and adequately resourced permanent committee can produce high quality and well-informed outputs that command wide respect and make a considerable contribution to enhancing good governance in that area of work (IPU and UNDP 2017: 51). One of the key permanent committees is the public accounts committee (PAC) or budget committee. It is considered the most common and effective tool for financial oversight by parliament (Global Partners Governance 2014: 3). PACs allow MPs to become specialised and often have access to highly trained staff and resources that enable them to scrutinise, in great detail, government spending plans or spending outcomes (Global Partners Governance 2014: 3).

IPU and UNDP (2017:35) cites a 2006 study that identified a range of factors to improve the effectiveness of PACs:

- size: the committee should be relatively small with between 5 and 11 members
- politics: the committee should be chaired by a member of the opposition
- experience: the chair should be a senior parliamentarian
- tenure: the committee should be appointed for a full term and adequately resourced
- rules: committee roles and remits should be clear
- frequency: the committee should meet frequently
- openness: committee hearings should be open to the public
- relationship to supreme audit institution: public audit reports should be automatically referred to the committee, and the head of the supreme audit institution should meet with the committee to go over report highlights
- reporting: the committee should issue formal and substantive reports to parliament at least annually
- sustainability: the committee should establish a procedure with the government for following up on its report findings

However ambitious their scope, committees are not able to oversee every activity carried out by the department they are charged with monitoring as that would require unrealistic allocation of time and resources. As pointed out by IPU (2006: 128), even though committees are unable to be comprehensive in their coverage of the respective department’s work, “it is sufficient for accountability that the department knows that they could investigate any aspect and do so rigorously, even if in practice they have to be selective”.

### **Special (ad-hoc) committees of inquiry**

Unlike permanent committees that oversee specific government departments, special committees are set up whenever a need to investigate a specific issue arises. Once the investigations have been completed and a final report submitted to parliament, the special committee is dissolved (IPU and UNDP 2017:55; National Democratic Institute 2007: 25).

Setting up such a special committee requires the support of MPs, sometimes the majority. This affects the opportunities for opposition to initiate special inquiries regardless of an urgent need for one. To address that, some parliaments have established special provisions to ensure that minority parties can initiate inquiries. For instance, Austria changed its rules and procedures to allow for opposition and minority parties to establish a committee of inquiry in terms of Federal Law on the

Rules of Procedure of the National Council (see IPU and UNDP 2017: 55). However, it must be noted that these rules were set up with restrictions on the number of inquiries at a given time to prevent their abuse (IPU and UNDP 2017: 39).

Special committees of inquiry can produce evidence that leads to significant and wide-reaching consequences, such as censure or removal of ministers. For instance, in Uganda, committees conducted nine high profile investigations of executive branch officials accused of corruption in the late 1990s. Two of these led to the censure of a minister of state and forced the resignation of another. Following inquiries into the activities of the vice president in her second role as minister for agriculture, the Ugandan president was forced to remove her from ministerial position and reshuffled the cabinet (see National Democratic Institute 2007: 25).

In Kenya, a special committee was established in 2016 to investigate a series of claims that the Independent Electoral and Boundaries Commission lacked credibility, impartiality, integrity and independence from the executive. After hearings from representatives of various stakeholders, the committee made recommendations, including restructuring of the institution and removal from office of existing commissioners (see IPU and UNDP 2017: 55).

## Approval of executive appointments to independent institutions

Independent institutions – such as the judiciary, anti-corruption commissions, supreme audit institutions and human rights commissions – play an important role in holding the government to account, alongside parliament. While members of parliament are elected by citizens, members of other independent institutions are usually appointed by the executive with approval from parliament. Review and confirmation of executive appointees is a tool that parliaments may use to keep check on the executive (AGORA no date).

The rationale for parliament's approval of executive appointments to independent institutions includes the following (see Bulmer 2017: 3):

- unbiased and transparent procedures, including conducting public interviews of candidates. For example, the parliamentary committees on public appointments in Kenya, in terms of the Public Appointments (Parliamentary Approval) Act, is required to hold a public hearing for the approval and should notify the public of the time and place of the approval hearing at least seven days prior to the hearing.
- appointment of persons who are independent of executive influence, party politics or any other vested interests
- members are of sufficient quality and calibre to perform their duties
- representativeness and inclusiveness of the institution, especially with regards to gender, status, ethnicity or origin

Beyond independent institutions, parliament can also be involved in the appointment of other key executives. For instance, in Nigeria, the power of parliament extends to approving the appointment of presidential nominees for the office of ministers of the federation ambassadors, and members of the board of other executive bodies (Constitution of the Federal Republic of Nigeria).

## Lifting of immunity

Immunities provide certain persons or groups with some degree of protection against civil or criminal proceedings. These measures serve to ensure the unhindered performance of public functions and to prevent targeted prosecution or political persecution of these people, even after their term in office

has expired. However, immunities can be abused by officials as a shield from liability for criminal offences, including corruption (see Vrushi 2018).

