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Budgetary Process in Kenya

Enhancement of its Public Accountability

1. Introduction

The budget is an important instrument that every government uses to define the direction of its national policy, the cost implications of government programmes, and the possible sources of revenues during a fiscal year. The basic functions of the budget therefore entail: collection and allocation of scarce resources to priority sectors; provision of public goods and services by government; and re-distribution of incomes. In addition, the budget strives to ensure economic stabilization, social order and harmony, as well as acting as a measure of government performance and accountability. Though the concept of the budget as an indicator of performance is relatively new in many developing countries, it is steadily gaining ground with the advent of an increasing demand for transparency and accountability in government action plans.

In Kenya, the budgetary process proceeds in three main stages, namely: the drafting stage, the legislation stage, and the implementation and audit stage. Its contents include a policy statement, an inventory of programme priorities, distribution/allocation of the corresponding resources as well as budget implementation/evaluation reports for the previous budget cycle.

1.1 Problem Statement and Study Objectives

Over the years, Kenya has undertaken various attempts aimed at improving its budgetary process. The overriding objective in these reforms has been to impose greater fiscal discipline on the government. In spite of the past attempts at reforming the budgetary process, the budget in Kenya remains an unsatisfactory instrument of achieving public policy objectives. Whereas Kenya has a strong, detailed and well-laid budgetary-legal framework based in the Constitution, and within which the executive raises and allocates revenue, weaknesses do exist especially in relation to such issues as capacity of Parliament in the budgetary process; secrecy of budget information; management of extra-budgetary activities; violations of budget rules; and extra-budgetary expenditures. There is therefore, need to further refine Kenya's budgetary process especially in terms of making it more transparent and accountable. The main objective of this study therefore is to critically examine the various opportunities that could be exploited in making the budget process more accountable.

Specific objectives of the study are to: examine how Kenya carries out its budgetary process; find out how the budgetary process has evolved over time; uncover the lessons that Kenya can draw from international experiences as far as executive and legislature roles in public expenditure processes are concerned; and examine the roles played by the executive and legislature in the budget process and find out if there is any justification for a shift from these traditional roles.

1.2 Contextual Framework

Any good budget process needs to attain three important objectives, namely, maintenance of fiscal discipline, attaining allocative efficiency, and operational or technical efficiency. Attainment of fiscal discipline has been the main goal of budget reforms in Kenya. Enlargement of the legislature's role in budgeting is a new contemporary issue buffeting budgetary approaches. With legislative budgeting, new responsibilities must be accommodated both to long-standing appropriation processes, and to political relations with government. Further, legislature's new role in budgeting cannot come from government's weaknesses. The budget is an end product of a lengthy process of monitoring and controlling public finances involving the Ministry of Finance and other agencies. If the government is incapacitated in managing the nation's finances, the legislature also will be unable to do so. Historical evidence also indicates that legislatures had fiscal powers before the executive, and the result was that legislative action became an inadequate means of fiscal control. This means that the legislature's role must be defined more in terms of policy, accountability and performance, and less in terms of control and restriction.

Several ways to restore the legislative role in budgeting exist in the legislature. First, through expansion of the role of the standing committees like the finance or budget committee, or by dispersing the jurisdiction to the sectoral committees. Second, Parliament could transform itself to challenge the executive by preparing a full-fledged budget. Third, Parliament could utilize its resources to hold executive accountable on how public resources have been spent and what it has achieved. Finally, Parliament could participate in the budget process together with the executive. Given that budgeting is a confining, time consuming and technical process, it is important to note that a new budgetary role could weaken the parliamentary budget responsibility. There is a real threat of turning legislature budget work into a technocrat exercise with little political judgement, as is the case in the US Congress.

Legislatures, the world over, have devised varied mechanisms that enable them to become more effective in the budget process. Such mechanisms include: constitutional mandates that entrench their roles in the process, availing more time for members to debate the budget; involvement of parliamentary committees; and creation of independent budget research units.

2. Analysis and Findings

In Kenya, the budget process proceeds in three stages, namely: budget planning and formulation, budget approval, execution and monitoring. The process is preceded with the formulation of the long-term development strategies and policies. Technical reviews of various economic aggregates such as growth rate of Gross Domestic Product, inflation trends, money supply and balance of payments, are carried out.

