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TRANSPARENCY INTERNATIONAL KENYA

ADILI

June 2007 Adili 91

FISCAL MANAGEMENT BILL KEY IN BUDGET TRANSPARENCY

Interview with Mr. Albert Mwenda, Chief Executive Officer, Institute of Economic Affairs (IEA). *In an interview with Adili, Albert Mwenda says the legislature should fast track the enactment of the Fiscal Management Bill, (March 2007) in order to enhance parliament's capacity to oversee the budget and ensure better use of public funds and delivery of public services*. ***Here are the excerpts:***

How transparent is our budgetary process?

Since the introduction of the Medium Term Expenditure Framework (MTEF) the budget process has increasingly opened up and provided space for non-state actors to contribute. First, through the Sector Working Groups (SWGs) the state and non-state actors are able to make proposals for inclusion in the national budget. Following consultations through the SWGs, sector reports are prepared, subject to further review and critiques by citizens at the annual public sector hearings held every February.

In addition, professionals and business associations, including research institutions submit written proposals for consideration by Treasury. Furthermore, some institutions also make formal presentations at the Treasury through structured meetings while others send their proposals through mail.

Parliament, which plays an oversight role, over the national budget, has recently strengthened its capacity to effectively interrogate the budget by establishing new structures including the Fiscal Appropriations and Analysis Committee (FAAC) and Office of Fiscal Analysis (OFA).

FAAC is a parliamentary committee charged with the responsibility to oversee the budget and its implementation, while the OFA is an office staffed with experts to

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Fiscal Management Bill Key In Budget Transparency

advise parliament on fiscal issues.

Hindrances to a transparent budgetary process. These include:

· Lack of provision for ample time from Treasury to enable constructive interrogation prior to the Budget Day.
· The current legal framework also limits parliament's amendment powers. For example, under the current law parliament has limited scope for amending taxes, spending and borrowing proposals.
· Rampant abuse of budget flexibility e.g. supplementary estimates, ministerial tax, discretionary powers and the like.
· The current provisions in the Law and Standing Orders also shield the Appropriations and Supplementary Appropriations Bills from the scrutiny of Parliamentary Departmental Committee, and transfer this responsibility to the unwieldy committee of the Whole House.
· Security contracts have not been subjected to independent review and thus have been prone to corruption e.g. the Anglo leasing scandal.
· It has also been evidenced that there are insufficient checks to correct irregular expenditures midstream
· There are also cases of inadequate reporting on fiscal developments which limit transparency.

The Fiscal Management Bill, March 2007 has just been tabled in Parliament. Do you think it will enable parliament to monitor the budget process if passed?

The Fiscal Management Bill 2007 has the potential to transform the budget making process. The proposals in the bill will radically change the way the budget is prepared, debated, approved, implemented and monitored.

The bill will also enable parliament to effectively play its supervisory role in the national budget process. Firstly, the bill sets up broad principles against which parliament will assess the performance of the Executive in the budget implementation. Secondly, the bill sets minimum reporting requirements in terms of content and frequency of reporting.

The bill also proposes to create capacity within parliament to interrogate national budgets by entrenching through the way of statute bodies such as the FAAC and the OFA. Lastly, the bill proposes to give parliament powers to discipline spending units, i.e government ministries and departments that do not adhere to the set guidelines.

The proposed Bill will also ensure that allocation of resources is prioritized. Does it mean the previous budgets were not prioritized?

In the past, especially prior to the introduction of the MTEF three year rolling budget framework, the plans were not aligned with the budget. There were tendencies of jettisoning programs and/or activities that were not necessarily priorities e.g. the Turkwell Gorge project, purchase of presidential jet etc. In addition, resources were not allocated fairly and tended to depend on political expediency.

There are suggestions that the budget should be discussed by the MPs before being read to the public, how will this improve our budgeting process?

