

Closing the COVID Accountability Gap:

The Oversight Role of the
Philippines Congress

By Suchi Pande



Closing the COVID Accountability Gap:

The Oversight Role of the
Philippines Congress

By Suchi Pande

In 2021, the International Budget Partnership published an assessment of 120 countries' management of COVID relief, which found that too many governments were using the excuse of urgency to avoid being as transparent, accountable or inclusive as they could be. These shortcuts and limitations, however, are neither necessary nor inevitable. IBP's report showcased notable instances in which governments acted swiftly to put in place adequate transparency around their policy responses, where accountability institutions — such as legislatures and supreme audit institutions (SAIs) — stepped up to provide effective oversight, and civil society organizations contributed information on the needs of the most vulnerable. In a series of briefs, we have taken a more in-depth look at these good practices — delving into government objectives in implementing the practices, the impacts achieved, and lessons that can be drawn from these practices for their replication in other countries. The main goal of these briefs is to provide governments with information on good practices in fiscal openness and accountability that they can incorporate into their own policies, to be implemented during periods of crisis and beyond.

This brief looks at the government of the Philippines' legislative response to the COVID-19 pandemic and describes the legislative oversight and transparency measures undertaken during the initial months of the pandemic, March-June 2020.

“In 2021, the International Budget Partnership published an assessment of 120 countries' management of COVID relief, which found that too many governments were using the excuse of urgency to avoid being as transparent, accountable or inclusive as they could be.”

A legislative response

In March 2020, the Philippines Parliament debated and approved a law to mitigate the effects of COVID-19. The Republic Act (RA) No. 11469, or the Bayanihan To Heal As One Act (Bayanihan 1),¹ granted extraordinary powers to the president to implement the emergency response.² Since Bayanihan 1 was passed by Parliament as an emergency measure, it did not include details about specific programs nor total funds allocated to each program. It also authorized the president to repurpose and realign the national budget to mitigate the effects of the pandemic. The law, however, included some oversight of the president's budgetary power through submission of weekly reports and the creation of a Joint Congressional Oversight Committee.

The president's office submitted 13 weekly reports to Congress in March and June 2020. These reports were based on submissions from various departments and agencies of the executive branch, and described the implementation status of various programs, projects and activities. Some of the weekly reports to Congress included details of the amount and utilization of funds used, augmented, reprogrammed, reallocated and realigned, as specified in the law.³

¹These policy responses were in effect from March to June 2020.

²For example, reallocating budget items, taking over the operations of specified private establishments such as hospitals and medical health facilities, and requiring business to prioritize contracts for materials and services necessary for the specific purposes specified in the law. See section 4 of Republic Act 11469. Bayanihan 1 has also come under criticism for centralizing power in the office of the president. Some analysts have noted the human rights implications (Yusingco and Pizarro, 2020) and the democratic deficit (Heydarian, 2021) resulting from the national government's implementation of its COVID-19 recovery plans. Some parliamentarians suggested the punitive provisions of the law could be used to curb dissent (Lalu, 2020) and to limit the autonomy of local government units (Tomacruz, 2020). For example, within weeks the president issued orders to "shoot" anybody who violated the government's community quarantine orders (Billing, 2020).

³See section 5 of Republic Act 11469.

The legislature's oversight role

The Philippines received a high score on the international index of Legislative Response to COVID-19,⁴ noting the legislature continued to sit during the pandemic and had some form of ongoing oversight of executive action (Gordon and Cheeseman, 2021). In addition, the country received a high score on IBP's COVID measure on legislative oversight.

Due to COVID-19 related community quarantine restrictions, the Joint Congressional Oversight Committee mandated by Bayanihan 1 was not convened. The House of Representatives conducted its own (virtual) hearings but did not specifically engage with the president's weekly reports.⁵ However, Senate minority members engaged with the president's weekly report and commented on the actions and made recommendations.⁶ All 13 weekly reports received comments from senators and can be publicly viewed. The Philippines Congressional Policy Budget and Research Department (PCPBRD)⁷ also produced simultaneous weekly reports based on the president's weekly reports and the House of Representatives hearings, and shared its weekly reports with senators and the House of Representatives via email.

