

TERMS OF REFERENCE

Tender Reference No. 258-17/17

Drafting Parliamentary Oversight Manual for the Parliament of Bhutan

1. Background

Bhutan transitioned to a Democratic Constitutional Monarchy in 2008, bringing in unprecedented reforms and changes wherein a range of constitutionally defined governance institutions were established including the formation of the parliamentary houses as prescribed by the new constitution. These new structures brought in significant changes to the roles and responsibilities of the Parliament Houses, vested with representative, legislative and oversight functions. The Parliament comprises of His Majesty the King, National Council of Bhutan (NCB) and the National Assembly of Bhutan (NAB). This multi-layer Parliament is considered bicameral with 72 members for practical purposes.

As part of the two secretariats' institutional development roadmaps outlined in their Strategic Plans, International IDEA has been supporting the Parliament of Bhutan since 2013. The expected outcomes of International IDEA's programme for support to parliamentary institutions and processes are as outlined below:

1. Enhanced Institutionalized Capacity of the secretariat in providing professional services to NAB and NCB members and committee
2. Enhanced capacity of Parliamentarian in the NCB and NAB to communicate with the Bhutanese public

The Parliament of Bhutan has identified the need to strengthen Parliamentary Oversight through a standard procedure that fits with the Bhutanese legal framework as one of its priorities for its cooperation with International IDEA. The Parliament of Bhutan is an institution through which governments are held responsible on behalf of the citizens. It is important for the parliament in Bhutan to strengthen their constitutionally-assigned roles, i.e. representation, legislation and oversight in a most effective manner. Parliamentary oversight is one of the major functions of the parliament, through which the Parliament ensures that government policy and action are both efficient and commensurate with the needs of the public. The Inter-Parliamentary Union (IPU) defines the parliamentary oversight as: "the review, monitoring and supervision of government and public agencies, including the implementation of policy and legislation". Thus, the parliamentary oversight is crucial in checking financial and policy excesses on part of government. An effective oversight can contribute to a more stable and democratic political system, improved public finances, high impact aid development efforts, advancement of gender equality and human rights, and reduction or elimination of corruption.

Across the world, parliaments are performing their oversight role in a variety of ways and variations exist through the use of range of legislative tools in order to keep the government accountable for its action and its policies. These variations can be factored by form of governments and other constitutional arrangements. Therefore, the oversight tools are grouped

on basis of two criteria: they oversee the preparation of a given policy (ex ante oversight) or after (ex post) to oversee the execution concerns whether oversight is exercised internally or externally to parliament. Some of the most common oversight tools being deployed are parliament committee hearings, questions in the committee hearings, hearings in plenary sessions of the parliament and public hearings the Public Account Committees (PAC) that is largely responsible for ensuring effective financial oversight, questions, question time, etc. Currently the oversight role of National Assembly is largely confined to overseeing government's public expenditures and effective oversight in other areas need to be strengthened. Proper mechanism needs to be in place to expand the oversight function to include oversight of the impact, effectiveness of implementation of policies and legislation (Source: National Assembly Strategic Development Plan -2014-2018). As for the National Council it carries out its oversight and review functions through number of mechanism such as written and oral questions to the government and head of agencies when necessary. Thus the Strategic Development Plan of NCB suggests to develop an easy to use manual on the subject to be developed for members. Thus it is quite obvious from the above that parliamentary oversight manual is required for both the house. "Tool for parliamentary oversight – A Comparative Study of 88 national parliaments" a research study conducted by IPU shows that Parliament's potential to oversee the executive increases as the number of oversight tools available to that parliament increases. Nowadays in other countries, parliamentary oversight extends to every field of endeavour.

The Parliament of Bhutan sees the oversight of considerable importance to democracy and to the implementation of the Sustainable Development Goals. While budgetary activities is at heart of parliamentary oversight, the parliament is also called to oversee all areas of government policy, including defence and international affairs. While some of those oversight tools have been utilized by the Parliament of Bhutan through parliamentary committee work (though committee meetings can be improved with live streaming), public hearings, Question Hour/ Ministerial question times, plenary debates, the Public Accounts Committee (Joint Committee), there is a need to have a manual that increase oversight capacity and effectiveness. Dispensing and fulfilling their oversight functions largely depends on the capacities of the parliament, which is additionally constraints by shortage of time, weak legislation, executive dominance and inadequate parliamentary research staff and information services. For example, oversight of the effectiveness and efficiency of complex budgetary and policy matters requires expertise that is often unavailable to the Parliament.

