

Transparency and Participation in the Budget Process
A cross-country synthesis
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Democratic and constitutional renewal raised expectations of increased transparency and better spending outcomes in the five study countries in the concluding decade of the 20th century. However these expectations often remained unfulfilled. The degree and some of the political and technical reasons for failure is the subject matter of this report.

Citizens have a direct interest in transparency. In the first place access to information on the use of public funds is their right as contributors to the public purse. In addition, given the potential of poor public service delivery and high corruption, it is arguable that citizen engagement with public spending should be more extensive and explicit than the sanction of their vote. Such continuous engagement is dependent on the information available on the state's intentions, spending and actual delivery, on the formal and informal access points provided and their capacity and willingness to engage. All these factors are critical in determining the strength of citizens' voice.

The study framework unpacked the minimum conditions required to improve public policy making and public spending through transparency and accountability. In this it worked from the assumption that a strong citizens' voice is required in order to fully operationalise accountability. The study therefore includes a number of standards prescribing participation. The study drew from international codes and best practice standards² to assess and compare transparency, accountability and the strength of citizens voice in the budget process in the five countries studied (Ghana, Kenya, Nigeria, South Africa and Zambia).

The selection of the five countries is linked to the purpose of the study. The core study team formed around the study as a technically sound platform from which to advocate for pro-democratic change in their countries. Initially the study was going to cover only Ghana, Kenya, Nigeria and Zambia. However, as the study progressed the study team decided that it would be useful to include also an update of the earlier pilot South African study as a positive example of functional transparency mechanisms. Today the study team organisations, Isodec in Ghana, Transparency International in Kenya, Integrity in Nigeria, the Idasa Budget Information Service in South Africa and the Catholic Commission for Justice and Peace and Women for Change in Zambia (together with a consultant team leader from the University of Zambia)

¹. This chapter in many ways are co-authored by the other members of the research team. I want to thank William Ahadzi., Soji Apampa, Vitus Azeem, John Ghitongo, Njeru Kirira, Justina Moonga, Sam Mwale, Inyambo Mwanawina, Kalunga Sampa and Tunde Oni for their hard work in drawing together the country studies and their efforts in developing the framework and thinking through the results. It was an honour working with you. I also want to thank Joel Friedman, Warren Krafchik, Stephen Lister, Isaac Shapiro and Joachim Wehner for their comments and suggestions without which this chapter would have been in much worse shape.

² International Monetary Fund, 1998. Code of Good Practices on Fiscal Transparency; OECD, 2001. Best Practices for Financial Transparency.

are all active in setting change agendas towards better economic governance in their respective countries.

This chapter is aimed at explaining the reasoning behind key aspects of the framework and extracting the main similarities and differences between the five case studies. Some comparison is inherent to this approach and the study draws on comparative material from the studies where possible. It does not however, attempt to rank the countries explicitly in every respect. The study team felt that this would of necessity have been subjective, given the study methodology, varied results, and problems contributing transparency and spending improvements to individual institutional factors. Quantitative follow-up studies may teach us more about the relative weight of different factors in improving effective transparency. A more mechanistic survey study with set questionnaires may have enabled tighter comparisons, but the study approach was deliberate to capture the rich context and hopefully contribute to an understanding of how transparency works in practice. Therefore readers should also revert to the case studies themselves -- they are broader in scope and richer in detail than this synthesis chapter.

