



ACCOUNTABILITY IN PUBLIC EXPENDITURE THROUGH EFFECTIVE PARLIAMENTARY OVERSIGHT

BUDGET AND FISCAL OVERSIGHT WORKSHOP

NCOP

4-5 MAY

ROLE OF LEGISLATURES IN FISCAL OVERSIGHT

- Many legislatures (National and subnational) played only a limited role in budget formulation, review or approval up until a few decades ago (Krafchick and Wemmer, 2004)
- This limited role was due to a variety of reasons including: lack of expertise and technical staff, inadequate time-frame within which budget documentation and plans were to be reviewed.
- Recent years have seen an increase in the role and responsibilities that legislatures play in the budget process – revised roles that legislatures have either reformed or expanded upon include:
 - Approving *ex ante* fiscal frameworks
 - Broadening the portion of the budget subject to legislative review
 - Strengthening institutional budget and deliberative processes
 - Increasing legislature budget research and analysis capacity
 - Changing appropriation structures and increased focus on budget execution
 - Enhancing *ex post* oversight

ROLES OF LEGISLATURES ON FISCAL OVERSIGHT: INTERNATIONAL PERSPECTIVE

Budget making legislatures	Have capacity to amend/reject executive proposals and substitute with their own. Examples: Sweden, United States, Nigeria, Namibia
Budget influencing legislatures	Similar to budget-making legislatures in that they can amend/reject executive budget proposals but, significant differences include that these legislature cannot substitute with their own independent budget as they lack capacity to formulate an independent budget. Also powers to amend are limited Examples: Italy, Malawi, Kenya
Legislature with little or no budget role	These legislatures lack capacity to amend/reject executive budgets –this position is adopted largely out of fear of destabilising government Example: Mazambique

OVERSIGHT CHALLENGES: FFC PERSPECTIVE

- Different parts of the accountability chain are not well synchronised
 - Parliament, Presidency, Ministers, Provincial Legislatures, Premiers, MECs, Mayors, Local Councils, and Ward committees
 - Premiers sign performance agreements with the President over outputs for which resources are appropriated by legislatures and outcomes to which accountability lies with National Ministers
- Parliament and legislatures oversight is not always timely
- Failures in the system of performance management confound legislative accountability
- Party political interests distort effective oversight function
- Information asymmetry between government and legislatures prevent effective oversight
- Performance management information is not independently collected
- Lack of balance between short-term delivery focused oversight and long term policy outcome oversight
- Oversight is ‘issue based’ rather than programme focused.
- Parliament’s ability to balance revenue & expenditure – disruption to the budget cycle and analytical abilities to assess implication of budget amendments.



INSTRUMENTS FOR EFFECTIVE FISCAL OVERSIGHT

FISCAL OVERSIGHT TOOLS

- Parliament has for categories of tools available to enhance oversight and accountability
- Parliamentary Budget Office (PBO) is central to effective parliamentary fiscal oversight

Category 1 Legislative tools	Category 2 Operational tools	Category 3 Financial & Fiscal Instruments	Category 4 Institution supporting democracy
Constitution of the Republic, Legislation, Government Programme of Action	State of the Nation Address, Questions (written/oral), Debates in the House, Matters from constituency work, Committee reports on oversight activities, Departmental strategic plans, Departmental current and past annual performance plans	Budget speech, Estimates of National Expenditure, Division of Revenue Bill, Budget Review, Departmental budget votes, Medium Term Budget Policy Statement, Audit reports, Statistics South	Reports from investigated matters of relevance by institutions supporting constitutional democracy (ISDs)/other statutory institutions supporting democracy.

