

Parliamentary Oversight: A Critical Review of Literature

Alex Chola Kafwabolula¹ Windu Matoka²

1. Department of Business Studies, School of Business, ZCAS University, Dedan Kimathi Road, P.O. Box 35243, Lusaka, Zambia – 10101, DBA Candidate, ability.always@gmail.com

2. Department of Business Studies, School of Business, ZCAS University, Dedan Kimathi Road, P.O. Box 35243, Lusaka, Zambia – 10101, windumatoka@gmail.com or windu.matoka@zcasu.edu.zm

Abstract

The main of this paper is to define what is meant by ‘legislative’ or parliamentary oversight. The other objective is to assess the role of the Legislature in the Budget Ex Post. The Objectives, tools, and mechanisms of parliamentary oversight shall be discussed. The review of the literature was used as a methodology in this paper. The review found that there are various definitions of parliamentary oversight. The Portal for Parliamentary Development was a great source of literature that was reviewed and analyzed in this study. It was reviewed that different scholars define parliamentary oversight differently. Not all definitions capture all the key roles of parliamentary oversight. This paper reviews several scholarly articles that provide various definitions of parliamentary oversight. Furthermore, it is revealed that government reporting and legislative scrutiny of public accounts is more common in parliamentary and semi-presidential systems than in presidential systems; even so, 84 percent of legislatures in presidential systems analyze financial reports from the government. From the literature reviewed, it has been concluded that the robust monitoring of the executive by the parliament is an indicator of good governance. Besides the parliament’s legislative function, it is through oversight that the parliament can ensure a balance of power and assert its role as the defender of the people’s interests.

Keywords: Parliamentary Oversight; Legislative Oversight; Public Accounts Committee

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Introduction

The parliamentary oversight function is one of the cornerstones of democracy. Oversight is a means for holding the executive accountable for its actions and for ensuring that it implements policies in accordance with the laws and budget passed by the parliament. In both long-established and new democracies, the parliament is given the power to oversee the government through a number of tools and mechanisms. Typically, these tools and mechanisms are outlined in the constitution and other regulatory texts such as the parliament's internal procedures. The specifics of how a parliament can utilize its oversight prerogative depend upon the existence of a legal framework, which consolidates the position of the parliament as an oversight institution and guarantees its powers and independence within the political system.

Research Aim

The aim of the study is to define what is meant by ‘legislative’ or parliamentary oversight.

Research Objectives:

1. To discuss the objectives of Parliamentary oversight
2. To discuss tools and mechanisms of Parliamentary Oversight
3. To assess the role of the Legislature in the Budget Ex Post.

Defining Parliamentary Oversight

Oversight is the process by which the parliament monitors the quality of the work of the government regarding the implementation of the law, development plans, and budgets that have been previously adopted by the parliament. Various methods of oversight will be discussed in detail later in this article, but these include committee inquiries, question time, and interpellations. Before we discuss the content of PAC work, we need to define what is meant by ‘legislative or parliamentary oversight’. This is a term that has more than one application. In a research paper by the National Democratic Institute, legislative oversight was defined as “the obvious follow-on activity linked to law-making. After participating in law-making, the legislature’s main role is to see whether laws are effectively implemented and whether, in fact, they address and correct the problems as intended by their drafters” (NDI, 2000). This definition does not capture the other roles that parliaments play in overseeing government policies and activities after they have been enacted.

This position however overlooks the situation that parliaments may be engaged in oversight activities well before a policy is enacted. The position this study takes on the application of the concept “legislative oversight” relates to the roles PACs perform as committees (Oyewo (2007)). Most often, legislative standing committees

are responsible for continuous review of the work of the State agencies in their subject areas (Madue, 2012). Legislatures or parliaments have created special committees or staff agencies designed specifically to evaluate government agencies' operations and performance (Stapenhurst et al., 2008; Akomolede and Akomolede, 2012). Parliaments oversee the Executive not only with regard to the execution and implementation of policies but also with regard to the preparation of policies. This is why, paraphrasing Lees' definition of legislative oversight, we refer to legislative oversight of the Executive as to "the behaviour of legislators and their staff which affects executive behaviour" (Lees, 1977: 193).