As such, parliament plays a crucial role in lifting the immunity of officials suspected of wrongdoing to ensure they are held to account. There are two ways in which parliament can be involved in lifting immunity. First, it can be empowered by applicable laws to lift immunity of members of the executive branch, even after leaving office. For instance, the constitution of Zambia empowers the parliament to remove presidential immunity if this should not be contrary to the interests of the state. As such, the parliament of Zambia lifted the immunity of former presidents Frederick Chiluba and Rupiah Banda in 2002 and 2013 respectively to allow for their prosecution in relation to allegations of corruption (Mail and Guardian 2002; Reuters 2013).

Parliament may also lift immunity for an MP to allow them to face criminal allegations. Immunity from prosecution while in office is “crucial to protect MPs from politically motivated allegations”, and the lifting of immunity “should always be agreed by a parliamentary vote on a case-by-case basis, and should require valid and credible allegations supported by serious evidence” (Inter-Parliamentary Union 2016). The National Democratic Institute (2007:76) stipulates that only an act or vote of the legislature can lift parliamentary privilege and the immunity of an MP. The executive branch shall have no right or power to lift the immunity of a legislator.

#### **International standards/benchmarks on lifting immunity**

The Venice Commission’s [report on the scope and lifting of parliamentary immunities](#) sets out criteria for maintaining inviolability of an MP and another set for lifting immunity:

- Criteria for maintaining
  - when the allegations are clearly and obviously unfounded
  - when the alleged offence is an unforeseen consequence of a political action
  - when the allegations are clearly brought for partisan political motives (*fumus persecutionis*) to harass or intimidate member of parliaments or interfere with their mandates
  - when legal proceedings would seriously endanger the democratic functions of parliament or the basic rights of any member or group of members.
- Criteria for lifting
  - when the request for lifting is based on sincere, serious and fair grounds
  - when the member concerned is caught *in flagrante delicto*
  - when the alleged offence is of a particularly serious nature
  - when the request concerns a criminal conduct that is not strictly related to the performance of parliamentary functions but concerns acts committed in relation to other personal or professional functions
  - when proceedings should be allowed in order not to obstruct justice
  - when proceedings should be allowed to safeguard the authority and legitimacy of parliament
  - when the member concerned requests that immunity be lifted

## Censure, votes of no confidence and impeachment

Censure, votes of no confidence and impeachment of government members are forms of political sanctions put in motion by parliamentarians in response to an important issue that has been raised or a scandal (IPU and UNDP 2017: 57; National Democratic Institute 2007: 55). Whereas votes of

confidence and impeachment can lead to the removal of a government official or whole government, this is not always the case with a motion of censure, particularly in presidential systems where it is used as a “call to order” tool to show parliament’s discontent with the behaviour of a specific minister or government policy.

Most countries require a two-thirds majority to pass a vote of no confidence or impeachment as it can lead to government upheaval, whereas other countries have empowered their parliamentary committees to deal with impeachment and removal of executive members. For instance, the oversight and political verification committee in Ecuador has the legal capacity to impeach the president if they fail to comply with their mandate, which can trigger the dissolution of parliament and a new election (IPU and UNDP 2017: 31). However, the desired outcome of censure, votes of no confidence or impeachment is usually to draw attention to a particular issue of importance rather than removal of the executive from office (IPU and UNDP 2017: 57; National Democratic Institute 2007: 55). To avoid losing power, governments may end up adopting recommendations from parliament, thereby underlining the political power of these tools to parliamentarians.

### **International standards/benchmarks on censure, vote of no confidence and impeachment**

The [Recommended Benchmarks for Democratic Legislatures](#) provides for the following benchmarks on votes of no confidence and impeachment:

- In bicameral systems (that is a parliamentary system with both a lower and an upper chamber), only the popularly elected house shall have the power to bring down the government.
- The parliament should have mechanisms to impeach or censure the executive, or to demonstrate no confidence in the government.
- If the parliament expresses no confidence in the government, the latter is obliged to offer its resignation. Where the head of state consents that no other alternative government can be formed, a general election should be held in an appropriate timeframe as defined in the constitution or other applicable laws

## FINANCIAL OVERSIGHT

Calling government to account for its use of public finances is a central and well-established function of parliaments around the world. Parliaments have the “power of the purse”, in the sense that they can control the central activities of the government through prescribing how public money can and should be spent (Wehner 2009; McKay and Johnston 2010). Such oversight ranges from how government raises money through revenue and taxes to reporting on how the money was spent. While budget oversight is a common area for parliaments, there is increasing recognition of the need for parliaments to get more involved in debt oversight (De Vrieze 2022), which is explored below.

### Budget oversight

As the budgetary process is a key instrument through which the government delivers public goods and services and determines how to pay for these, oversight is a significant source of parliamentary power and a powerful oversight tool (IPU and UNDP 2017: 62). Parliaments can get involved at all stages of the budget cycle, from consultation and formulation of the budget to evaluation and audit.