There have been proposals that the broad principles underpinning the spending, taxation and borrowing proposals be shared widely. Indeed, if the Fiscal Management Bill 2007 is enacted, the Minister for Finance will be required to present to parliament the broad principles underpinning the budget.

Security contracts have not been subjected to independent review and thus have been prone to corruption

Please note that the Minister is not required to present to parliament the actual taxation, spending and borrowing measures, but the principles which underpin those measures. It should also be noted that these budget projects are already being prepared and published in the Budget Outlook Paper (BOPA) every year in January.

This requirement will help eliminate the secrecy and opaqueness that has been associated with the budget in the past. Furthermore, such reforms will make the national budget predictable and reduce the chances of the Minister introducing major surprises.

Are there any prescriptions in the Bill that would also assist the public in independently tracking the budget?

The bulk of the reforms proposed in the Fiscal Management Bill 2007 seek to strengthen the parliamentary role in making and overseeing the bud-

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Fiscal Management Bill Key In Budget Transparency

get process. However, the bill also proposes to empower parliament with the ability to consult non-state actors.

In addition, the reports required by the bill will also be open to the general public and the public will have more information which will help them track and interrogate the budget more effectively.

Are there any other weaknesses in the budgeting and audit processes that may require improvement through other administrative and legal means?

The national budget is also constrained by obstacles encountered in the implementation process. These problems are manifested in the low "*budget burn rates*". This low burn rates can be explained by a number of factors. First, is the low government absorption capacity in some ministries and the most notorious ones being the Ministry of Roads and Public Works and the Ministry of Local Authority.

Second, with regard to donor funded projects, the non-adherence to donor conditions tends to delay funds disbursement and thus delay program implementation. Third, the complex public procurement procedures have also on occasion slowed down the draw on the funds. However, there have been some reforms in this area, albeit at a slow pace, and might result in speeding up public procurement.

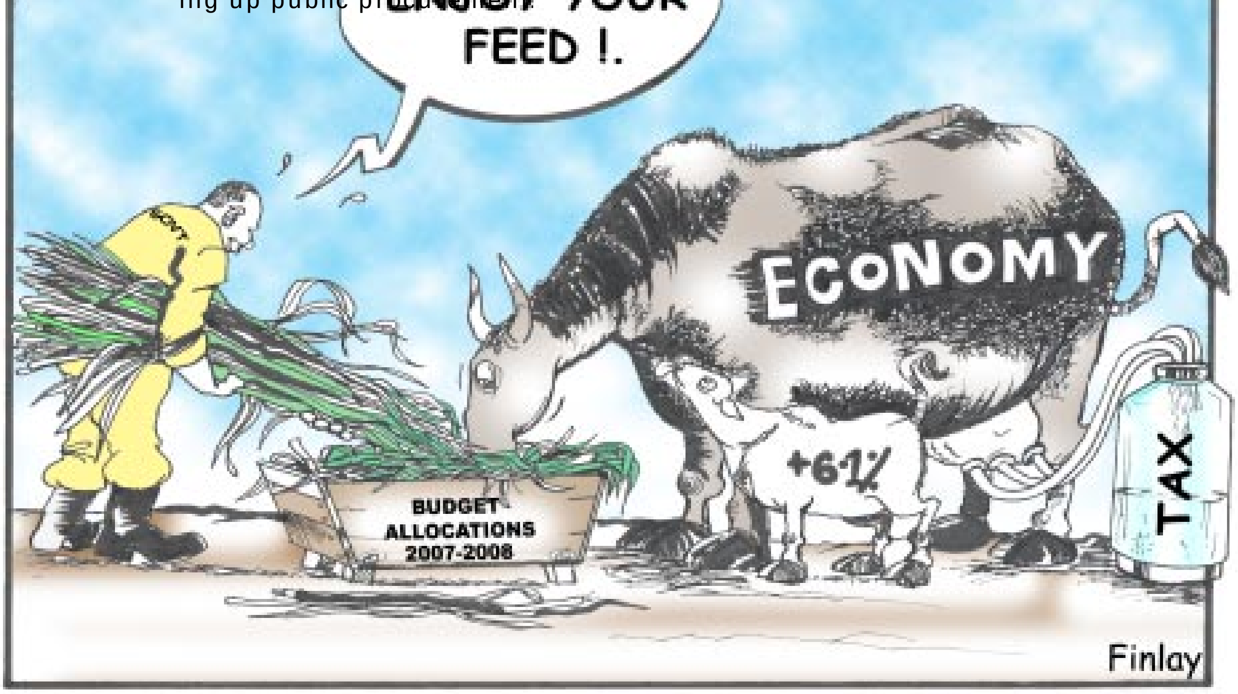
Are the budget estimates reflected in the actual spending?