The exact content of PAC's work is highly dependent on what it receives from the Audit Office. In one survey, 85% of him at PAC said their work relied primarily on the Auditor General's reports. The first determining factor is the substantive examination authority of the examining body, which relates to the type of examination to be performed (White et al., 1999: 59). The traditional focus of public sector management is compliance. However, in recent years there has been a shift towards a more performance-oriented perspective, which is increasingly reflected in the content of audit reports (NDI, 2000). Furthermore, the content of the PAC's work is determined by the agency's mandate. For example, does her PAC at the National or Local Council have to process audit reports for the local government?

The term summarizes the traditional direction of public financial control. The result is usually a certification as to whether the account numbers are properly accounted for, whether the money is being used as intended by Congress, and whether payments and receipts comply with relevant laws and regulations (White et al. al 1999: 61-74). This includes evaluating the costs and income shown in the accounts against important criteria such as regularity and accuracy. Compliance refers to the need to process expenditures and incomes in accordance with legal and regulatory frameworks, including relevant usage laws and applicable permanent laws. Expenses must also be properly approved. Adequacy concerns Congress' expectations of how public works are conducted, including avoidance of personal gain, fairness, open competition, and avoidance of waste.

Objectives of Parliamentary Oversight

Parliamentarians conduct oversight in order to:

Ensure transparency and openness of executive activities. Parliaments shed light on the operations of government by providing a public arena in which the policies and actions of government are debated, scrutinised, and subjected to public opinion;

Hold the executive branch accountable. Parliamentary oversight scrutinises whether the government's policies have been implemented and whether they are having the desired impact;

Provide financial accountability. Parliaments approve and scrutinise government spending by highlighting waste within publicly funded services. Their aim is to improve the economy, efficiency and effectiveness of government expenditure; and,

Uphold the rule of law. Parliament should protect the rights of citizens by monitoring policies and examining potential abuses of power, arbitrary behaviour, and illegal or unconstitutional conduct by government.

Tools and Mechanisms of Parliamentary Oversight

Parliaments have an array of tools at their disposal for conducting oversight. The most common tools include: questions to ministers (oral and written), interpellation, and votes of no confidence. Other tools include mechanisms related to budgetary oversight, impeachment, and the possibility for the parliament to establish ad-hoc committees, commissions of inquiry or an ombudsman's office. Several of these tools are described below:

Hearings, either in plenary or committee meetings, are a primary tool of parliaments for obtaining information related to specific policies or issues. Nearly all parliaments conduct hearings. However, parliaments have varying capacities to compel individuals to give testimony.

The vote of no confidence, or motion of censure, is a motion presented by parliamentarians that results in either the withdrawal or the confirmation of the Parliament's confidence in the government or one of its ministers. When a parliament withdraws its confidence in the government, the cabinet usually resigns or seeks a parliamentary dissolution. In some countries, withdrawals of confidence lead to a process in which the head of state either calls for the resignation of the government or the dissolution of the parliament. Where the rules allow for a parliament to withdraw its confidence in a single minister, that individual typically resigns. There are many variations to the procedures governing votes of no confidence.

Interpellation refers to a formal procedure used by parliamentarians to require the justification of a certain policy by an individual member of government or, in some countries, the government in full. It can give way to broad debates on the policy at hand or lead to a vote approving or disapproving the issue discussed. This may be followed by a vote of no confidence.

Parliamentary questions are the most commonly used oversight tool. Questions are intended to clarify or discuss government policies and may lead to interpellation, where the rules permit, if the answer is not satisfactory. In order to properly monitor the executive, it is essential for members of parliament to be properly

informed of the policies of the executive and its ministries. Government responses to parliamentary questions may lead to the publication of valuable information. Questions can often be asked in oral or written form, although oral question and answer sessions may provide a dramatic atmosphere and opportunity for response and follow-up by either side. Consequently, the organisation of these sessions is essential to effective parliamentary oversight.