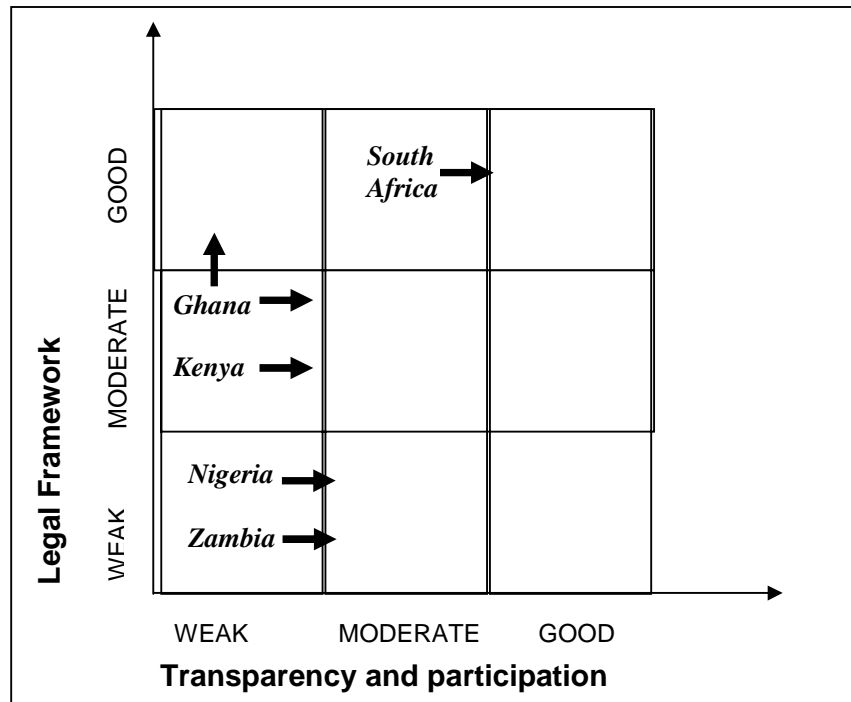
The study results

The study represents a take on the state of transparency in the sample countries over the period 2000 to 2001 and as such sketches what is best understood as dynamically evolving transparency systems. While the results could be read as a litany of woes, it is important to note right at the outset that this is a function as much of the standards set than of the budget systems themselves. It should not be forgotten that in all the countries concerned there has been a trend towards democracy, even if hesitant and inconsistent (see Box 1 for comparative background facts) and that their budget systems have some of the basics in place (even if they function imperfectly) and are far from autocratic. Should these countries be compared to other countries and regions of the world, they will not be at the bottom end of the scale. Across all the countries they have legal frameworks, bureaucrats that can put a basic plan together, a public document of that plan, legislators that expect the budget and must approve it legally, line departments that implement the budget and an auditing system. The study methodology however emphasised the gap between what is in place and an ideal standard of transparency and participation, precisely because it was aimed at setting out an action agenda to close that gap.

Describing the gap also does not imply that improvements should be all inclusive and immediate. The study team acknowledges that turning the transparency tables is not easy. Producing reliable budget information systematically requires a full, expensive and time-consuming overhaul of the machinery of the state. But that does not mean that immediate improvements cannot be made. In this regard therefore, all the case studies include recommendations that were seen as priority steps towards improved transparency. These steps are summarised at the end of this chapter.

Assessing the relative standing of the five countries is difficult. It is impossible to present a summative comparative snapshot of the study countries without

running the risk of oversimplification. On the other hand, broad trends can be identified and the following matrix is an attempt to illustrate the relative position of the countries in terms of their transparency practice and principles.



The country positions on the matrix are determined by the balance of evidence in the case studies. The judgement is subjective by nature: a complex set of factors contributes towards the ranking -- a bad legal framework is not bad in every respect for example. Also, a number of benchmarks can be introduced that may shift the score. For example, assessing Ghana against South Africa may produce a different result than against one of the other countries in the study and yet another result if assessed against itself ten years ago. Therefore the arrows are included as an indication of mitigating circumstances and/or trend. The most immediate conclusion from the matrix is that it is clearly easier to establish good rules than to change behaviour. On average the five countries fared better in terms of their legal framework than in what they've achieved in practice. The following summary by country briefly describes the main reasons for the ranking:

South Africa

South Africa's ranking took into account the comprehensive overhaul of its legal framework since 1994 and the giant strides it has taken towards providing good budget information. If the participation dimension were not included in the horizontal axis, a score of good/good would have been arguably correct.

