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PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

6th DEMOCRATIC
PARLIAMENT

SELECT
COMMITTEE ON
APPROPRIATION
S(NCOP)



Theme: Creating
Accountability
Mechanisms in Local
Government: The
role of the
Appropriation
Committees



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1. INTRODUCTION

1.1 After the first democratic elections in 1994, the legislative sector needed to create legislative landscape in line with the values and principles enshrined in the South African Constitution.

1.2 In order to achieve this, much effort was placed on scrapping apartheid laws such as Exchequer Act of 1975 and enacting new laws namely: MFMA, PFMA, PSA, MSA etc. post apartheid.

1.3 This presentation provides some insight on how the Select Committee on Appropriation conducts its budget and fiscal oversight to ensure municipal accountability, particularly on conditional grants.

1.4 It also provides some Constitutional imperatives as a foundation for legislatures to effectively effect their powers over the actions of the executive, some perspective on local government accountability, key mechanisms for accountability, role players in the budget process, and some key recommendations to improve local government accountability.

2. Constitutional Imperatives as a Foundation for Accountability Mechanisms

2.1 In the South African context, accountability is a constitutionally mandated functions of legislatures to scrutinise the executive actions;

2.2 The Chapter 4 of the Constitution, Section 55 (2) requires that national and provincial legislatures establish mechanisms for accountability for the executive actions;

2.3 The literature defines oversight and accountability as a formal and informal, watchful, strategic and structured scrutiny exercised by legislatures, in respect of the implementation of laws, budget, and the strict observance of statutes and the Constitution;

2.4 Legislatures have a responsibility to ensure that executive complies with legal prescripts to ensure expenditure is always on track.

2.5 This means that although expenditure on public goods can be a constitutional entitlement but the government has a responsibility to exercise expenditure controls to ensure effective use of state resources.

3. Some Perspective on Local Government Accountability

3.1 Local government is an important point of contact between the state and citizens, where public services are generally exchanged and where local norms and by-laws regulate citizens - their homes, their streets, their neighbourhood, and their cities.

3.2 Though the jurisdiction and responsibility of municipalities may differ according to context, ensuring good governance in local government is key to maintaining a healthy relationship between citizens and the state.

3.3 The 1980s saw many central governments transferring power to lower tiers of government.

3.4 This move towards decentralisation was generally justified as a way of shortening the distance between citizens, decision-makers and service providers to make governance more responsive and increase local input to policy design to increase policy efficiency (Akudugu 2012).

Some Perspective on Local Government Accountability

....Continues

3.5 Accountability mechanisms are often classified in the literature based on whether citizens are “invited” to participate or whether these are “autonomous” spaces.

3.6 The academic literature has produced, however, some evidence that local accountability mechanisms have a positive impact on governance.

3.7 Various studies have shown that local governments subject to more accountability structures provided better public services than those who were not (Muriu 2013).

3.8 Participatory accountability mechanisms have also been found to have a positive effect on citizens’ trust in government and on the legitimacy of governments in fragile, post-conflict states.

3.9 Pandeya 2015, Cleary et al. 2013, Kim & Lee 2012 “have also found that such mechanisms increase upwards social mobility, awareness of citizen rights and government responsiveness to citizen demands is generally improves.

3.10 However, information asymmetry that exists between the principal and agent remains a challenge for the accountability mechanisms to be even more affective at any government level.

4. Key Role Players in the South African Budget Process

4.1. Legislatures

- National Assembly and the National Council of Provinces
- Appropriations Committees; Finance Committees; Portfolio Committees
- Provincial Legislatures

4.2. Executive - Political

- Extended Cabinet
- Cabinet
- Minister's Committee on the Budget (MINCOMBUD)

4.3. Executive – Technical

- Medium Term Expenditure Committee (MTEC)
- National Treasury
- Departments and public entities

4.4. Required by the Constitution and Intergovernmental Fiscal Relations Act:

- Financial and Fiscal Commission (FFC)
- Provincial governments - the Budget Council
- Organised local government - the Budget Forum
- Various intergovernmental forums exist at both the political and technical level to give effect to the constitutional imperative for cooperative governance

5. Mandate of the Select Committee on Appropriations

The Committee was established through section 4 (3) of the Money Bills Amendment Procedure and Related Matters Act of 2009.

The Act requires the Committee to focus on:

- Spending issues,
- Amendments to the Division of Revenue Bill,
- The Appropriation Bill,
- Supplementary Appropriations Bills and the Adjustment Appropriations Bill,
- Recommendations of the Financial and Fiscal Commission, including those matters referred to in the Intergovernmental Fiscal Relations Act, and
- Reports on actual expenditure published by the National Treasury.