Senators actively tracked subsidy delivery. Their comments and recommendations varied from urging the government to introduce more testing facilities and more rigorous contact tracing to speedy distribution of emergency subsidies. Senators also amplified their constituents' pleas for burial assistance of victims of COVID-19, speedy distribution of cash transfers under the social amelioration programs, especially to regions with the lowest paid beneficiaries, and noted the lack of progress on inclusion of beneficiaries such as drivers from the transport network and public utility vehicles.⁸ Their response was aided by civil society groups that conducted third-party budget monitoring. For example, some senators used information from the Philippines' Citizens' Budget Tracker to provide recommendations on better reporting formats and simpler tracking methodologies.⁹

⁴Published by the University of Birmingham and the Developmental Leadership Programme.

⁵The Speaker of the House of Representatives created the Defeat COVID-19 Ad-hoc Committee. This committee comprised five subcommittees focused on the government's response in health, economic recovery, social amelioration, peace and order, and the new normal. (Director General, PCPBRD, interview with author, October 12, 2021.)

⁶Budget transparency advocate Ken Abante, interview with author, October 12, 2021.

⁷The PCPBRD is an independent think tank that provides policy advice and technical assistance and information support to the House of Representatives.

⁸Office of Senator Ramon Bong Revilla, jr. Comments and recommendations to the Sixth Report of the President to the Joint Congressional Oversight Committee pursuant to Section 5 of Republic Act 11469, otherwise known as the Bayanihan to Heal as One Act.

⁹Ken Abante, Citizens' Budget Tracker, interview with author, October 12, 2021.

On the delays in delivery of emergency subsidies, senators recommended better interagency coordination — for example, between the Department of Social Welfare and Development and the local government units (LGUs) — to reconcile existing databases of beneficiaries of social amelioration programs.¹⁰ Senators also included reporting formats for agencies to help them track subsidy distribution under the various social amelioration programs.¹¹ Suggestions were also made for more granular data to better understand the spread of COVID-19 and to improve distribution of testing kits.¹²

Senators' comments also highlighted data discrepancies and sought updates on specific actions by government agencies. For example, one senator¹³ requested disaggregated numbers of health workers in the country to specify how many were employed by the public and private sectors respectively. The disaggregated figures, the senator noted, were necessary since the majority of the total number of health workers cited in the president's report worked in the private sector, serving only one-third of the country's population. The overwhelming majority of the population relies on government-owned hospitals. This request for disaggregated data was linked to the specific provisions of Bayanihan 1 that authorized the Department of Health to hire temporary staff. The senator asked the department to clarify its plans on filling these temporary positions.

In addition to senators engaging and commenting on the president's weekly report, the PCPBRD conducted a results-based assessment of the impact of Bayanihan 1.¹⁴ The PCPBRD report comprehensively reviewed the implementation of the health, social assistance, and peace and order programs.¹⁵ It drew attention to gaps and preexisting institutional constraints in the implementation of the programs: lack of interagency coordination on its economic and social amelioration response plans; beneficiary duplication in financial aid; lack of an integrated database and social registry for beneficiary identification and emergency-subsidy disbursement for social assistance programs; and poor coordination between national and local government.

The assessment also recognized the unintended consequences of an extended and strict community quarantine that impacted the emergency response, especially the timely and speedy disbursement of financial assistance to low-income households and vulnerable groups. According to the PCPBRD, inefficiency and corruption led to "involuntary hunger of about 5.2 million families." It suggested that, going forward, the government engage and empower its citizens to a greater extent; build a more reliable information system for efficient national-local government coordination; and complete a countrywide assessment of LGU preparedness to implement the country's surveillance and disease control strategy and to build capacity and train contact tracing teams (PCPBRD, 2020).

¹⁰Statement of Sen. Francis Pangilinan on the second president's report, press release, April 7, 2020.

¹¹Comments on the President's Third Report to the Joint Oversight Congressional Committee. Office of Senator Francis N. Pangilinan, April 16, 2020.