## International standards/benchmarks on budget oversight

Several international standards outline the parliament's power to oversee the budget cycle. For instance, the [High-Level Principles on Fiscal Transparency, Participation & Accountability](#) stipulate that "the authority to raise taxes and incur expenditure on behalf of the public should be vested in the legislature. No government revenue should be raised or expenditure incurred or committed without the approval of the legislature through the budget or other legislation. The legislature should be provided with the authority, resources, and information required to effectively hold the executive to account for the use of public resources".

The [Recommended Benchmarks for Democratic Legislatures](#) also stipulate that only the parliament should be empowered to determine and approve the national budget. Budget approval and scrutiny procedures should be clearly specified in the rules of procedure, the constitution or relevant legislation.

## Budget formulation

Even before the budget is introduced in parliament for formal consideration, parliamentarians can play a role in the formulation stage. As pointed out by Dubrow (2020: 3), as "parliament's authorisation is required for the executive branch to spend funds, parliament should be able to provide input into the budget while it is being formulated". Parliaments usually have limited time to fully scrutinise the budget during the approval stage, hence their active involvement during the formulation stage is important to ensure effective oversight.

Evidence indicates that more parliaments are becoming involved in the budget formulation stage (IPU and UNDP 2017: 64). About 47 per cent of parliaments surveyed in the Global Parliamentary Report of 2017 reported holding a debate on priorities and fiscal policy before the national budget was drafted by the ministry of finance. Some parliaments also reported that they conduct pre-budget public consultations through finance committees where the public's priorities and proposals on revenue and expenditure items are identified and recorded (IPU and UNDP 2017: 64; Dubrow 2020:8). In addition, committees can scrutinise budgets and plans of the executive departments they monitor and review projected spending for the imminent fiscal year.

## Submission and approval of budget

Once formally introduced to the parliament by relevant executive officials, parliament is expected to scrutinise and approve the budget proposal, also known as the appropriation bill. An important standard is that the budget should be submitted to parliament, which should have sufficient time to scrutinise it before the start of the financial year.

### **International standards/benchmarks on submission and approval of budget**

[IMF's Code of Good Practices on Fiscal Transparency](#): “A budget calendar should be specified and adhered to. Adequate time should be allowed for the draft budget to be considered by the legislature.”

[IMF's Code on Fiscal Transparency](#) (see page 11): The legislature and the public should be given adequate time to scrutinise and approve the annual budget”. The best practice for timeliness of submission of budget to parliament to undertake in-depth scrutiny of the budget is at least three months before the start of the financial year; good practice is two months; and the bare minimum is one month.

[OECD Best Practices for Budget Transparency](#): “The government’s draft budget should be submitted to parliament far enough in advance to allow parliament to review it properly. In no case should this be less than three months prior to the start of the fiscal year. The budget should be approved by parliament prior to the start of the fiscal year”.

Parliaments usually refer the bills to one or more committees for scrutiny. Some parliaments may require all standing committees to scrutinise relevant aspects of the budget and report back to a central budget committee, while others have dedicated committees for the review (IPU and UNDP 2017: 64). Here, the public accounts committee (PAC) plays an important role as the main committee overseeing financial activities of the government.

Committees that have scrutinised the budget should then report to parliament before approval. Through budget authorisation, the legislature can limit the spending of departments, ministers and programmes. Parliaments can be given legal powers to amend the budget, and where that power is not given, they can still use their power of approval of the budget to encourage amendments, particularly in cases where the budget does not meet the objectives that they set out to achieve (IPU and UNDP 2017: 64).

### **In-year and ex post budget oversight**

After approval of the budget, parliament has a responsibility to monitor government spending throughout the fiscal year. To ensure effective monitoring during and after the financial year, international standards stipulate that government should submit periodic financial reports to parliament.

### **International standards/benchmarks**

According to the [OECD Best Practices for Budget Transparency](#), governments should publish monthly reports that show progress in implementing the budget. They should be released within four weeks of the end of each month.

[IMF's Code of Good Practices on Fiscal Transparency](#): “Supplementary revenue and expenditure proposals during the fiscal year should be presented to the legislature in a manner consistent with the original budget presentation ... Audited final accounts and audit reports, including reconciliation with the approved budget, should be presented to the legislature and published within a year.”

The [Recommended Benchmarks for Democratic Legislatures](#): “The legislature shall receive regular in-year budget reports and an audited annual financial statement from the government within 12 months after the end of the fiscal year.

The financial year-end scrutiny by parliament is key for financial oversight. The auditing of financial activities by external institutions, particularly the supreme audit institution, provides detailed information for parliament on the government's use of public resources.

Committees also play a key role in monitoring the implementation of the budget. In-year and ex post reports are usually submitted to committees, which will scrutinise the reports before reporting back to parliament.

Some parliaments have also established independent parliamentary budget office such as in [South Africa](#) and [Australia](#) or research units. These specialised offices facilitate oversight by simplifying technical information and reports from government, as well as by producing tailored analysis of government reports and monitoring government compliance with national and international fiscal regulations. However, many under-resourced parliaments may find it impossible to establish these and, in such cases, cooperation with the supreme audit institutions is critical for financial oversight (IPU and UNDP 2017: 66).