6. The Role of the Committee in the Budget Process

- The Budget is traditionally tabled around February with various components to be approved or amended by the Legislature namely: the fiscal framework, the Division of Revenue Bill (DoRB), the Appropriations Bill, Estimate of National Expenditure, Budget Review and Tax Proposals.
- Out of these, the Committees is responsible for processing the DoRB and Appropriations Bill, Adjustment Appropriation and Amended DoRA and any Supplementary Appropriation Bill.
- DoRB is the key piece of national legislation as it determines – in accordance with s214 of the Constitution – the distribution of total expenditure across the three spheres of government.
- The Bill provides a link between provincial, local and national allocations.
- Money Bills Act directs that the DoRB cannot be approved before the fiscal framework and when it is approved, this must be inline with the adopted fiscal framework.

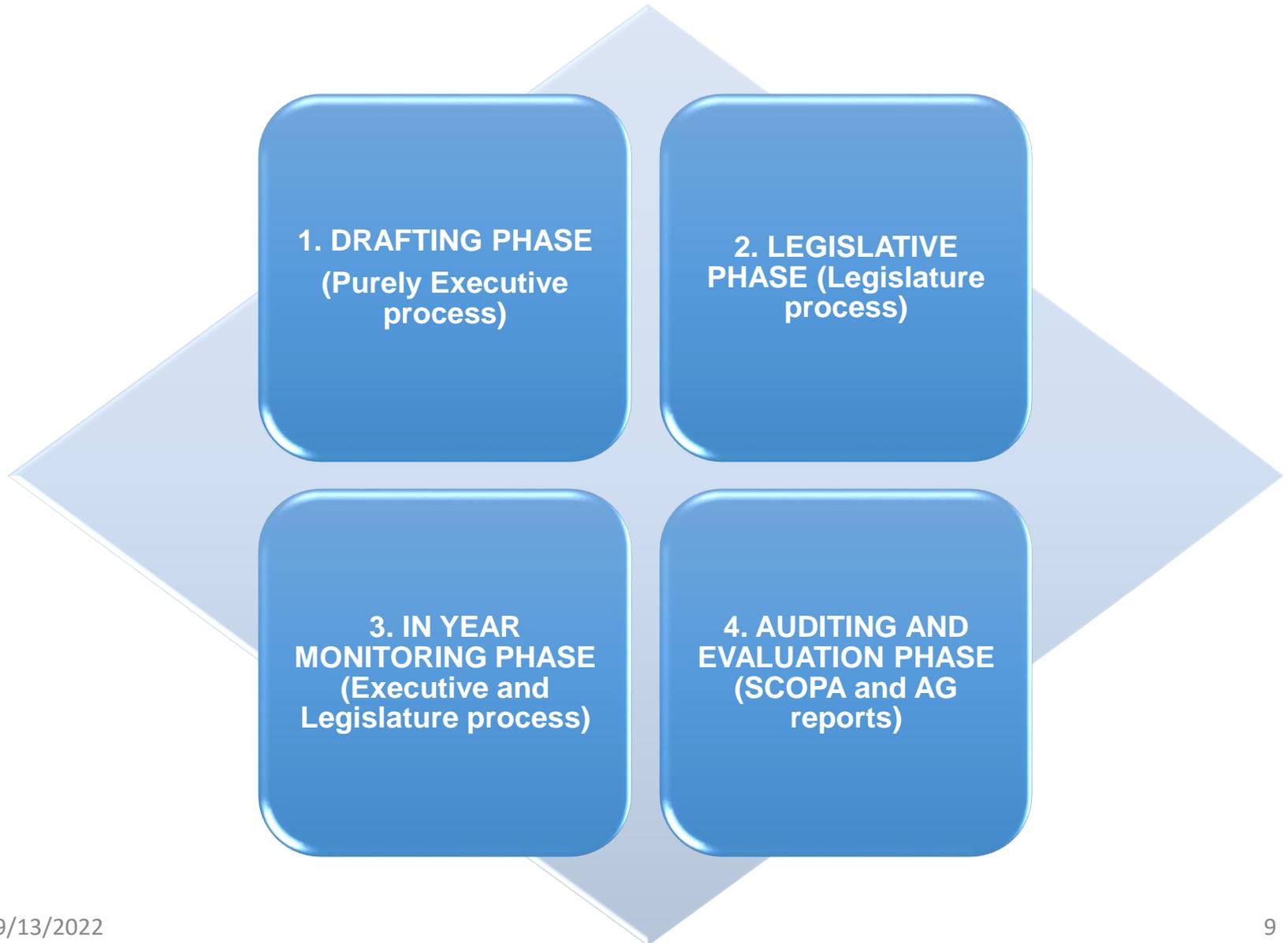
6.1 Division of Revenue Bill Process (S76 Bill)

- The division of revenue across the government spheres must satisfy a number of criterias, outlined in section 214(2) of the Constitution (Vertical allocations).
- Equitable share formula has been developed in order to meet some of these constitutional criteria. In determining this formula, National Treasury consults provincial governments, the FFC and Salga.
- After, the national executive tabled the Division of Revenue Bill in Parliament, this Bill is considered and adopted by the National Assembly in accordance with the timelines set out in the Money Bills Act.
- After, which it is referred to the NCOP Committee to also consider and report accordingly. The Committee always ensures public participation and adherence to the six (6) weeks process where all provinces conduct public hearings on the Bill.
- As per the Mandating Procedures of Provinces Act, the Committee in its deliberations on the Bill always considers the negotiating mandates submitted by provincial legislatures, which makes the process different from the National Assembly.
- This presents an opportunity for the provincial legislatures to raise any issues and for National Treasury to provide answers accordingly.