PARLIAMENT OVERSIGHT BODIES

- Most of Parliament's oversight work takes place within the committee structures. For example, the Joint Budget Committee and Committees on Finance are instrumental in providing oversight over financial matters in Parliament
- The Constitution also created Institutions Supporting Democracy (ISDs) that are required to support Parliament in its fiscal and budgetary oversight functions
- These independent ISDs provide Parliament with evidence-based information on financial matters not derived from the executive. Some of these institutions include:
 - Financial and Fiscal Commission
 - Auditor-General
 - Office of the Public Protector
- The Kader Asmal report (2007) found that Parliament often don't make adequate use of ISDs

SYSTEMS FOR SUPPORTING OVERSIGHT

Regulatory Oversight and Coordination

Financial Reporting

Auditor General/FFC



Support and Advice

IGR Forums

Benchmarking



Hands on Support

Capacity building

Section 154



Legal Interventions

Section 100/139

Section 216 (2)



IMPROVING FISCAL OVERSIGHT BY
STRENGTHENING THE MONEY BILLS
PROCEDURES AND RELATED MATTERS
ACT

LEGISLATIVE BACKGROUND

- The Constitution of South Africa vests Parliament with the powers to hold the executive to account, including implementation of legislation (S55 (2))
- The budget process is a critical area where Parliament is expected to provide oversight over the executive and ensure proper stewardship of public resources is promoted and service delivery is achieved
- In terms of Section 77 of the Constitution, any Bill that appropriates money, imposes taxes, or authorizes a direct charge against the National Revenue Fund is referred to as a Money Bill
- Section 77 (3) of Constitution states “...An Act of Parliament must provide for a procedure to amend money Bills before Parliament”
- Up until 2008, Parliament could merely approve or reject Money Bills. When the Money Bills Procedure and Related Matters Act (MBPRMA) was introduced in 2009, it gave effect to the Constitutional powers of Parliament to amend money Bills
- Amending Money Bills is seen as an important expression of Parliament’s independence and a powerful tool to exercise oversight over the executive

CONSTITUTIONAL IMPERATIVES FOR FISCAL OVERSIGHT (NATIONAL ASSEMBLY VS NCOP)

- The two houses of parliament plays a crucial role in fiscal oversight over money bills
- Money can only deal with financial and fiscal matters only.
- Only a member of cabinet responsible for finance matters can introduce a money bill into the national assembly

National assembly (NA)

National Council of Provinces (NCOP)

NA is responsible for overseeing money bills which affect and do not affect provinces.

The NCOP is only consulted when the money bills does affect provinces

Money bills for which NA is responsible includes appropriations, tax laws and withdrawals against national revenue fund

The NCOP is mainly responsible for Division of revenue (s76 of the constitution)

The Money Bills Amendment Procedures and Related Matters Act provides a framework for the two houses to scrutinise, approve or amend the budget through the appropriations and finance committees held jointly.

MONEY BILLS AMENDMENT PROCEDURES AND RELATED MATTERS ACT

- MBPRMA of 2009:
 - Makes provision for parliament to scrutinise and amend the budget through Budget Review and Recommendations (BRR) reports
 - Sets the framework for a 3 stage budget process
 - (1) BRR reports, the Medium Term Budget Policy Statement (MTBPS), fiscal framework and revenue laws; (2) Division of Revenue (DORA) and (3) Appropriation Bill with individual departmental budgets
 - Creates an institutional framework for budget process (but not substantive fiscal rules):
 - **Structures:** Finance and Appropriations committee, Parliamentary Budget Office
 - **Processes and timeframes** (very tight)
 - **Information flows:** e.g. Contents of Budget Review and Recommendations (BRR Reports), MTBPS, etc.
 - **Committee roles and relationships:** Shift towards other committees being more actively involved in the budget process
 - Establish the PBO and BRR process to improve parliamentary expertise in fiscal oversight and scrutiny of the budget

ROLE OF COMMITTEES

- The MBAPRA establishes two committees in each house to drive parliament budget oversight function and complement portfolio committees.
 - The two committee mirrors the old department of finance and state expenditure.
 - Standing and select committee on finance conduct oversight on the macro-economic and fiscal framework and Division of revenue
 - The role of Standing and select committee on appropriations is to consider expenditure reports, appropriation bills, and amendments/adjustment to DoR.
- Timeous reporting of expenditure trends is central to effective budget oversight.