**Supreme audit institutions (SAIs)** – also commonly known as office of the auditor general, national audit offices, court of accounts or court of audit – are independent bodies that externally audit government revenue and expenditure. These institutions are charged with providing an objective and independent opinion of whether public resources are used as prescribed in an effective and transparent manner (INTOSAI Development Initiative and Transparency International 2022). SAIs are usually required to submit their reports to parliaments, and the latter has a responsibility to review and use these audit reports. In practice, parliamentary committees such as the public accounts committee or relevant committees (for instance, the health committee if the audit report is on the health department) review the reports and report back to parliament with findings in written or oral form. A productive relationship between parliament and the supreme audit institution ensures that audit reports are submitted to parliament, committees are informed on the quality of public financial management across the government, and areas for attention and improvement are provided (IPU and UNDP 2017: 78).

## Debt oversight

Traditionally, public debts have been exclusively managed by the executive without input from the legislature. However, with a worldwide trend towards increasing public debt, “there is increasing recognition of the unique roles for parliament in the governance of public debt” (De Vrieze 2022). This is particularly important to prevent executive officials looking for short-term or even private gain from entering into corrupt or bad debt arrangements which do not serve the public interest. The executive may wish to enter into debts, no matter how disadvantageous they are, to inject capital that will be used in particularistic ways for political advantage even if this is not in country's long-term financial stability interest. In other situations, corruption may even be a motivator for entering into these debts. As such, parliaments have an important role in holding government to account on debt arrangements.

Several advantages of parliamentary oversight of public debt include the following (see De Vrieze 2022):

- Oversight enhances the transparency of government on public debts as the government will be required to be clearer in terms of existing liabilities, the financial terms and openly declare new debts it wishes to incur. According to Dubrow (2022: 4), “oversight of public debt management starts with timely access to information about public debt levels”. By asking questions, summoning officials and conducting committee work on debts, parliament ensures that information on debts is publicly known.
- Oversight assists in the establishment and implementation of stronger legal framework on public debt management. Scrutiny of debt arrangements enable parliament to identify gaps in laws, and to take corrective action through their legislative function.

- Oversight on debt strengthens government policies and spending. By scrutinising public debts alongside budget, parliaments will be better informed on the financial position of the country – thereby ensuring government’s financial plans and activities are effective and sustainable given the financial position.
- Oversight protects the national interest in emergency contexts by ensuring that government does not hurriedly enter into bad debts for the sake of addressing the emergency.
- Oversight can shed light on whether state-owned enterprises are accumulating dangerous levels of debt that could precipitate a debt crisis.

As debt management is a critical component of public financial management (PFM), parliaments can scrutinise the government’s debt management practices at various stages of the budget.

- **Formulation:** parliament can review the pre-budget statement which should include information on government borrowing and debts. Parliamentary committees can hold hearings or there can be a pre-budget debate in parliament based on the statement, where MPs can ask questions and provide feedback on government borrowing and debt arrangements (Dubrow 2022: 30-31)
- **Approval:** according to a report by the Westminster Foundation for Democracy and the National Democratic Institute, the best practice is that two debt-related reports should be produced by the ministry of finance for inclusion in the annual budget for approval by parliament (Dubrow 2022: 32). One of those documents is the debt sustainability analysis (DSA), which is a key fiscal and budgetary policy tool to assess the long-term sustainability of the future debt path under certain macroeconomic assumptions. The second one is the medium-term debt strategy (MTDS), which articulates how the government intends to implement its debt management approach over the medium term to achieve a desired composition of its debt portfolio that captures its preferences regarding the cost and risk (Dubrow 2022:32). Parliament should analyse these documents as part of scrutiny and approval of the budget.
- **In-year and ex post oversight:** while execution of the budget falls within the purview of the executive branch, it is important that parliament and parliamentary committees also monitor debt levels during the financial year. The in-year financial reports and mid-year reviews by government can be subject to scrutiny by parliament and its committees. The government’s annual debt report, which can either be a standalone document or form part of the annual financial report, should be tabled in parliament and subject to scrutiny as well. Finally, parliamentary committees can also review reports by the supreme audit institution on debt and debt management, and make recommendations to government (see Dubrow 2022: 34).

## LEGISLATIVE SCRUTINY

One of the primary roles of parliament is to create laws that meet the needs of the country’s citizens. These laws shape people’s lives by stipulating what is permitted and what is prohibited. Once in force, a law may have negative or unintended consequences – or may simply have no effect at all. Hence, for a law to be “good” law and achieve its purpose, it is important that it is revisited to assess whether it has achieved its intended outcomes (De Vrieze and Norton 2021).

Post-legislative scrutiny (PLS) is a parliamentary oversight tool used to evaluate whether and to what extent the laws of a country are meeting expected outcomes (De Vrieze 2017: 7). It is an important tool that allows parliaments to monitor the impact of laws on key and emerging topics such as gender, human rights or climate change, as well as laws passed to regulate national emergencies such as the COVID-19 pandemic.

