

Parliament, the Budget and Civil Society

Prepared by Len Verwey for the
BEMF MTBPS 2013 Meeting
22 October 2013

General Role of Parliament

- Lawmaking
- Oversight
- Democratic Participation

Sections 42(3) and (4) of South Africa's Constitution establish that the National Assembly is elected to represent the people and to ensure government by the people under the Constitution. The National Assembly does this by "choosing the President, by providing a national forum for public consideration of issues, by passing legislation and by scrutinising and overseeing executive action"

Parliament in the Budget

- Legislatures have historically held the ‘power of the purse’: as representatives of citizens they give the executive legal authority to spend and tax
- Legislatures are tasked with ex post and ex ante budget oversight and thus can enhance operational/technical/x-efficiency as well as allocative efficiency
- Budget ‘ownership’ can be enhanced through public hearings and deliberation: trade-offs can be considered and debated

‘Assertive’ budget legislatures

Why have legislatures disappointed in many cases?

- Growth and complexity of government
- Fear of fiscal populism
- Absence of formal powers that are significant and realistic
- Electoral system / ‘Political will’

The Budget Amendment Act: One small step towards assertiveness...

- Although Money Bills ('the budget') can only be introduced by the Minister of Finance, Section 77 of the Constitution required legislation to set out a procedure for budget amendment by the legislature
- In the absence of amendment power Parliament could only accept or reject the draft budget in its entirety
- Its role was thus mainly a 'rubberstamping' one when it came to budget policy
- The Money Bills Amendment Procedure and Related Matters Act of 2009 changed this after years of tussle
- The Act gives Parliament unrestricted power, in principle, to amend the Fiscal Framework, the Division of Revenue (DoR), particular allocations as well as tax policy

The Money Bills Amendment Act

- Specific sequencing of amendments to ensure integrity of amendment process
- Criteria which need to be considered in amendment debate
- Establishes Finance and Appropriations Committees with specific coordinating roles in amendment process
- Requires preparation of Budget Review and Recommendation Reports which seek to link performance with appropriations
- Establishes revised MTBPS content requirements with more spending information
- Establishes Public Hearings as part of amendment debate process

Finance, Appropriation Committees and SCOPA

- The Finance Committee leads discussions, considers and reports on the Fiscal Framework and revenue proposals (tax policy)
- The Appropriations Committee takes the lead in Division of Revenue Bill and Appropriations Bill discussions. They are to consider and report on spending issues and report on actual expenditure published by the National Treasury, as well as amendments to the Division of Revenue and Appropriations Bills
- The Standing Committee on Public Accounts (SCOPA) is responsible for assessing if an approved budget has been implemented as planned and if expenditure was efficient, effective and economic

Understanding amendment procedure

- The tabled Fiscal Framework is required to be adopted or amended before the Division of Revenue Bill is considered
- The tabled Division of Revenue Bill must in turn be adopted or amended before the Appropriation Bill is considered
- The amendment of appropriations is explicitly linked to the assessment of performance
- Revenue bills, such as tax policy proposals, must be consistent with the Fiscal Framework and the Division of Revenue.

Section 5.2 of the Act

- Section 5(2) of the Budget Amendment Act requires that portfolio committees submit Budgetary Review and Recommendation Reports (BRRR) to the Finance Committee which assesses departments in terms of the efficiency and effectiveness of their resource use
- The Act also states that these BRRRs “may include recommendations on the forward use of resources”. During this period, committees will have access to the BRRRs for the preceding fiscal year which will have ended at the end of March, as well as a review of spending during the first nine months of the current year
- Spending performance is explicitly linked to possible amendment via the formal requirements of committees to assess performance, both in terms of management and impact.

Public Hearings

- Throughout the Act there are requirements for holding public hearings during the approval or amendment process
- The Finance Committee has to conduct public hearings on the Fiscal Framework and the revenue bills
- The Appropriations Committee is required to hold public hearings on the Appropriation Bill and the Division of Revenue Bill.

Appropriation Amendments and the Role of Other Committees

Once the Fiscal Framework and Division of Revenue Bill have been adopted, the Act provides for (although does not require) advice from other portfolio committees pertaining to the passing or amending of the Appropriation Bill in relation to their vote allocations.

They are entitled to advise the Appropriations Committee that a particular allocation be appropriated conditionally in order to ensure efficiency, effectiveness and economy. Additionally, as per the Standing Rules, portfolio committees are allowed to consult with the Appropriations Committee with respect to proposed amendments.

The Appropriations Committee is assigned the role of mediator and final authority in reporting to the National Assembly. Thus, while space is made for committees for input on their relevant proposed appropriations, the act assigns primary authority to the Appropriations Committee. The Appropriations Committee is responsible for assessing proposed amendments and will recommend to the House that those conflicting with the Fiscal Framework and the adopted Division of Revenue be rejected.

Ministerial Response

- The Act establishes a clear relationship between the executive in the person of the Minister of Finance and Parliament, not only during the period of budget tabling and approval, but also through the opportunity for discussion and consensus building that the MTBPS represents.
- Crucial to tabling the Budget and the Division of Revenue Bill, is the requirement of the Finance Minister to explain how the recommendations included in these parliamentary reports are given effect in the budget and the Division of Revenue, or, where they are not taken into account, to provide reasons for this.
- In the actual adopting or amendment process, the Finance Minister is also given specific periods of time to respond to committee reports and amendment recommendations before they are submitted to the House. Furthermore, these ministerial responses are to be included in the reports submitted to the house.

Parliamentary Budget office

- Section 15 of the Act requires the establishment of a Parliamentary Budget Office whose objective is to “provide independent, objective and professional advice and analysis to Parliament on matters related to the budget and other money bills”.
- An independent and impartial Director is required to report to Parliament any inappropriate political or executive interference which could hamper the Budget Office’s mandate.
- The appointment and removal of the Director is accorded to the Finance and Appropriations Committees and an adopted resolution by both Houses.

Budget Office Functions

- Annual reviews and analysis of Money Bills tabled in Parliament by the Executive
- Analysis and advice on proposed amendments to Money Bills
- Monitor and amalgamate reports by committees and the House with a focus on budget implications
- Monitor policy debates
- Monitor key expenditure and revenue areas

So what has happened since 2009?

- Has the 'virtuous circle' been attained?
- What about the carrot and stick vision?
- Budget office director
- Deputy directors advertised
- National Treasury engaging formally with Parliamentary recommendations in *Budget Reviews*
- Formally BRRRs exist though of uneven quality
- Continued bias in organisations making submissions
- Scepticism
- Audit reports are poor and follow up on SCOPA findings remains weak
- Somehow astonishing momentum which broke through the impasse around budget amendment has not been maintained in the institutional development requirement of the Act

Some suggestions on budget advocacy in Parliament

- Know your facts
- Less rhetoric, more numbers
- Know what the low hanging fruit are, know what battles are unwinnable at a particular point (e.g. tax havens vs basic income grant)
- Cost implications: anticipate and address this 'objection'
- Resolute focus on social justice but awareness of trade offs, i.e. avoid playing into caricature (and hence easy dismissal) of civil society
- Ok fine, so what can we do? THEN tell them (the Heywood trap)
- Partnerships
- 'Technical support' to build trust
- Longer term, not ad hoc (eg MTBPS v.s Budget Day) but be ready to help at a moment's notice too
- Next five years will be defined by value for money issue: tracking, impact assessment etc. 'Performance accountability' an emerging and tricky area where civil society can play important role