INTRODUCING THE PBO

- The Parliamentary Budget Office (PBO) was established in terms of Section 15 of the MBPRMA
- The establishment of a PBO corrects the previous imbalance in budgetary skills between the executive and Parliament
- Parliament can draw on the expertise in the PBO to potentially address some of the fiscal oversight issues highlighted by the Independent Panel, especially with respect to amendments to money bills and assessing the long term implications of fiscal policy
- Requisite technical and strategic capacity is critical if the budget office is to play an important role and ably advise Parliament

INTERNATIONAL EXPERIENCE WITH PBO

- PBOs are relatively new in a lot of countries (e.g. Uganda established a PBO in 2001, Korea in 2003, United Kingdom in 2010, etc.)
- While PBOs internationally have different levels of institutional maturity, they also vary widely in financial and human resources
 - The US budget Office has an annual budget of \$45 million and 250 staff; Uganda’s PBO has a budget of \$0.4 million and about 27 experts, while PBO in Jordan has 3 staff members
 - Professionals typically include economists and accountants with expertise in macroeconomics, fiscal and tax policies while larger PBOs would include monitoring and evaluation capacity as well as sector specific expertise
- Most commentators agree there is no “best practice” model that can be applied from one country to another as PBOs are products of the historical and institutional frameworks of Parliament

INTERNATIONAL EXPERIENCE WITH PBO

- As noted by Johnson and Stapenhurst (2008), PBOs have faced various challenges during its operations:
- Viability of PBOs have been compromised by changes in political landscape
 - e.g. In Bolivia, the PBO was terminated after 7 years due to political issues which was separate from the performance of the PBO
- Non-partisan and independent PBOs can sometimes be undermined by being underfunded
 - e.g. In Canada, the PBO's budget was cut from CAD \$ 2.8 million to CAD \$ 1.8 million after publishing a controversial costing report on the Canadian mission in Afghanistan
- PBO reports deal with future initiatives and can therefore have significant political repercussions, including derailing the executive's policy agenda
 - In Australia, the Australian Treasury asserted the PBO would not be able to effectively cost election commitments as it did not have the same resource pool as the Australian Treasury

SOUTH AFRICAN PBO CHALLENGES IN IMPROVING FISCAL OVERSIGHT

- PBO involvement in budget scrutiny occurs nearly at the end of the budget process
- PBO is generally absent during the BRR process – due to capacity issues.
- The PBO is sometimes overstretched by sporadic mandate creeping which borders on duplication of roles and functions.
- PBO is not sufficiently resourced to provide the myriad of parliamentary committees with necessary tools and facilitate implementation of MBAPRMA
- MBAPRMA makes no specific provision on how PBO addresses budget issues with provincial or local government implications (except section 15 which among other things state that the PBO must provide advice and analysis on amendments to the fiscal framework, DOR or policy issues with budget implications



BUDGET SCRUTINY THROUGH THE BRR PROCESS

*Presentation to NCOP - Accountability in
Public Expenditure through Effective
Parliamentary Oversight*

ASSESSING INDIVIDUAL DEPARTMENT APPROPRIATIONS: THE BRR REPORT

- The BRR Reports, must (s3 of MBPARMA):
 - Provide an assessment of the Department’s service delivery performance given available resources;
 - Must provide an assessment on the effectiveness and efficiency of the Department’s use and forward allocation of available resources; and
 - May include recommendations on the forward allocation of resources.

STATUTORY REQUIREMENTS FOR THE BRR REPORTS

- Scope of the performance assessment of national departments required by s5 of MBPARMA which – under tight frames – includes:
 - The medium term estimates of expenditure of each national department, its strategic priorities and measurable objectives, as tabled in the national assembly with the national budget;
 - The prevailing strategic plan;
 - The expenditure report relating to the department published by the National Treasury in terms of section 32 of the PFMA;
 - The financial statements and annual reports of the department;
 - The reports of the Committee on Public Accounts relating to the Department; and
 - Any other information requested by or presented to a House or Parliament.

ASSESSMENT OF BRR REPORTS VS STATUTORY OBLIGATIONS

- Creditable first attempts; time and capacity constraints
- Good practice examples
- Some degree on standardisation
- But content and coverage varies
 - In many cases falling short of the statutory requirements
- Too much reliance on self-assessment
 - Too little validation/triangulation
 - Insufficient use of FFC and Institutions Supporting Democracy recommendations (e.g. PSC, HRC, etc)
- Overly descriptive rather than analytical
 - Underlying drivers/causes vs. symptoms
- Absence of transversal themes
 - E.g. Impact on vulnerable groups (children, women, disabled)
 - Job creation
- More use of input from civil society (academia, NGO's, communities)

ASSESSMENT OF BRR REPORTS VS STATUTORY OBLIGATIONS [CONT.]