Past experiences indicate that there are ministries that do not adhere to set ceilings. On occasion huge variances between budget estimates and actual expenditures have been recorded. In some cases they have burst their budgets and thus questioned the integrity of the MTEF budget ceilings set and communicated to all government ministries and departments by way of Treasury Circulars. This has resulted in huge pending bills which to date have not been paid off fully.

What message do you have for Kenyans in relation to the budgeting process?

I would like to urge all Kenyans to be more vigilant in tracking and ensuring better use of public resources, through organized groups, such as professional or business associations, churches and civil society organizations. Successive governments must also strive for efficiency and effectiveness through enforcement of performance contracts, regular monitoring of programs etc.

The legislature should fast track the enactment of the Fiscal Management Bill 2007 in order to enhance the parliamentary capacity to oversee the budget and ensure better use of public funds and delivery of public services.



EFFECT OF ELECTIONS ON BUDGETARY ALLOCATION

By Joseph Gogo Ojango

Election year budgets tend to be higher than other ordinary budgets in most diverse economies all over the world. This analysis however places specific emphasis on the Kenyan economy. Kenya's 2007/2008 fiscal year budget turned out to be in tandem with the above mentioned global phenomenon.

It reflected a populist kind of budget specifically tailored to woo considerable votes from the vulnerable segments of society.

The biggest fear as the 2007 general elections approach is whether there will be the temptation to raid the Treasury for campaign funds?

There is evidence that those in high offices in this government and who promoted the continuation of the Anglo-Leasing and associated scandals, actively argued for the need to raise political funds and the fact that there has been no will to take action on those implicated is an indication that the motivation has not changed.

The biggest fear as the 2007 general elections approach is whether there will be temptations to raid the treasury for campaign funds?

The Minister in his budget speech literally avoided addressing the Anglo Leasing scandal. By doing this he failed to convey a sense of remorse and failed to portray a government that intends to strengthen its fiscal governance.

Had he addressed the matter it could have gone well with a public that is renowned for forgiving, even though the monstrous scandal cannot be wished away. By completely disregarding this controversy it cast a shadow on whatever he read and told the nation.

2007/2008 KENYA BUDGET

One pertinent issue with this year's budget is that it is based on the assumption that the country's economy has expanded in the years since Narc came to power, growing by 6.1% in 2006 with a projection to continue growing exponentially at between 6.5% to 7.0% in the fiscal year 2007/2008.

However, majority of Kenyans dispute this fact and say they still live in abject poverty and the said economic turn-around has not meant much to them.

The Finance Minister took this opportunity not only to win the economic argument for the government, but also to answer the critics of governance and thus gave the president a node to embark on its re-election campaign on a confident footing.

By doing so, he not only provided the incumbent with enviable media coverage and publicity, but also shed light on the governments' re-election strategy.

The Minister was bold enough to hide the ugly face of the question regarding inequality in the enjoyment of the said economic growth that the government has presided on by reiterating that among the areas where poverty has reduced are Nyanza leading with 33% followed by North Eastern 23% and Western in that order.

Going by the economic growth strength, the government justified an increment of its spending by 20% to Shs. 693.6 billion from Shs. 577 billion last year (2006/2007).