6.2 Appropriation Bill Process (S77 Bill)

- Appropriations Bill is the last Bill to be adopted by the Committees to determine the allocation of the national share of expenditure across national departments (Horizontal allocations).
- The Bill follows almost a similar process as the DoRB, which is first approved by the National Assembly and get referred to the NCOP, however the Bill differs as it is section 77 Bill, which appropriates monies for the national government and does not require any negotiated mandates from provincial legislatures, however, public hearings are always ensured.
- Parliament has 4 months to approve or amend this Bill, and the 4 months gap is addressed by section 29 of the PFMA, which allows spending of up to 45 per cent of the previous year's Budget in the first four (4) months until the approval of the Bill.

Figure 1: Summarised Budget Phases



7. Key Accountability Mechanisms used by the Committee

7.1 The Legislative Sector Oversight Model as a Cornerstone for Oversight and Accountability:

- This serves to reinforce the existing principles that drives local government accountability mechanisms.

7.2 Municipal Finance Management, Municipal Systems Act, Public Finance Management Act and Treasury Regulations etc are used as instruments to ensure accountability:

- The Committee uses section 71 report of the Municipal Finance Management Act to track the transfer and expenditure of local government conditional grants.
- The Committee uses section 32 reports of the Public Finance Management Act to track expenditure of provincial grants.
- The Committee further conducts oversight visits to verify “value for money” on reported expenditure versus service delivery on the ground.

7.3 Committee Recommendation Tracking

- The Committee adopted recommendation tracking mechanism, which assists the Committee to track the implementation and get specific responses from the executive regarding its recommendations.

Key Accountability Mechanisms used by the Committee...cont.

7.4 Committee Collaborative Approach

- The Committee also use collaborative work with other appropriation, finance and other sector committees to enhance the impact of accountability at all levels government.
- Collaborative approach is encourage as it provides some synergic oversight effort and also addresses inconsistency element on information received from the executive.

7.5 Additional mechanisms to strengthen accountability

- Auditor General of South Africa, Parliamentary Budget Office, FFC, Salga and many other independent research institutions that are used to strengthen Committee oversight function.

8. Recommendations to Improve Local Government Accountability

- There is a need to strengthen intergovernmental coordination strategies and their effectiveness by collaborating on matters relating to Spatial planning and Integrated Urban Development Framework.
- There is a need to strengthen collaboration between legislature finance committees and Municipal Public Account Committees (MPACS).
- There is a need to strength the role of MPACS by way of legislating their mandate and ensure that their remedial actions are legally binding.
- Strengthen the role of internal committees and internal auditors by way of legislating their mandate to protect their independency and ensure that the remedial actions of such structures are also legally binding to improve consequence management in local government.
- There is a need to improve Civil/Public Participation on IDP Budget process, which has been found by the literature to have a positive effect on citizens' trust in government and on the legitimacy of governments post-conflict states.
- *Strengthen media based accountability platforms* as a way to improve accountability mechanisms.

Recommendations to Improve Local Government Accountability....cont.

- Creating more awareness, transparency and interest for public to engage with local government on matters related to service delivery and budget.
- There is a need to strengthen the balance between the downwards, upwards and horizontal accountability layers. These may allow citizens to interact intimately with their local government and other spheres.
- Provide the required support for local government to deliver on its mandates and address issues around under funding versus Constitutional mandate.
- There is a need to identify strategic interventions aimed at enhancing the municipal revenue management and debt collection system in local government.
- Fast track the implementation of District Model and professionalise local government sphere.
- Parliamentary Budget Office may also assist with identifying any potential municipal unfunded mandates arising out of government legislations or policies.

Recommendations to Improve Local Government Accountability....cont.

- The lack of expenditure on conditional grants including Municipal Infrastructure Grant (MIG) and many other infrastructure grants at local government levels needs to be closely monitored.
- Whether the Audit Improvement Plans are being enforced, compiled and implemented as part of corrective action to improve expenditure and performance.
- Alignment between strategic management planning and monitoring and evaluation programmes; and ensure that Heads of departments are using M&E reports and results to take corrective actions to improve planning and performance.

Recommendations to Improve Local Government Accountability....cont.

- Alignment between budget allocation and projected performance targets, and monitor the alignment between resources spent and ultimately achieved performance targets.
- Ensure that the Municipal Plans and APPs are well scrutinized by sector committees and will allow for better oversight and these are in line with the SMART principle.
- Ensure the existence of governance, accountability structures, control systems and proper frameworks to detect fraud, corruption and non performance in local government.

I thank you