Kenya has used several mechanisms in attempts to improve budget preparation. In the 1970s, the government adopted the Forward Budgeting as budget planning tool to determine annual government expenditure on a three year rolling plan. Its basic aim was to provide a review of ongoing programmes and ensure consistency with national goals. Its implementation was haphazard and did not yield much improvement. In the 1980s when the government was faced with severe fiscal constraints, a new reform, the Budget Rationalization Reform, was introduced. Its thrust was to ensure increased productivity of government expenditures through provision of adequate resources for Operations and Maintenance, and concentration of resources on a smaller number of priority programmes. The earlier Forward Budget was used to implement these reforms. These budget preparation mechanisms have faced various shortcomings including: complexity of the Forward Budget; lack of institutional/human capacity; fiscal constraints; inflexibility of Forward Budgeting; over-emphasis on ceilings; failure to include parastatal budgets; and poor sectoral prioritization, among others.

Public Investment Programme (PIP) was introduced in the 1990s as an attempt to remedy past failures. PIP sought to establish a clear process for project review and selection criteria that would improve quality development projects. Like the rest, it faced problems of lack of effective institutional set up; inadequate capacity; donor influence in project selection; lack of political support; and poor linkage with the budget cycle, among others.

A new budgeting approach, the Medium Term Expenditure Framework (MTEF), was introduced. Its key components include the definition of a global resource envelop, determination of inter-sectroral allocations based on core functions and proposals of inter-sectoral allocations based on outcomes, activities, outputs and operational efficiency. The new approach adopts a more transparent approach to budgeting through public hearings and involvement of private and civil society in the budget preparation. Though it is still early to assess the impact of the new approach, problems of non-adherence to budget ceilings, over-optimistic modeling, and limited time allocated for the exercise still persist.

After the annual budget is formulated, it must be laid before the legislature on or before 20th June of each financial year as provided for in Section 100 of the Constitution of Kenya. This stage provides the Members of Parliament an important opportunity to address the broad range of activities facing the country. To enable the government finance its operations during this stage, Parliament authorizes by "vote on account" the appropriations of funds required for purposes of enabling the government to carry out its activities. This has to be done before 26th June. Parliamentarians, through the House Finance Committee, have an opportunity to discuss changes in the Finance Bill with the Minister for Finance as long as such changes do not alter the global expenditure ceilings. The debate on the Committee of Supply continues for each ministry's vote. Since the law requires that the debate be concluded by the end of October, not all ministry votes are debated on the floor of the House. Partially due to limited capacity and the inadequate attention of the budget process by Parliament, parliamentary budget committees have failed to play the important role of effectively examining the budget prior to its formal adoption. The traditional practice of preparing the budget on line item basis results into budget documents running into over a thousand pages, and the squeezed budgetary calendar leaves little time for Parliament to scrutinize the whole expenditure plans.

No matter how well designed a budget is, it can be undermined by poor implementation. This stage of the budget process is also the longest, lasting throughout the budget process. After Parliament has enacted the Appropriation Act, the Office of the Auditor General is expected to ensure that all proposed withdrawals from the Consolidated Funds are as authorized in law (Exchequer and Audit Act, CAP 412 of the Laws of Kenya). Permanent Secretaries of various ministries assume the role of accounting officers and are responsible for the funds that are disbursed to their ministries. In practice, during this phase, various problems are encountered, including: (i) the practice of amendment of budget immediately after approval; (ii) over-optimistic donor assistance projections; (iii) wide variations of approved budgets and actual releases affects implementation; (iv) over-emphasis on monitoring cash movements at the expense of monitoring spending commitments; (v) Parliament has always been behind schedule in the discussion of the Controller and Auditor General reports; and (vi) over-reliance on external programme financing to finance government counterpart funds (about 10-20%) of development budget.

Ideally, the basic role of Parliament includes authorization, overseeing and supervision of the budget process to ensure transparency and accountability. It carries these roles through the parliamentary watchdog committees like Public Accounts Committee (PAC), the Parliamentary Investments Committee (PIC), etc. These Committees have presented to Parliament several findings showing enormous public finance mismanagement. Apart from watchdog committees, Parliament also has an extensive Departmental Committee system, e.g. Finance Planning and Trade Committee, which it can use to influence the budget through engaging various sector ministers on sectoral policies and budget programmes.

However, Parliament's role has not been very effective. This is due to various reasons including: ineffectiveness of the Auditor General's office resulting in delayed audit reports; lack of technical capacity for parliamentarians to be usefully engaged in the budget process; tight budget timetable; substantial turnover of Members of Parliament during elections, thus, eroding institutional memory; and failure of departmental committees to be engaged in the budget process at sectoral levels.

The executive in Kenya has considerable powers in the budgetary process. Ministries play important roles in planning, budget formulation and implementation. As discussed earlier, the implementation, audit and monitoring functions of the executive are far from being performed effectively. The result is accumulation of pending bills, existence of separate accounts by donors in line agencies, weak internal audit functions, and excessive reliance on cash rationing resulting into unsatisfactory service delivery. Although accounting officers are personally and pecuniary liable for ensuring expenditure controls of their votes, they are rarely sanctioned when they fail to adhere to the administrative controls. There is also general non-compliance with financial regulations.