PLS is important for several reasons (De Vrieze 2017: 11), including the following:

- It ensures that laws are implemented in accordance with the principles of legality and legal certainty, which are requirements of democratic governance.
- It enables the identification of negative effects of new laws and the expedition of corrective actions.
- It provides opportunities to appraise the effectiveness of assessed laws in terms of whether they successfully regulate and respond to policy problems.
- It improves the quality of law passed by parliament by providing lessons learned on what works and what does not, as well as in terms of the relationship between objectives set when enacting the law and the actual outcome. As pointed out by De Vrieze (2020: 13), PLS “extends beyond executive oversight, as an internal monitoring & evaluation system by which a parliament is also able to consider and reflect on the merits of its own democratic output and internal technical ability”. In other words, parliaments that conduct PLS act as “watchdogs” of passed laws.

According to the [Recommended Benchmarks for Democratic Legislatures](#) “the legislature shall establish procedures for systematic monitoring of the effective implementation and consequences of legislation”.

As post-legislative scrutiny is a relatively novel area of oversight in many countries, the Westminster Foundation for Democracy (WFD) [lays out](#) three ways to introduce post-legislative scrutiny:

- parliament can require government ministries to regularly report on the implementation of passed laws
- parliament can outsource or commission research on implementation to external independent institutions, either public (such as the auditor general, human rights commission, etc.) or external organisations such as academic institutions
- parliament can conduct its own investigations on the implementation of the laws such as through public hearings and in-house research by parliamentary staff such as the research unit or legislative unit

In countries where the parliament lacks resources to sustain a fully integrated system of post-legislative scrutiny, WFD proposes the preparation and execution of a two-year pilot project approach in which the parliament evaluates the implementation of a limited set of laws (two to three). After these two years, the pilot project can be assessed and lessons gained to determine a more widespread and institutionalised approach.

See De Vrieze, F. 2017. [A Guide to Post-Legislative Scrutiny](#). Westminster Foundation for Democracy

There are different approaches taken by countries in carrying out PLS. In the UK, for example, all select committees may conduct PLS as part of their routine scrutiny work. PLS may be triggered through preliminary assessments by relevant government departments on the implementation of laws within three to five years of the laws coming into force (see De Vrieze 2020: 32). In Belgium, the parliament has a permanent committee on post-legislative scrutiny which was established in 2007. The committee can receive petitions highlighting challenges faced in the implementation of a specific legislation which has already been in force for at least three years – thereby triggering PLS. The committee may also look into a specific law following rulings of the court of arbitration or constitutional court on issues related to the implementation of the law. Lastly, PLS can also be

triggered if the general prosecutor's annual report to parliament highlights challenges related to the interpretation or enforcement of a specific law (see De Vrieze 2020: 22).

In Indonesia, the standing committee on legislation is responsible for monitoring implementation of laws, including legal challenges against specific laws in a constitutional court. Outcomes from PLS are used to plan the next legislative agenda and to decide whether to repeal or amend the law (Inter-Parliamentary Union 2020). In South Africa, an external High-Level Panel on the Assessment of Legislation and the Acceleration of Fundamental Change was commissioned by parliament to conduct a systematic PLS on laws passed since the democratic transition in 1994 (De Vrieze 2017).

Another approach to PLS is through a "sunset or review clause" written into the passed law. A sunset or review clause is a provision that requires re-examination of the law at a certain time in the future or else the law or certain provisions become invalid. This is the case when provisions are intended to be temporary (sunset) or when parliament finds it useful during the drafting stage to revisit the law after it has been passed to make any necessary changes. Such sunset or review provisions are common in laws passed in Canada at both the provincial and federal levels (De Vrieze 2017: 23).

# ENABLING FACTORS FOR EFFECTIVE OVERSIGHT

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The mere existence of parliamentary oversight tools and mechanisms does not translate neatly into their effective use in holding government to account. Effective oversight requires careful consideration of the enabling factors that provide spaces for the meaningful review, monitoring and supervision of government activities by parliament. These factors include opportunities for opposition and independent MPs, good working relationships with other effective oversight bodies, adequate resources and robust behavioural standards for parliamentarians.

## Opportunities for opposition and independent MPs

Oversight is a political activity involving numerous parties and politicians who hold a diverse range of fervently held opinions and interests (IPU and UNDP 2017: 20). The political nature of oversight is most obviously demonstrated in the opportunities afforded (or not) to the opposition or independent parliamentarians to wield oversight tools, with many countries providing insufficient political space for opposition or minority parties (IPU and UNDP 2017: 46).