The Gross recurrent expenditure for 2007/2008 is estimated at Shs. 491.9 billion and the Gross development expenditure estimated at Shs. 2017 billion.

The government allocated a substantive amount of expenditure, nearly 80% of the total to recurrent expenditure leaving only 20% for the much needed development projects. This did not board well with the aims of vision 2030.

Given that 90% of the recurrent expenditure is to be financed through the Kenya Revenue Authority (KRA), "the government could have slapped some money in terms of allocations which could be very difficult to detect by the parliamentary budget office, though it will try to

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Effects of Elections on Budgetary allocation

audit" as Hon. Billow Kerrow the shadow Minister for Finance commented.

Another factor which might affect Kenyans this financial year is that the government intends to raise Shs. 70.1 billion through domestic borrowing.

Although domestic borrowing is better than borrowing externally, past experiences show that the government end up borrowing much more than they projected.

With a huge overall budget deficit of Shs. 109.8 billion, the government might end up borrowing more domestically.

The Minister in his budget speech literally avoided addressing the Anglo-Leasing scandal. By doing this he failed to convey a sense of remorse and failed to portray a government that intends to strengthen its fiscal governance.

The net effect is bound to be a lot of inflationary pressures and pressures on interest rates which might affect the financial markets as was seen in 2006/2007.

Though the government provides that this situation of excess liquidity is checked by selling bonds and using this money for government expenditures and projects, most people are skeptical that this money might not be used wisely or might be diverted to unworthy causes.

More importantly the major area which attracted peoples attention from the beginning was the targeted funds for the larger segments of the voting population.

Treasury increased the youth fund by Shs. 250m in addition to the Shs. 1billion already disbursed.

The Women Enterprise fund got an allocation of Shs. 2billion with an initial injection of Shs. 1million in 2007/2008.

The minister further reaffirmed that these targeted funds will be continually reviewed as demand increases and as the government receives extra donations.

In the previous regime, the youth and women funds were funded by public collection.In a nutshell, the 2007/2008 budget gave a lot of hope and better prospects for the future with improved roads, hospitals and schools, unfortunately it was read as we head for the polls meaning that these benefits may take a while to materialize and trickle down to the general populaiton.

Our recommendation is thus that:

I. The budgetary process should be a continual process of consultation with the stakeholders and citizens nationwide on what should be included in the following and subsequent budgets. Feedback should be received and reviewed through e-mail, seminars and the like.

II. The National Assembly should create structures to control and oversee the implementation of the budget for immediate results.

III. Budgets should mainly embark on the empowerment of the people by raising their standards of living and building their capacity, but not as a mechanism to entice votes during elections.

IV. Accountable managers (Accounting officers) should be appointed to oversee the management of targeted funds such as the youth & women fund and devolved funds like CDF

V. Performance requirements mainly in infrastructural development should be tied to the accounting officer's performance contracts and the results of annual evaluations made public to enable transparent judgements of performance of various government departments.

VI. The budgets need to be formulated in brief language for the recipients to comprehend. Translation will thus be necessary for the lay man.

VII. Excessive borrowing from the domestic market to finance recurrent expenditure should be limited to control the effects of interest rates on the financial markets

VIII. The government should control insecurity to harness continued economic growth and more importantly protect the lives and property of its citizens.

THE BUDGET: WHAT KENYANS THINK

By Adili contributor

There were mixed reactions from Kenyans over the 2007/2008 fiscal budget which was presented in Parliament by the Finance Minister Amos kimunya. Some said the budget was tailored to give the government positive ratings ahead of the general elections expected at the end of the year. Being the last budget of President Mwai Kibaki's first term in office, key voting groups (women, youth and pensioners) were the chief beneficiaries.

The budget allocations have inflated Kenya's budget to Sh693 billion-the largest in Kenya's history and well beyond this year's revenue target of Sh428billion.