¹²Joel Villanueva, Senator. Comments and Recommendations on the Fifth (April 27) Report on the Implementation of the Bayanihan Act (RA 11469), April 29, 2020.

¹³Comments of Sen. Leila M. De Lima on the Second Weekly Report of the President, dated April 6, 2020.

¹⁴The PCPBRD's assessment, published in August 2020, is limited to the implementation of Bayanihan 1, which was in effect during the first three months (March to June 2020) of the government's emergency response.

¹⁵Many programs adopted to assist micro, small and medium enterprises that were still in the early stages of implementation were not reviewed.

Results of congressional oversight

Senators noted that the executive acted on some of their suggestions. For example, the third report to the Joint Congressional Oversight Committee noted that the target beneficiaries for social amelioration programs were shifted from 18 million households to 18 million families. This shift had the potential to make the social amelioration programs more inclusive by addressing the needs of multiple families belonging to one household.¹⁶ Senators also acknowledged the adoption of their recommendations on reporting the status of social amelioration programs.¹⁷ One senator commended the Department of Health for improving access to testing sites and quarantine centers.¹⁸

The PCPBRD report made specific recommendations to improve future policies and programs, engage citizens, and ensure transparency through proactively disclosing information on disbursed funds, reporting program outputs and performance in disaggregated formats, and utilizing digital technologies in disbursal of financial aid to micro, small and medium enterprises (PCPBRD, 2020). According to the director general of the PCPBRD, the rationale for the report was to assist legislators in providing input into Bayanihan 2.¹⁹ The legislators wanted to debate which programs to fund and the specific allocations necessary to meet programmatic commitments. A few of them also requested additional funds to bolster the PCPBRD's capacity for research and policy review and advice.²⁰

¹⁶Comments on the President's Third Report to the Joint Oversight Congressional Committee. Office of Senator Francis N. Pangilinan, April 16, 2020.

¹⁷Comments on the President's Fourth Report to the Joint Congressional Oversight Committee (JCOC) Office of Senator Francis N. Pangilinan, April 21, 2020.

¹⁸Comments of Sen. Leila M. De Lima on the Third Weekly Report of the President, dated April 13, 2020.

¹⁹Director General, CBPRD, interview with author October 12, 2021.

²⁰The request for additional finances for CPBRD was unsuccessful. Director General, CBPRD, interview with author October 12, 2021.

Lessons from the Philippines

The Philippines' legislative response offers some lessons for other countries as they attempt to ensure legislative oversight of executive action and transparency in implementing an emergency response.

First, a key lesson in promoting legislative oversight in emergencies is that while it is necessary to grant the executive additional powers, these powers must be accompanied by safeguards such as additional monitoring and reporting requirements (on a regular, short-term basis) or sunset clauses (fixed end dates) in emergency laws. Legislators then need to actively review and act on the executive reports, making their voices heard and amplifying the concerns of their constituents.

Another lesson is that legislatures can invest in additional analysis using their own capacity as well as independent institutions that critically assess government reports, provide budgetary analysis and make actionable recommendations. A precondition for this in the Philippines was the prior internal capacity of the PCPBRD to independently assess Bayanihan 1.

Finally, supreme audit institutions need to be involved early — through provisions in emergency laws for regular audits and analytical reports — as they possess the expertise to flag problems in the implementation of emergency programs. To strengthen the Parliament's oversight role, legislators should activate auditors and use their findings directly to inform legislative actions. Legislators should also seek ways to involve citizens by engaging them in parallel analysis (such as the use of a Citizens' Budget Tracker by Philippine senators) or remote participation procedures (such as teleconferencing apps that facilitate inputs from citizens). Lawmakers could then incorporate citizens' inputs into recommendations to the executive and monitor their implementation.