Governing parties may use their majority numbers in parliament to prevent effective oversight, for instance, by blocking opposition MPs from heading committees, protecting executive officials from being summoned to parliament or limiting opportunities for opposition MPs to call for a commission of enquiry, pass a motion or to attach minority reports (Yamamoto 2007: 13). This limits the voice of opposition MPs from effectively participating in holding government to account. It also stifles their special interest in using oversight to call attention to challenges faced by the government and suggest solutions (IPU and UNDP 2017: 23). Hence, for effective oversight, it is important that opposition and independent parliamentarians enjoy full access and use of tools of oversight in law and in practice

Some specific opportunities may include the following:

- **Opposition MPs as committee chairs through proportional distribution:** legal measures should be put into place to effectively guarantee a proportionate distribution of committee leadership to ensure representation from opposition parties (National Democratic Institute 2007: 25) This is also endorsed by the Venice Commission (2019), which provides that the principle of proportional representation in the positions of responsibility is an important instrument for ensuring opposition rights. As leaders of committees can wield influence to advance or hinder policy efforts or set the agenda in the legislative arena (IPU and UNDP 2017), proportional distribution of committee chairs provides opposition and independent MPs with opportunities to influence oversight work by parliament. According to IPU and UNDP (2017: 48), committees chaired by a member of the opposition are reported to influence effectiveness of oversight activities by the committees.
- **Special powers to initiate a committee of inquiry:** as discussed earlier, special powers may be provided to allow for opposition and minority MPs to establish a committee of inquiry, as is the case with Austria (See page 102 of Federal Law on the Rules of Procedure of the National Council)
- **Special question time or debates:** as the “government in waiting”, the opposition may be given special “question time” or “debates” in the plenary agenda (IPU and UNDP, 2017: 46).
- **Right of reply:** the right of reply offers parliamentarians and in some cases ministers, a chance to respond to a certain issue, for instance, criticism after the moving of a motion such as motions of censure or votes of no confidence. Opposition and minority MPs may be

afforded such a right, for instance, to a budget debate or other ministerial statement (IPU and UNDP 2017: 46). Countries such as Canada and Pakistan provide such a right of reply as part of their procedures under their rules and procedures (see Canada's House of Commons Procedure and Practice and Rules of Procedure and Conduct of Business in the National Assembly of Pakistan).

- **Minority reports:** according to the National Democratic Institute (2007: 26), minority reports serve as a "...means of ensuring cross-partisan quality of committee reports, as well as ensuring that minority committee members have an incentive to keep investing their time in their committee". By allowing the submission of minority reports, parliaments provide opportunities for minority opposition or individual MPs to counter official positions adopted by majority of parliament and express their dissenting views (IPU and UNDP 2017: 54).

The Venice Commission's [Parameters on the Relationship between the Parliamentary Majority and the Opposition in a Democracy](#) provide some important benchmarks on the provision of opportunities for opposition MPs.

- One of the overarching principles, for instance, stipulates that "the voice of the opposition – or of multiple oppositions – is not a voice against the country. And its voice must be audible, and its opinions must be treated with respect".
- It is also desirable that opposition groups and majority groups in parliament are officially established and recognised for some purposes such as for the allocation of leadership positions, speaking time, for the allocation of additional financial and administrative resources, among others.
- It also stipulates that all MPs should have the same individual rights irrespective of whether they belong to the ruling majority, to the opposition or are independent. These include the right to vote, table bills and motions, speak in debates, oral or written questions, as well as to participate in committee work, receive information and documents presented to parliament.

Pages 25-36 of the [parameters](#) provide a detailed overview of opportunities for the opposition.

Another important standard provided by the [Recommended Benchmarks for Democratic Legislatures Oversight](#) requires that committees "provide meaningful opportunities for minority or opposition parties and independent MPs to engage in effective oversight of government expenditures".

## Freedom of expression

A particular challenge to oversight in some countries is the ability of parliamentarians to speak freely when conducting official business without any fear of reprisal. Parliamentarians, particularly from the opposition, may become targeted for expressing their views by being arbitrarily arrested, subjected to politically motivated legal proceedings and, in worst cases, even killed. This creates an environment where parliamentarians are afraid to express their views and hold government to account. Hence, protecting freedom of expression of MPs is key to their ability to conduct oversight activities (see IPU 2018; IPU and UNDP 2017: 25, 99).

The Venice Commission's [report on the scope and lifting of parliamentary immunities](#), discussed earlier, sets out criteria for maintaining inviolability of privileges by MPs, including freedom of speech, and another set for lifting immunity.

The [Recommended Benchmarks for Democratic Legislatures](#) provides for the following standards:

- Parliament must be protected by the freedom of speech immunity. The immunity should protect persons from legal liability for words spoken and acts done while participating in or directly facilitating the parliament's proceedings, and should also restrict the judiciary from using such words and acts as evidence in judicial proceedings.
- The freedom of speech immunity should operate to enable the parliament to carry out its constitutional functions effectively, free from interference or impediment. This includes the parliament having access to all the information it needs to carry out its functions.
- The parliament should have protection against potential misuse of the freedom of speech immunity. References to judicially suppressed or protected information, or to matters awaiting judicial decision, should be made only in exceptional circumstances and with due regard to the separation of powers between the parliament and the judiciary.
- The parliament shall have mechanisms for persons to respond to adverse references made to them during parliamentary proceedings.
- The freedom of speech immunity should continue to apply to former legislators after they have left office, in respect of words spoken and acts done while holding office and participating in or directly facilitating parliamentary proceedings.