However, the CEO of the audit firm KPMG, Richard Ndungu had some reservations about the large budget. "As a country we must learn to live within our means. We tend to spend more than what we collect. Our spending should match our income" said Mr. Ndungu in a local TV interview. He added "Implementing Kimunya's proposals would be the greatest test to the government's commitment to helping the poor people".

> ***"...I am disappointed on the manufacturing side, there is nothing to encourage investments in the country and he wasn't specific on how he will reduce the cost of doing business."***

Shadow Finance Minister Billow Kerrow whilst stating that the budget was generally good commented that it should be implemented over a long period of time if it was to help the poor.

Women leaders said the budget held good news for the women, particularly with the allocation of Shs.1billion for the Women Development Fund. Chairperson of the women's organization Maendeleo Ya Wanawake Rukia Subow hailed the budget saying it would empower women.

"The government should distribute the money allocated to women through organized women's groups but not through individual women" she said. But Justice and Constitutional Affairs Minister Martha Karua said the money would be distributed in the same way as the Youth Enterprise Fund in which youth developed business proposals before applying for funds.

The budget was further inflated by the Shs.2.9 billion allocations for secondary school tuition next year and the Shs.1.3 billion re-settlement pay out for displaced people. Bursaries will consume Shs.800 million while Shs400 million will be spent on building a hawkers' market in Nairobi.

The allocation for the re-settlement of displaced people immediately exited Kibwezi legislator Kalembe Ndile who has been very vocal about the land-less. "Tumeshinda hi vita nimewambia kwa muda mrefu ya kwamba masquota pia ni watu" (We have won this fight to have squatters re-settled. I've told them for a long time that squatters are also human beings)

A city hawker who gave his name only as Kamande said the proposed hawkers market was a good thing. "I hope only genuine hawkers will be allowed into the new market" said Kamande.

But owners of second hand motor vehicles were left gnashing their teeth. A 20 % excise duty was imposed on all imported used motor vehicle spare parts. While imposing the duty, Finance Minister Amos Kimunya said road accidents are partly caused by continued importation of used motor vehicle spare parts.

A driver in Nairobi Peter Omullo who owns a used Toyota Corolla car said he visits Kirinyaga road every two months where he spends between Shs.1000 and Shs4000 every month to fit used parts on his car. Most of the parts such as shock absorbers; springs and starter plugs that he buys from Kirinyaga road are used parts imported from Japan.

"This means I will pay 20 % on top of what I spend every two month if I am to continue purchasing the parts from Kirinyaga road. It will be expensive on me. Does the minister want us to stop driving our cars?" posed Omullo.

Business leaders, especially those in the manufacturing sector had mixed reactions to Kimunya's budget speech with Bidco Oil and Soaps Limited Chief Executive Officer Vimal Shah hailing it as a positive budget aimed at strengthening the manufacturing sector. "It was an excellent budget it enhances competitiveness. Expenditure was increased but taxes were not increased" said Mr. Shah

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The Budget: What Kenyans Think

However Eveready CEO Steve Smith was disappointed. "I'm disappointed on the manufacturing side, there is nothing to encourage investment in the country, and he wasn't specific on how he will reduce the cost of doing business"

The manufacturing sector which contributes 10% of the Gross Domestic Product (GDP) annually grew by 6.9% in 2006. Employment within the sector rose by 2.5% in the same period amid closure and relocation of a number of manufacturing entities.

Overall employment in the sector increased from 247,000 workers in 2005 to 253,000 workers in 2006. Employment at the Export Processing Zone (EPZ) declined to 37,325 persons in 2006 from 38,851 recorded in 2005. Total value of output in the manufacturing sector amounted to Shs.561.6 billion in 2006 up from Shs499.8 billion in 2005 representing a growth of 12.4%.