- Insufficient use of s32 reports on actual quarterly expenditure
 - Best predictor of immediate absorption capacity
- Retrospective rather than prospective
 - Government's move to long term planning and budgeting
- Insufficient attention to conditional grants
 - Design, delivery and spending outcomes, exit
- Recommendations mostly about increasing rather than amending budget
 - Few suggestions for savings, reprioritisation, efficiency gains

SUGGESTIONS FOR IMPROVING BRR'S IN THE BUDGET CYCLE

- Creating a common understanding of the content of BRR reports
 - What is an “assessment of efficiency and effectiveness”?
 - Building on other parts of the cycle (oversight over budgets and stratplans, annual reports)
 - Communication with departments as well as civil society
- Clarifying the detailed business process for BRR reports within the context of the 3 stage budget cycle introduced by the MBPARMA
 - Standing rules on consultation
 - Roles and responsibilities: conditional grants, institutional performance vs. sector performance

SUGGESTIONS FOR IMPROVING BRR'S IN THE CURRENT CYCLE [CONT.]

- Gradually improving the quality of BRR reports
 - Sensitising committee researchers to the large array of source of independent analysis and research relevant to the BRR, including those from Chapter 9 Institutions Supporting Democracy and the FFC.
 - Requiring each new BRR report to reflect on progress with previous BRR recommendations and Ministerial responses to BRR reports.
 - Encouraging an approach where recommendations for more money in one programmatic areas is accompanied by suggestions for reprioritisation, savings and increasing efficiency.
 - Briefing departments and other stakeholders on the information they are required to bring to hearings well in advance and ensuring that hearings allow views from stakeholders and committee oversight visits to validate departmental assessments of their own performance.
 - Identifying cross cutting themes (e.g. Impact on vulnerable groups, employment creation or personnel related expenditure) that cut across all BRR Reports.
- Dissemination of BRR reports

STRENGTHENING LEGISLATURE'S OVERSIGHT ROLE

- One of the ways of strengthening the role of legislature is by ensuring that various committee members or PBO participate on strategic planning sessions of various department and public entities
 - This will ensure that the legislature through various committees is able to ensure an alignment of sectoral/institutional strategic goals with the overall broader government policies and goals from the onset
 - It will also address the 16 day time limit between when the budget is tabled and recommendations for approval or amendment are made to the National Assembly
- Since in most cases, government departments and entities are requested to appear before committees to present their Annual Reports (which normally happens once a year), the legislature through various committees could strengthen their oversight role by ensuring that progress reports are provided and engaged with most frequently (quarterly basis)
 - This will give legislature an opportunity to detect possible challenges earlier and implement corrective actions

STRENGTHENING LEGISLATURE'S OVERSIGHT ROLE

- Legislature should increase its visibility by increasing sites visits particularly on big infrastructure projects
 - This however have budgetary and funding implications which also should be factored
 - Insight generated through constituency work and NCOP provincial week must find expression in BRR reports
- Strengthen/increase engagements with other key institutions such as the Financial and Fiscal Commission, Auditor General of South Africa and other research institutions
- BRR outcomes must find expression in PBO budget analysis and parliament scrutiny of DoR

CONCLUDING REMARKS

- Fiscal oversight and accountability goes hand in hand
- Parliament scrutiny of the budget should be seen as year long process rather a one off event linked to the budget speech
- Importantly, aggregation of individual committee budget-related recommendations must be cumulatively coherent
 - Integrate public accounts reports with BRRR oversight reports
- Institutions undertaking oversight must be clear about what they want to oversee and have powers to seek or demand remedial actions
- Parliament need to strengthen its capabilities (with regard to:
 - policy analysis and review
 - budget analysis and information systems
 - consultation with constituency
- Parliament can improve accountability by strengthening and supporting institutions supporting democracy and regular interactions with provincial legislatures
- Implications of budget amendments must also be understood so that no harm is done “Noli Nocere”