In order to execute oversight functions more effectively, the Parliament of Bhutan requires a manual that can guide them within the implementation of the government's obligations to national laws, policies and the resolutions of parliament; budgetary oversight as well as budget process from gender perspective and including oversight on defence and security sector, which are some of the challenging areas of oversight for most parliamentarians. The initial analysis and assessment must identify some of the pertinent areas mentioned above where intervention of parliamentary oversight is most required so that parliament has the power and resources to oversee all oversight functions more effectively as mandated by the Constitution of the Kingdom of Bhutan under the Article 10 (2) states: "Parliament shall ensure that the Government safeguards the interests of the nation and fulfills the aspirations of the people through public review of policies and issues, Bills and other legislations, and scrutiny of State functions". The Parliamentary Oversight Manual must be comprehensive containing tools, techniques and procedures that complies with local context but in line with international best practices. In summary, the Parliamentary Oversight Manual should help to achieve the following:

- improve the environment in which parliamentary oversight takes place
- build Bhutan parliament's institutional capacity for oversight
- reinforce political will among parliamentarians to carry out oversight activities
- increase the effectiveness of parliamentary oversight.

Currently the Parliament of Bhutan is utilizing some aspects of the oversight tools but requires a recommendation of most effective oversight tools and mechanism that are being deployed by the parliamentarians around the world. Some of these tools and mechanisms are broadly outlined in the Constitution of the Kingdom of Bhutan and other regulatory texts such as the parliament's Rule of Procedures for each house. Thus, there is a need for the Parliamentary Oversight Manual to guide the processes towards implementation of some of the most effective oversight tools, approaches, methodologies for promoting accountability and transparency. The manual will outline clear procedures and working methodologies on each of the major parliamentary oversight areas mentioned above to ensure that oversight is carried out effectively by the members of the parliament as a whole, by a parliamentary committee as well as by the individual Member of Parliament. There is also the need to strengthen the involvement of the public more closely in the oversight activities including civil society organizations, media, etc. But this remains underdeveloped in most parliamentary systems. Improved access to information (in terms of availability of information, quality of the information available) is a prerequisite for effective public oversight.

Thus, an international expert working together with a national expert are expected to draft a Parliamentary Oversight Manual that would enable the two houses of Parliament to increase their oversight functions efficiently and effectively, which is consistently of high quality and conforms to necessary local and international best practices with a clear mechanisms, techniques and strategies that are measurable in an effort to make the parliamentary institution stronger. It will equip the parliament better to oversee government activities, debate and monitor bills/policy implementation, prevent misallocation of resources which are necessary preconditions for socio-economic growth and reduction of poverty.

On this occasion, International IDEA and its partners, Parliament of Bhutan, are seeking for an international expert to draft the Parliamentary Oversight Manual which will be used by the both houses of Bhutan's Parliament to increase their oversight functions.

2. Objective of the Assignment

The objective of the assignment is drafting of a Parliamentary Oversight Manual for the Parliament of Bhutan that would contribute to the following broad objectives:

1. To guide the members of parliament in executing their oversight function effectively.
2. To oversee implementation of the government's obligations to national laws, policies and the resolutions of parliament.
3. To ensure that the parliament has the powers and resources to oversee all functions of the state.

3. Scope of Work

The International expert, hereafter known as “Contractor”, will be the team leader and will lead this assignment throughout and will work together with a National expert in the performance of this assignment. Together, the experts are expected to conduct face to face interviews with both National Assembly of Bhutan (Lower House) and National Council of Bhutan (Upper House) leaders, members, secretariat and key stakeholders. The Parliamentary Oversight Manual will identify key oversight areas where intervention is most required by complying with international parliamentary practices but suitable to Bhutanese legal context through the following tasks:

1. Conduct desk review to study the current procedure and practices, modes of conduct of the oversight committees, members, parliament while performing their duties with objectives improving and strengthening the current system of oversight;
2. Based on the above, identification of comprehensive need assessment of areas and gaps observed where intervention through parliamentary oversight is most required;
3. Identification of best international parliamentary oversight tools/practices in matters of oversight in policy and legislation implementation oversight, budget process and execution, security and defense sector, etc. and its applicability which best fits into the Bhutanese legal framework;
4. Propose specific actions and indicators relating to parliamentary oversight areas mentioned above with a robust monitoring and mechanism in place, to oversee how the oversight in various areas are being implemented internally as well as externally;
5. Identification of monitoring and mechanism building on oversight which can guarantee effective fulfillment of some of the major areas of parliamentary oversight particularly in Bhutanese context;
6. Evaluate how the parliament oversee oversight activities on government’s obligations to national laws, policies and resolutions of parliament, the extent that parliament keeps track of the recommendations that it makes to the government on policy matters, through the committee reports and government’s response to parliamentary recommendations by providing clear, concrete and specific recommendations for improvements;
7. Conduct gap analysis of the areas such as budget processes and detailed agenda for capacity support to the parliamentary committees in charge of financial and budgetary affairs through examination of the reports below:
 - to take a sample of at least 2 report of the PAC review of Annual Audit Reports and each of the 3 oversight/ accountability/Committees in the last Parliament.
8. Based on the above, review the parliamentary committees documents relevant to domestic financial-budgetary situation and recommendation for improvements in the manual;
9. Provide expertise and share knowledge about how parliamentary budget committees can become more efficient and effective, in line with international standards for parliamentary committee work and democracies legislatures;

