

Abstract

Interest in transparency and openness in government decisions and operations grew in the 1990s. The catalyst was the realisation that transparency promotes and fosters sound financial management, enabling the achievement of better welfare and economic outcomes for countries. Drawing on International Monetary Fund (IMF) principles of fiscal transparency (delineation of duties and responsibilities, availability of information, open budget preparation and execution and assurance of integrity) this paper assesses the legal regime underpinning Kenya's budget process for transparency, participation and management. All the three notions are considered together because they are intertwined, are antecedents and reinforce each other. The legal regime is transparent in certain respects. There is a clear delineation of responsibilities for the actors, the Office of Controller and Auditor General has a right to demand for information, and there are punitive sanctions stipulated against mismanagement of public finances. Nonetheless, a number of weaknesses are extant. Participation is not legally provided, the executive is predominant, parliamentary oversight and the law is not enforced engendering poor management of the budget. Recent legislative changes -such as enactment of the Public Audit Act and Government Financial Act-reforms have improved the budget process. Weaknesses and deficiencies still exist though. Further legal reforms are recommended including enacting an organic budget law and amending laws relating to audit, borrowing and Parliamentary procedures. Although these are critical, they will be self-defeating if they are not enforced, a deficit noted even in the laws as they presently obtain.