Committees of inquiry are usually ad-hoc parliamentary committees or commissions formed to carry out in-depth investigations on specific issues of public importance. These commissions usually benefit from a greater degree of access to information than normal committees. Their powers may include summoning witnesses to testify under oath, confronting one witness with another, requesting or seizing documents, ordering searches, organising field visits, and more. In some countries, these commissions may possess the same powers as a magistrate making a judicial inquiry. Committees of inquiry are a commonly used oversight instrument in parliaments around the world and may be used to investigate important cases of corruption or abuse of power.

Budget oversight is a means used by parliaments to ensure financial accountability. After the state budget has been passed, the parliament has an important role to play in monitoring how the budget funds are spent. This work is usually done by one key committee (i.e. - Public Accounts Committee; Budget & Finance Committee) but can also be done by other functional committees. Such scrutinising is often done in cooperation with a state auditing institution or an anti-corruption commission.

Supreme audit institutions, such as the auditor general (in Commonwealth countries), or Cours des Comptes (in Francophone countries) facilitate ex-post budget oversight by playing a “watchdog” role and reporting its findings either publically or directly to parliament. Supreme audit institutions monitor how the government uses the public purse and informs the parliament of its observations. In Commonwealth countries, the auditor general reports to the Public Accounts Committee (PAC), which scrutinises the findings of the audit and makes recommendations accordingly.

An ombudsman, in some countries, is appointed by parliament in order to conduct investigations of public authorities on the basis of complaints or requests by the parliament. An ombudsman typically scrutinises whether the workings of the administration or the offending actions are in accordance with the principles of good governance. As such, they play an important role in examining government transparency and openness. An ombudsman tries to find practical solutions to the problems they are tasked with and assume a role of conciliation between the public and the authorities.

Special standing committees are provided for in the internal rules of some parliaments to systematically oversee the government with regards to highly sensitive issues such as national security, defense, and military procurement policies.

Review and confirmation of executive appointees is a power that allows some parliaments to scrutinise executive appointees to high public office, the judiciary, state run companies, and the like.

Strengthening the oversight function of parliament

It is important for a parliament’s institutional and legal framework to encourage MPs to make effective use of their powers of oversight. Aside from the provision of oversight tools, this framework should provide for the independence of the parliamentary institution and the immunity of the MPs. These protections allow MPs to challenge the executive without fear of retaliation against their person. The parliament’s legal framework should also include rights, such as access to information, that give them the capacity to demand documentation and conduct inquiries that reach the heart of the government.

Even in this functional area, the nature of the linkages between parliamentarians and citizens can have a strong impact on MPs’ incentives to conduct effective oversight. For example, an electoral design in which political party leaders determine which operatives will obtain the top positions on the party’s electoral lists may encourage a passive back-bench. When an MPs’ re-election depends entirely on the whims of party leaders, it is unlikely that they will challenge the authority of their leaders. Systems in which the party rank and file select their party’s candidates through a vote may permit the eventual MP more freedom to question her party and government leaders.

The Legislature and the Budget Ex Post

While there is some debate as to whether legislative action is desirable in the pre-phase of the fiscal cycle, it is not so in the post-phase. After the implementation of the budget, government accounts and accounts are audited by 'supreme auditing bodies' such as the General Court of Auditors (Commonwealth countries) and the Cour de Comte (French-speaking countries). In most countries, this review is followed by a parliamentary review of the audit results. This may include performance, performance, financial or compliance audits. If Parliament's role in the fiscal cycle is effective, audit-based legislative recommendations will be reflected in future budgets, enabling continued improvement in public financial accountability. However, this is not the case for Zambia. Gaps remain in how future budgets and proposed activities can be managed, but allow continued improvement in public

financial accountability and social audit.