Since democratisation in 1994 fast transparency improvements occurred in South Africa within a reform drive that was aimed as much at building market credibility as at more effective fiscal and budget policies. Constitutional factors were also important in setting the context for the reforms – checks and balances, transparency, accountability, continuous oversight and access to the state. Today, 7 years after 1994, citizens in South Africa have easier access earlier to more and much better budget information. There is a clearer

framework for accountability for public resources and delivery and more transparent management of the wider public sector. While problems remain in the implementation and even scope of the reforms, the main concern now is the creation of better access for parliament and the citizenship to the budget process and the development of capacity in these institutions to make use of the good information.

Kenya and Ghana

The next layer of countries is Kenya and Ghana, both countries where medium term expenditure frameworks have been introduced recently. The Kenyan legal framework was assessed as moderate because it is comprehensive and detailed. However it is outdated and often either misaligned or in conflict with attempts by the Kenyan government to improve budget and financial management. Transparency and participation in Kenya is weak. However, one should take into account that the legislature is starting to interrogate budgetary decisions more closely, that civil society participation is increasing and that while information is late, often inaccurate and not in useful formats, a lot of it is published in the first place.

In Ghana the legal framework was seen as moderate, arguably good. If the Ghanaian legal framework were applied in practice, citizens would have had adequate information (even in-year spending information) and sufficient access to the process to make use of that information, for example through parliament. The framework is however outdated, gaps still remain and the existence of official secrecy legislation was seen as problematic. The transparency practice in Ghana is weak however. Information is late, inaccurate and not particularly useful. The clarity of roles is obscured by practice and the systems to produce good information not adequate. However, the introduction the MTEF and increasing participation by civil society organisations pulls the assessment towards moderate. Also, relatively speaking, the information availability is better compared to Nigeria and Zambia.

Zambia and Nigeria

The position of Zambia and Nigeria in the bottom left corner of the matrix is on account of weak legal frameworks and weak transparency practice.

In Zambia the legal framework allows for virtually limitless spending with approval after the fact and requires very little information to be published. While transparency is hamstrung further by lack of compliance and cash-budgeting, the arrow takes account of the fact that civil society organisations and parliament (although limitedly so) are starting to forge a participation space with some positive effects.

In Nigeria the legal framework was assessed as a large part of the problem. It is contradictory, ambiguous and leaves huge gaps, for example as regards the comprehensiveness of the budget and audit. Transparency practice is equally weak. While participation by civil society remains weak, the active engagement of the legislature can over time move the assessment to moderate.

The rest of this chapter organised in line with the four main phases of the budget process: the drafting phase (ending with the tabling of budget proposals/estimates in the legislature – section 1); the legislative phase (ending with the approval of the budget – section 2), the implementation phase (covering the fiscal year – section 3) and the audit phase (starting with the audit and concluding with the concluding mechanisms for accountability – section 4). The other two dimensions of the framework³, namely the aspects and strength of transparency, are referenced within each of the four main phases of the budget process. Obviously some transparency aspects or relevant mechanisms span this demarcation. In such cases the bulk of the analysis was done within one section only, although critical points for another section are covered briefly in that section. Examples (with their reference sections in brackets) are information included in the budget (legislative phase); provisions for spending before the budget is approved (referenced in the implementation phase); supplementary / adjustment budgets (referenced in the implementation phase), taxes (referenced under the implementation phase) and; management of extra-budgetary funds (referenced separately in Section 5). Two other separate sections cover the role of donors (section 7) and civil society (section 8). Terms are not defined in the text itself, but a glossary is included as an appendix to the volume of case studies.

While it is convenient to carve up a more detailed understanding of transparency in this manner, the interdependence of mechanisms should be emphasised. Good transparency practices in one phase are not sufficient to enable accountability and better outcomes overall. On other hand, good transparency in one phase has ripple effect through-out system. Inversely mechanisms that are non-transparent are often sufficient to cripple the whole system, even although they are applied only in one phase. In three of the five countries, for example, the use of non-transparent cash budget systems leads to huge shifts in the composition of expenditure, undermining planning discipline, marginalizing the legislature and creating opportunities for patronage.