References

Billing, L (2020). Duterte's Response to the Coronavirus: 'Shoot them Dead.' Foreign Policy, April 16. <https://foreignpolicy.com/2020/04/16/duterte-philippines-coronavirus-response-shoot-them-dead/>

Buan, L (2021). Unused P3.4-B COVID-19 foreign aid due to DOH 'dilly dallying'- COA. Rappler, August 14. <https://www.rappler.com/nation/coa-rejoinder-dilly-dally-doh-explanation-covid-funds>

Congressional Policy and Budget Research Department (2020). A Results-Based Assessment Of The Bayanihan To Heal As One Act. August. https://cpbrd.congress.gov.ph/images/PDF%20Attachments/Special%20Publications/A_Results-based_assessment_of_Bayanihan_to_Heal_as_One_Act.pdf

Comments on the President's Fourth Report to The Joint Congressional Oversight Committee (JCOC) Office of Senator Francis N. Pangilinan, 21 April 2020. http://legacy.senate.gov.ph/21Apr_SFPN_Comments_and_Recommendations_on_the_4th_Report.pdf

Comments on the President's Third Report to the Joint Oversight Congressional Committee. Office of Senator Francis N. Pangilinan, 16 April 2020. http://legacy.senate.gov.ph/16Apr_SFPN_Comments_and_Recommendations_on_the_3rd_Report.pdf

Comments of Sen. Leila M. De Lima on the 3rd Weekly Report of the President dated 13 April 2020. http://legacy.senate.gov.ph/3rd%20Week_SLML%20Comments%20on%20PRRD%20Weekly%20Report.pdf

Comments of Sen. Leila M. De Lima on the 2nd Weekly Report of the President Dated 6 April 2020. http://legacy.senate.gov.ph/2nd%20Week_SLML%20Comments%20on%20PRRD%20Weekly%20Report.pdf

Commission on Audit (2020). Consolidated Annual Report 2020. <https://www.coa.gov.ph/index.php/reports/annual-audit-report>

Gordon, R. and Nic Cheeseman (2021). Legislative leadership in the time of COVID-19. Westminster Foundation for Democracy. <https://www.dlprog.org/opinions/legislative-leadership-in-the-time-of-covid-19>

Joel Villanueva, Senator. Comments and Recommendations on the Fifth (April 27) Report on the Implementation of the Bayanihan Act (RA 11469), 29 April 2020. <http://legacy.senate.gov.ph/Comments%20on%205th%20Bayanihan%20Act%20Report%20v7.pdf>

Heydarian, R (2021). How COVID-19 Proved a Boon for Duterteismo - With Long-Term Damage to Philippine Democracy. Think Global Health, January 20. <https://www.thinkglobalhealth.org/article/how-covid-19-proved-boon-dutertismo-long-term-damage-philippine-democracy>

Lalu, P.G (2020). Dissent, LGU initiatives in danger with Bayanihan bill, says solon. Inquirer, March 24. <https://newsinfo.inquirer.net/1247893/legitimate-dissent-lgu-initiatives-in-danger-with-bayanihan-bill>

Office of Senator Ramon Bong Revilla, jr. Comments and recommendations to the Sixth Report of the President to the Joint Congressional Oversight Committee pursuant to Section 5 of Republic Act 11469, otherwise known as the Bayanihan to Heal as One Act. http://legacy.senate.gov.ph/SBR%20comments_6th%20Report.pdf

Philippines News Agency (2020). Dagyaw 2020 responds to Covid-19 concerns, October 12. <https://www.pna.gov.ph/articles/1118243>

Statement of Sen. Francis Pangilinan on the second President's report, Press Release April 7, 2020. http://legacy.senate.gov.ph/press_release/2020/0407_pangilinan1.asp

Tomacruz, S (2020). 'Stand down': Duterte orders LGUs to follow IATF orders on Luzon lockdown, Rappler, March 20. <https://r3.rappler.com/nation/255214-duterte-orders-local-government-units-follow-orders-luzon-lockdown>

Yusingco, M., and Angelika Pizarro (2020). The Militarized Response to the COVID-19 Pandemic in the Philippines: An Escalating Threat to Human Rights. Post on the Ateneo Policy Center, June 18. <https://blog-iacl-aidc.org/2020-posts/2020/6/18/the-militarized-response-to-the-covid-19-pandemic-in-the-philippines-an-escalating-threat-to-human-rights>

Closing the COVID Accountability Gap:

The Oversight Role of the Philippines Congress

By Suchi Pande