In the recent past, Kenya's civil society has become increasingly involved in the budgetary process. The 2001-2004 Poverty Reduction Strategy Paper (PRSP) consultative process that is being implemented through the MTEF budget, involved all categories of stakeholders right from the initial National Stakeholders. Some key private sector players interested in single issues have become very influential in the budget process, sometimes at the expense of other non-vocal groups. For the civil society to play a more effective role, there is need to promote and enhance budget information.

3. Conclusions and Policy Recommendations

Working with the executive may be the most productive route to legislative influence on the budget. Parliament should participate with the government in developing a budget policy. It would still vote estimates, the departmental committees would analyze and discuss the sectoral estimates, but its larger role would be to work with the government in setting out a medium-term framework, along the sectoral policies and statements of policy. It must also be appreciated that budgeting is inherently a confining process. The departmental committee mandates indicate that they are expected to carry out other legislative work apart from budgeting. The greatest risk of expanded responsibility for parliamentarians in the budget process is that their work would become more technocratic and therefore would be based lesser on political judgment and more on technical expertise. Specific recommendations are as follows:

Specialization of Committee Members - As noted, there has been a high turnover for legislators, which has negatively affected institutional memories of various departmental committees. Departmental committee members should specialize in a specific Ministry and selection of the committee members should take into account this experience and specialization. This way, the capacity of parliamentary committees in scrutinizing the budget will become more effective over time.

Establishment of a Library/Resource Center for Parliament - Budgeting is usually a very specialized and technical field. A resource center, which Parliamentary Service Commission would ensure is effectively and efficiently run by multidisciplinary specialists, would be critical as it would provide members with neutral, non-partisan research material, which they would use to challenge ministers in their areas of operations and accountability. The availability of research materials will make the role of a member as an individual and Parliament as an institution, more effective and efficient.

Kenya's Budget Cycle Time Schedule squeezed - To make these committees more effective, additional time should be availed. Consideration to split the Finance, Planning and Trade Committee into two could afford the committee more time to carry out thorough scrutiny. One would be a Finance Committee dealing with the taxation and revenue side of the budget and the other would be a Budget Committee dealing with the expenditure side of the budget. Also, Parliament should receive the draft budget a few months earlier (e.g. in April).

Strengthening Auditor General's Office - The Auditor General's role of preparing the annual report of the government reports by parliamentary watchdog committees of PAC and PIC has been diminished due to lack of capacity in the office. The office should be strengthened in terms of resources and human capacity to ensure finalization of the reports as required under the law.

The Controller and Auditor General's office should be seen as an agency of Parliament - The orientation for the office should increasingly be based on value for money audits and greater focus on outcomes and outputs. The staff in the Controller and Auditor General office could be placed under the auspices of the Parliamentary Service Commission to assure of their neutrality in carrying out their duties.

PAC and PIC reports - Enforcement of confirmed sanctions against wrongdoers as recommended by the PAC and PIC reports should be followed up. This would require strong political will, which would ensure rules and procedures are followed to the letter. On the other hand, as wrongdoers are sanctioned, performers should be rewarded for good performance.

Entrenching the Consultative Process - In the MTEF strategy, consultation among the key stakeholders is critical. However, as is evident in other countries, the pre-budget consultations have been entrenched in countries' laws. To ensure the executive consults the legislature in the budget preparation to implementation processes, the consultative process should be entrenched in the legal framework.

Simplify and Publicize the Budget Information for Increased Transparency - A budget should provide clear information on all aspects of a government fiscal policy. The technical language used in the budget should be simplified, and the budget should be made available for public consumption through the media, Internet, etc. All this would facilitate demystification of the budget to make it more transparent.

Reduce Budget Optimism for Enhanced Transparency - It has been argued that budgets that are over-optimistic tend to be non-transparent. The Treasury has repeatedly provided over-optimistic predictions of the macroeconomic variables. The executive can always blame changes on the international scene, natural calamities and climate for its failure to achieve the macroeconomic targets. There is need to improve macroeconomic modeling that takes account of these occurrences.

Adopt New Budget Classification - The current classification of public expenditure fails to indicate the purpose of expenditures. The line item classification that focuses on the financial inputs rather than the output or expected outcome, discourages consideration of alternative options of reaching a desired objective or service level. A new budget classification that generally shows the purpose of expenditure, e.g. administration activity expenditure, investment activity expenditure, is needed.

For detailed discussion of the issues contained in this Brief, refer to IPAR Discussion Paper No. 040/2003: ***Budgetary Process in Kenya: Enhancement of its Public Accountability*** by Japhet. K. Masya and Peter Njiraini. ISBN 9966-948-63-5.

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