Section 1

Transparency in the Drafting Phase of the Budget Process

Traditionally budget-making is shrouded in secrecy. This approach is based on the assumption that early leakage of information about key policy debates prejudices decisions on those debates. While there may some value in this argument – a government would not want to defend a policy and associate spending before it has clarity on the implications, delivery options and cost/benefit trade-offs – keeping the proverbial budget briefcase shut tight on all aspects of the budget up to budget day, excludes external stakeholders and disables public debate at the cost of better spending.

In striking the correct balance between disclosure and secrecy, a key question becomes what are key transparency requirements for better budget-making. As elsewhere the study borrowed from the international transparency

³ Discussed in the introduction.

standards and standard public finance theory and selected a set of principles within the research framework (See Box 2).

Study Results

All five countries produce budgets in pre-set formats and table them in parliament usually on time, roughly in line with their constitutional requirements. Internal budget drafting processes are set with more or less clarity and the budget is cast after some consideration of the macro-economic outlook and fiscal policy.

However, the transparency and participation measures that may improve the quality of these systems are either absent or weak. Pre-budget statements are not published, the use of macro-economic models is either weak or non-existent, the availability of critical information is low, and the opportunities for constructive engagement with external stakeholders are either very limited (and partisan) or non-existent. The budget process is not known outside of the executive (and sometimes not so clear inside the executive either) limiting access to the privileged few. The legal framework in most cases is inadequate, outdated, contradictory and/or ambiguous. Given poor support for revenue forecasting, it is hardly surprising therefore that three of the five countries deploy some form of a cash budgeting system (when during the spending year departments are funded only if there is actual cash in the bank), which may mediate the immediate cash effects of poor fiscal planning, but has disastrous consequences for the composition of spending, for the stock of arrears and for subsequent planning discipline and effectiveness.

The Legal framework

In all five countries a legal framework rooted in the constitution backs budget drafting. The executive is charged with preparing a budget for approval by the legislature, in some the president (ie Ghana and Nigeria) and in others the minister responsible for finance (Zambia, Kenya and South Africa). In all the countries these provisions are followed, including the timely tabling of the budget.

With the exception of Zambia more detailed provisions for budget management appear in further legislation, but not always to the benefit of transparent and accountable budget management. Three reasons apply:

Ambiguous and contradictory provisions: In Nigeria multiple acts contain ambiguous and/or contradictory provisions (for example assigning macro-economic, capital and fiscal planning responsibilities to different institutions). This results in duplication of effort, unnecessary delays and poor accountability for budget planning.

Outdated provisions: With the exception of South Africa respondents considered the legal frameworks to be outdated. Most of the countries (with the exception of Zambia and Nigeria) have adopted medium term expenditure frameworks. Only in South Africa has a multi-year planning horizon been made a legal requirement. While Ghana's constitution makes provision for it, in Kenya multi-year planning is not entrenched in the legal framework at all.

Low compliance: For example in Kenya, where a detailed legal framework exists, lack of compliance with the framework was noted to be a root cause of poor budgetary management, although the impact on the drafting process is less severe. In Nigeria compliance also created problems, especially regarding the division of revenue between the levels of government.

The gaps in the legal framework are significant. The following elements are commonly missing:

- No requirement for macro-economic and fiscal planning as a framework for revenue and expenditure proposals (Ghana; Zambia; Kenya).
- No requirement for an assessment of extra-budgetary costs and expenditures, including the fiscal impact of extra-budgetary funds, contingent liabilities, tax expenditures, donor support etc (Nigeria, Kenya, Zambia, Ghana, South Africa)
- No requirements for the information base of policy and spending proposals (Nigeria, Kenya, Zambia and Ghana).

In some of the countries detailed treasury instructions/circulars or guidelines stop some of the gaps on an annual basis. For example, in Kenya treasury circulars determine the details of budget management in terms of the newly introduced MTEF. While these instruments have legal standing, they are weaker in terms of guaranteeing continued transparency.

The strongest legal framework is that of South Africa, where most of the elements are included – bar explicit provisions for extra-budgetary activities -- in a legal framework that has been revised since 1994 to align with a coherent vision of budget management. While the compliance profile is still being shaped by practice, early indications are that enforcement is sufficient to build a culture of compliance.