10. Provide recommendations to strengthen Parliamentary budget oversight in process from a gender perspective and other cross cutting issues;
11. Propose mechanism for sustainable public consultative processes and public consultation tools by parliamentary committees including special targets women, youth and other vulnerable groups;
12. Strategy and actions through the Parliamentary Oversight Manual for institutionalization and regularization of public consultations by parliamentary committees;
13. Strategies for involvement of national/local government agencies, media, civil society organizations, individual citizens, experts and vulnerable groups in consultations;
14. Recommend strategies and guidance on how to involve the public in oversight activities to increase public understanding of and participation in the work of parliament;
15. Propose sustainable systems, processes and mechanism which MPs may utilize to carry out constituency relations as per international best practices;
16. Encapsulate all of the above in the Manual to be written.

In addition, the Contractor is expected to lead the writing of the Parliamentary Oversight Manual for the Parliament of Bhutan with the support of the international expert. The writing will involve three stages:

- **Preparatory stage:** during this stage the Contractor will prepare (a) a proposed detailed work plan with dates for the writing of the Parliamentary Oversight Manual identifying sections, which can be written by the national expert (to be approved by IDEA, NAB & NCB), including timeline until endorsement of the draft Parliamentary Oversight Manual by the Parliament (b) a proposed outline for the contents of the Parliamentary Oversight Manual and incorporate feedback from the national expert and;
- **Writing Stage:** In accordance with the work plan, the Contractor will lead the writing stage supported by the national expert. The final editorial write up to be undertaken by the team leader/International expert.

4. Methodology, Timing, Output and Deliverables

The Contractor will determine the most appropriate methodology to draft the Parliamentary Oversight Manual and must obtain approval from International IDEA on such methodology prior to commencing the assignment.

The assignment is expected to start from late March to be completed by 31 May 2017 for a maximum of 25 billable days; the start date will be finalized upon signing of the contract. The specific dates of the individual firm/consultants travel to Bhutan will be jointly determined by the NAB/NCB and International IDEA, but the expected work plan and dates mentioned below is indicative (International IDEA may alter the dates depending on the readiness of the parliament of Bhutan):

- Contractor will be in Thimphu, Bhutan, from 26 March until 8 April 2017;
- Desk study and preparations 23 March – 25 March 2017
- Perform work in Thimphu, Bhutan, 27 March-7 April 2017;

- Work together with the national expert, provide inputs on the draft and submit the first draft Parliamentary Oversight Manual to International IDEA with complete table of contents, annexure etc. that is ready for publication on 1 May 2017;
- Submit the Final draft Parliamentary Oversight Manual based on reviews from International IDEA and the Parliament of Bhutan on 29 May 2017.

The following is a brief outline of the key deliverables and outputs:

Outputs

1. Identification of best international parliamentary oversight tools/practices which fits into the Bhutanese legal framework
2. Identification of monitoring/oversight mechanisms, which can guarantee effective fulfillment of any parliamentary oversight function, particularly in Bhutanese context.
3. Identification of areas where intervention through parliamentary oversight is most required.

Deliverables

A parliamentary oversight manual containing at least the following:

1. A standard procedure for executing parliamentary oversight function, which prescribes what programme of work is to be chosen, how it is to be organized and how the reports are to be prepared.
2. Working methods for parliamentary oversight functions by the parliament as a whole, e.g. by a parliamentary committee and by an individual member of parliament.
3. Procedures for the individual parliamentary oversight tools/approaches as identified under Deliverable #1 above

The final draft Parliamentary Oversight Manual must be submitted in English in word format and scanned pages will not be accepted or in editable format, on the due dates in electronic version via email to:

- National Council of Bhutan, National Assembly of Bhutan, Adhy Aman, Country Programme Manager, Bhutan; and Karma Dema, Programme Coordinator, Bhutan Country Programme, International IDEA

5. Management and Organisation

The contractor shall discuss with International IDEA regarding any issues that arise before, during or after the provision of services described above. Throughout performance of the work, the Contractor will be assisted by a relevant staff from each House of Parliament while International IDEA staff will provide logistical support.

The performance of this assignment shall be supervised by Adhy Aman, Country Programme Manager, Bhutan, International IDEA and/or his designee Karma Dema, Project Coordinator, Bhutan, International IDEA. International IDEA will closely coordinate with NAB and NCB throughout the performance period of the assignment.

Financial and logistical matters shall be handled by Pema Yangzome, Finance and Administration Coordinator, Bhutan, International IDEA with the support of International IDEA's Asia and the Pacific Regional Office, based in Canberra, Australia.