They were however not happy with the 120% duty imposed on polythene bags. "The government's intention seems to impose a ban on the use of flimsy bags and to further dissuade the general use of plastic bags. From the industry, this is an unfortunate move that should be rescinded immediately" said the Kenya Association of Manufacturers in a press statement.

The statement further said the "plastics sector plays an important role in the packaging of products. Due to inelasticity of demand for alternative packaging the use of plastics will continue with the resultant cost shifted on to the consumer. Packaging has an impact on virtually all sectors of the economy

Best Practice for Election and Campaign Funding: Suggestions drawn from election observer reports in several parts of the world.

- There should be a code of conduct agreed between the parties as to how they will conduct themselves during an election campaign so as to ensure that it is seen as being free and fair.

- The Electoral Commission should, where possible, establish a forum for debate and consultation with and as between the political parties and ensure that the political parties fully understand their rights and responsibility with regards to all aspects of the election process.

- Contribution (in cash or in kind) by private individuals and corporation should be limited to reasonable amounts that would fall short of perceived as "buying" influence. These limits should not extend to volunteer work.

- Candidates guilty of false declaration or over-expenditure should forfeit the positions to which they have been elected.

- All parties and candidates should be required to declare their assets and liabilities before the starts of the campaign and immediately after the poll.

- Paid-of radio and television advertising should be controlled to acceptable levels if not altogether banned. In addition, the Electoral Commission should determine how much free time on public radio and television should be available to each party during the election campaign.

- Election advertising by special interest groups and others not authorised by particular candidates or parties should be banned to stop circumvention of spending limits by supposedly-publicly-minded individual and groups and

- All officials of the Election Commission should declare their assets, income and liabilities both before and after every national election.

- Campaign periods ought not to be too long by truncating them the campaigning costs can be reduced but if they are too short the ruling party will have advantage over the opposition parties.

- Restrictions should be placed on political parties and candidate expenditure (in both cash and in kind) in the course of an election campaign. Declaration of these expenditure should be publicly available and filed with the Election Commission within two months of the date of the poll together with an audit certificate certified by a qualified auditor. Additionally, political parties should file audited accounts annually detailing income at electorate regional and national levels.

- Anonymous donation and donation through "font" organisation should be banned and if received should be passed over to the Electoral Commission to help meet the costs of that office.

- Grants from public funds should be made, either in accordance with past election performance or according to an agreed formula administered by an independent Election Commission.

Adopted From TI Source Book

Recommendations on the Role of Parliament to Promote Transparency and Accountability in the Budgeting Process.

Parliament should have full powers to decide as it sees fits in its role as the ultimate authority on raising revenues and appropriating public money. It should be free to increase expenditure where necessary and to adjust tax rates either way and it should have constitutional authority to set aside the budget for any ministry if the accounting officer proves inappropriate to manage public funds.

When Parliament recommends that officers who have misused or mismanaged public money should not hold public offices, if the Executive disregards such recommendations, Parliament should suspend all appropriations of the appointing authority and also the ministry where such officers are posted, until the Executive complies.

Parliament should require the Ministry of Finance to file half-yearly expenditure reports on the status of the budget implementation

Parliament should be mandated to receive a comprehensive annual report on public debt showing total borrowing, featuring the amount brought forward for previous years, the amount borrowed during the year, the projects or programmes to the funded with the borrowed money and the status of the projects and programmes.

To ensure compliance with parliamentary decisions, there should be a sub committee, composed of members of the PAC and PIC, to monitor capacity to analyse and interpret the budget document.

Adopted from Budget Transparency and Participation: Five African case studies by IDASA.

Up coming Events

Event:	**Transparency: Who cares? Benefits and limits of Transparency in party and election funding**
Date:	12th - 13th July 2007
Venue:	Ibero-American Institute, Berlin, Germany

Event:	**Integrity Reforms and Strategy corruption control with a policy lab on the governance of oil,gass and mining revenue**
Date:	2nd - 11th July 2007
Venue:	Central Europe, University of Hungary, Budapest

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