## Relationship with other oversight actors

Although parliament has a critical and unique role in holding government to account, it is not the only oversight actor in the accountability ecosystem. There are other independent oversight bodies such as ombuds offices, anti-corruption agencies, supreme audit institutions and human rights commissions, among others. In addition, non-state actors such as civil society organisations, media and professional groups also play a crucial role in holding the government to account.

Interactions between parliament and other oversight actors may be formal or informal. Formal interactions entail relationships that are provided by law or rule of procedure; for instance, the requirement for independent institutions to report to parliament, or provisions that regulate submissions by civil society organisations or citizens to parliament. Informal interactions encompass a wide range of engagements that are not part of formal mechanisms set out in law or rules of procedure (IPU and UNDP 2017: 77). The table below shows interactions between parliament and other oversight actors.

| Oversight relationship                 | Examples of formal interactions                                    | Examples of informal interactions   |
|--|--|---|
| <b>External oversight institutions</b> | Submitting reports, making recommendations, giving evidence        | Providing briefings and other information to MPs and parliamentary staff  |
| <b>Government</b>                      | Submitting reports, responding to questions, giving evidence, etc. | MPs 'having a word' with the minister<br>Exchanging information with officials in the administration                          |
| <b>Media</b>                           | Reporting on parliamentary activities                              | Putting pressure on MPs for action on issues<br>Providing unofficial "sanctions" on government in the form of public exposure |
| <b>Civil society organisations</b>     | Making submissions and giving evidence to parliamentary inquiries  | Putting pressure on MPs for action on certain issues<br>Bringing problems to the attention of MPs                             |
| <b>Professional groups</b>             | Making submissions and giving evidence to parliamentary inquiries  | Putting pressure on MPs for action on issues<br>Providing information to MPs  |
| <b>Citizens</b>                        | Submitting petitions   | Providing input to committee inquiries, suggestions for parliamentary questions<br>Exchanging views with MPs                  |

**Source: IPU and UNDP. 2017. Global Parliamentary Report, p.77.**

According to the Global Parliamentary Report of 2017, parliamentarians rely heavily on informal interactions to "get things done". These interactions allow MPs (particularly from the governing party/parties) to conduct oversight activities away from public. They also permit MPs from different political affiliations to work together on a common concern (IPU and UNDP 2017: 77). In other words, where there are shortcomings to the formal interactions or where oversight tools are not effective, informal interactions can be an effective alternative accountability mechanism. However, overreliance on informal channels may signal serious weaknesses in a parliament's formal oversight mechanisms.

## Engagement with non-state actors

Regular engagement between parliament and non-state actors such as civil society, citizens and media is important for oversight. By demonstrating that they value engagement with non-state actors, particularly citizens whom they represent, parliamentarians gain knowledge that they can use in parliament, for example, by raising a parliamentary question.

Engagement with non-state actors takes place mainly in two areas:

- (i) Parliaments should provide opportunities for citizens to access and participate in holding the government to account. This may include, for instance:
  - Petitions by citizens for parliament to investigate a certain issue of public concern. As provided by the [Recommended Benchmarks for Democratic Legislatures](#), parliaments should have procedures to allow for the meaningful consideration of petitions.
  - Participation of citizens, CSOs and professional groups in parliamentary enquiries by committees. As pointed by the IPU and UNDP (2017: 83), “it is incumbent upon parliaments to seek and maintain dialogue with a wide range of civil society organizations as a regular part of the parliamentary process by soliciting their input during hearings and supporting their capacity to contribute”. In Thailand, standing committees travel on weekends to conduct hearings in communities all over the country to better understand citizens’ needs while also giving people a chance to communicate or complain to their MPs (IPU and UNDP 2017: 52). The use of online consultations has also proven effective in the United Kingdom in collecting testimonies of gender-based violence and forced marriages while protecting the identity of the victims (IPU and UNDP 2017:53).
  - Some civil society groups – known as parliamentary monitoring organisations (PMOs) – closely engage, monitor and report on parliamentary performance, thereby drawing attention to oversight activities and challenges as well as creating momentum for strengthening parliament. [OpeningParliament.org](#) provides an overview of PMOs working in different countries, including some examples of CSOs who monitor parliament’s oversight performance. Some of the well-known PMOs include [Mzalendo](#) in Kenya, [Congreso Visible](#) in Colombia and [ParliamentWatch](#) in Uganda.
- (ii) Parliaments enhancing transparency in their oversight activities, through proactively disclosing oversight information to citizens. This may include through the following:
  - Regular communication by parliament through newsletters or media to explain what is happening in parliament. Plenary and parliamentary activities may also be broadcast through media platforms. According to a study by Rumbul et al. (2018), the publication and dissemination of parliamentary information in sub-Saharan Africa has improved citizen engagement in governance issues while also reducing the distance between parliament and citizens.
  - Participation in citizen interface platforms organised by civil society organisations. The direct contact and feedback from citizens may assist MPs to gather priority areas for holding government to account.