Research by Pelizzo and Stapenhurst (2004) suggests that government reporting and legislative scrutiny of public accounts is more common in parliamentary and semi presidential systems than in presidential systems; even so, 84 percent of legislatures in presidential systems analyse financial reports from government. The exact nature of the interaction between the legislature and the auditors partly depends on the model of the supreme audit institution and its reporting structure. In most Commonwealth countries, the Auditor General is a core element of parliamentary oversight, and he or she reports directly to parliament and a specialized committee - the Public Accounts Committee. This committee reviews audit findings, considers testimony by witnesses from government departments, and sends its report to the full Parliament for action. In some instances, the Auditor General is an officer of Parliament. In the board system, the audit board of a government ministry or State-Owned enterprise prepares and sends an annual report to the Executive arm of the State, which in turn submits it to the legislature. By contrast, in *cours des comptes* systems, the judiciary can render a finding for the legislature's finance committee to act on. The said committee can also request that a specific audit be undertaken (Stapenhurst and Titsworth, 2001).

Value for Money Audit

In addition, test centers are increasingly preparing cost-effective studies. The term encompasses the "3E's" of economy, efficiency and effectiveness, meaning spending less, spending more and spending wisely. Exact definitions vary, but the following ratios illustrate the concept. Efficiency is the output (a particular product or service) divided by the input. Effectiveness can be measured by comparing outcomes (impacts on society) with outcomes (Kristensen et al., 2002: 32-33). In any system for implementing performance-based reform, the PAC should be closely involved in this process to ensure that the information generated is useful and relevant to the Commission. Some countries are moving towards greater involvement of sector committees in the review of cost-performance studies.

In 2001, the Inter-Parliamentary Union (IPU) conducted surveys of executive and legislative relations in more than 80 countries. Survey data collected by the IPU were first used in a series of papers (Pelizzo and Stapenhurst, 2004a, 2004b) and later in a monograph (Yamamoto, 2007). In his research, Yamamoto (2007) discussed tools that legislators can use to fulfill their oversight obligations, with a particular focus on tax and budget oversight. In this regard, he pointed out that there are two basic tools that can be used to monitor budget execution and the use of public funds to oversee the implementation of the budget, while others use the Westminster tradition of public oversight boards.

In Mr Yamamoto's view, PACs exist only in Commonwealth member states or countries with a British institutional heritage, can only see post-approval budgets, and can only address issues raised by audit reports. In that sense, it is also an inherently reactive institution. General (AG) occurred. Data collected over the next few years show that while the diagram drawn by Yamamoto (2007) describes his PAC in the traditional sense fairly accurately, it is difficult to capture the rapidly evolving world of his PAC. Insufficient. In fact, PACs are located outside the Commonwealth (Indonesia, Thailand, Nepal, Kosovo, South Sudan, Ethiopia, etc.) and are obliged to consider budget estimates in various cases (Barbados, Bhutan, Nepal, New Zealand, etc.), Samoa, Vanuatu) and has the authority to refer matters to the AG, in addition to responding to AG reports.

The literature (see, for example, Stapenhurst et al., 2013) shows that the world of PACs is changing, as PACs are established outside the federal state and given broader mandates (Stapenhurst et al., 2013). al., 2013). While this literature explains why PACs work well in certain regions (Pelizzo and Stapenhurst, 2007), it ignores important aspects specific to certain regions and the features that define different PACs. often The purpose of this section is to address the PAC's organization, structure and activities as well as its working practices and functions in East and Southern Africa.

Conclusion

In both long-established and new democracies, the parliament is given the power to oversee the government through a number of tools and mechanisms. Typically, these tools and mechanisms are outlined in the constitution and other regulatory texts such as the parliament's internal procedures. The specifics of how a parliament can utilize its oversight prerogative depend upon the existence of a legal framework, which consolidates the position of the parliament as an oversight institution and guarantees its powers and independence within the political system. Thus, while reforming the structure of the political system to increase a parliament's constitutionally given oversight capacities may not always be feasible, in some instances, parliaments can improve their oversight capacities by reforming their own rules. For example, a good practice for committee systems is to assign a single committee to each government ministry. The parliamentary budget permitting, such reforms are usually within the powers of the parliament to implement.

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