## Resources

For parliamentarians to perform their functions, they require adequate finance and human resources. Without such resources, oversight is likely to be ineffective even where there is a high degree of willingness on the part of parliamentarians to monitor government activity. For instance, MPs will not be able to carry out thorough investigations without financial resources or support from parliamentary staff. According to the IPU and UNDP (2017: 25-26), a survey of 120 parliaments indicated that most parliamentarians perceived the lack of resources as one of the most common

challenges to parliamentary oversight. Hence, ensuring that parliament has adequate resources is an important condition for effective oversight.

Parliament's financial resources should be independent of the executive. This is critical as it guarantees the separation of powers and prevents the executive from withholding financial resources from parliament as a way to control it. By depriving parliaments of resources, governments can and have thwarted parliamentary oversight and its other fundamental duties (IPU and UNDP 2022: 31). It is particularly important to ensure that committee work does not depend on the budget of the ministries with which committees are aligned but comes from the parliament's independent budget (IPU and UNDP 2017: 31).

In addition, parliaments should also have control over recruitment of their administrative staff. In other words, parliamentary staff should not be recruited through government but rather directly through parliamentary recruitment processes. The [Principles for the Recruitment and Career Management of Parliamentary Staff](#) developed by Association of Secretaries General of Parliaments (2013), summarised the rationale: "The executive as an employer has much in common with parliament, and will often be looking for staff with similar qualities. But there will be views represented in parliament which are not shared by the executive. Parliament and the executive also have constitutionally different roles. There is potential for conflict of interest between the two". As such, parliament should maintain control of its recruitment processes, and the executive should not have any influence over the outcome of these processes.

As pointed out by IPU and UNDP (2017: 32; see also Stapenhurst 2019), "access to an independent, professional parliamentary staff is perhaps the most valuable resource an MP can have". These professionals will assist parliamentarians with interpreting and applying the rules of oversight, to process and analyse information from oversight activities, as well as assist in drafting legislation. However, developing capable staff to support parliament's oversight mandate also requires financial resources and training, which emphasises the importance of adequate financial resources to enable effective oversight by parliament.

## Integrity in parliament

Parliaments play a critical role in promoting transparency and accountability. At the same time, parliamentarians should also work in a transparent and accountable manner. Scandals, allegations of corruption, and other breaches of acceptable behaviour by parliamentarians have become common (see France 2022). This leads to low levels of trust that have a negative impact on parliament's role as representative of the people as well as their ability to hold the government to account on behalf of the people (OSCE Office for Democratic Institutions and Human Rights 2022: 9-10).

Hence, it is essential to set standards for parliaments on how they should behave as a condition for effective oversight (IPU and UNDP 2017: 23). The rationale for professional and ethical standards for parliamentarians includes the following (see OSCE Office for Democratic Institutions and Human Rights 2022: 14):

- Create a culture of public integrity in parliaments, where parliamentarians conduct their affairs on behalf of citizens in a professional and respectful manner.
- Prevent abuse of office and other forms of corruption by setting out clear rules for how MPs should behave and punitive measures taken for transgressions.
- Improve public trust and accountability in parliament by providing the public and media with clear benchmarks against which to monitor and hold parliamentarians to account.
- Professionalise politics by clarifying to MPs the standards expected of them. Such clear and uniform standards may contribute to uniting MPs, permitting them to overcome political differences and build a sense of collegiality.

Some measures to improve integrity in parliament include parliamentary codes of conduct, conflict of interest policies, as well as assets and income declarations. These measures are critical for ensuring that parliamentarians act in the best interest of citizens rather than their own private interests (France 2022; Harutyunyan 2021: 24). As pointed out by the Commonwealth Parliamentary Association (2016:1), good conduct by parliamentarians is “crucial because it builds trust – when there are trusting relationships between the people, parliament and other institutions, democracy works at its best... When people trust that their elected representatives are acting in their best interests, this helps legitimise our parliaments and our democratic systems”.

According to the [Recommended Benchmarks for Democratic Legislatures](#):

- Parliaments should maintain high standards of accountability, transparency, responsibility and propriety in the conduct of all public and parliamentary matters including strict adherence to codes of conduct, and interest disclosure rules.
- The legislature should approve and enforce codes of conduct, including rules on conflicts of interest and the acceptance of gifts.
- Parliament should require legislators to periodically, fully and publicly disclose their financial and other relevant interests.
- There shall be mechanisms to prevent, detect and bring to justice legislators and staff engaged in corrupt practices.

More detailed standards on codes of conduct are found in the Commonwealth Parliamentary Association’s [Recommended Benchmarks for Codes of Conduct applying to Members of Parliament](#)

The [United Nations Convention against Corruption](#) stipulates that “each state party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions”

The International Code of Conduct for Public Officials, adopted by the United Nations General Assembly in 1996, also serves as an important benchmark on codes of conduct around the world.

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