Clarity of Roles and Responsibilities

A number of countries reported some clarity. Specifically,

- with the exception of Nigeria (see paragraph below) responsibility for determining the budget process, formats and dates and compiling the results of the process are moderately well to well assigned. Mostly it is the ministry for finance that takes responsibility for this function.
- the roles and responsibilities for tax planning and forecasting are moderately well assigned, while the roles in tax administration are seen to be clear (Kenya, Ghana, South Africa).
- although the assignment of spending roles between national and sub-national levels of government are problematic in most cases, clarity on who decides how revenue should be shared is more prevalent. The problems associated with the results of those decisions are discussed below in the section on budget implementation.

On the balance though budget drafting responsibilities remain opaque either because they are not clearly and consistently assigned even in practice or multiple institutions vie for the same turf. In the latter case, lack of transparency often results when new offices and structures are created in

addition to those vetted in the legal framework. Particular problems (and their effects) are:

Macro-fiscal aspects of planning

- In Nigeria the National Planning Commission, the Offices of the Chief Economic Advisor to the President and the Federal Ministry of Finance have overlapping macro-economic and fiscal planning responsibilities, resulting in long delays in the process.
- In Ghana the macro-economic team in the president's office has virtually usurped the legal responsibility of the ministry for finance (in terms of the financial regulations) for macro-policy formulation. The team's work was inaccessible to the general public and this made it difficult for the public to hold it accountable for far reaching policy decisions. An attempt to make the chairman of the team appear in Parliament to explain an alleged case of misappropriation of public funds was turned down by the government with the excuse that the office was an informal one.

Micro-fiscal aspects of planning

- In Nigeria the National Planning Commission and the Federal Ministry of Finance has overlapping responsibilities for capital planning, resulting in spending ministries having to duplicate processes and poor information exchange. For example, the lack of information exchange makes it virtually impossible to plan for the recurrent effects of capital spending. In addition the Special Assistant to the President for Budgetary Matters has responsibility for budget coordination, which duplicates the functions fulfilled by the ministry, also resulting in more work and less accountability for spending ministries.
- In Zambia and Kenya it is not clear who should assess spending proposals and decide on the allocations to line ministries. In Zambia in principle this responsibility rests with the ministry of finance, but politics often play an upper hand. Respondents to the Zambia survey pointed out that too much power rests with the ministry for finance and that checks and balances is not sufficient. As its exercise of that power is not transparent, the opportunity for patronage is created. This is exacerbated during implementation when a cash budget system results in (non-transparent) reallocation of resources. In Kenya the introduction of a MTEF process created eight sectoral working groups. It is not clear who has responsibility respectively to formulate, cost and assess policy between the Treasury, the eight sectoral working groups and the spending ministries. This has repercussions down the line when budget implementation breaks down with the introduction of new expenditures during the year for policies that were not costed properly in the drafting stage.

The respondents to the survey found in all cases that the role of non-executive stakeholders is non-existent or not clear. In Ghana, Zambia, Kenya and Nigeria pre-budget rounds of consultations are either held or there are scope for submissions, but the basis for invitation, the purpose, the timing and the weight of the consultations are not transparent. The exclusivity of the process may favour particular interest groups and its unpredictability limit the growth of capacity to contribute to budgetary debates.

Availability of information

South Africa and Kenya use models and external experts to assist with macro-economic forecasting. The result of these forecasts is published in South Africa in a pre-budget statement together with a discussion of the macro-economic outlook, the fiscal policy framework for the budget, the main spending policy parameters and the main divisions of revenue between the spheres of government and functions and types of spending. Internal budget submissions are framed in a strategic plan and require new policies to be costed.

Other than these the availability of information in planning the budget is weak:

- The macro-economic forecasting base of the budget is weak. In Zambia respondents pointed out that the macro-forecasts are neither systematic nor rigorous. In Nigeria the macro-economic projections are not stated in measurable terms and are circulated rarely before budget day. In Ghana the formulation of the macro-economic framework is often delayed due to negotiations with international financial institutions or late data.
- Pre-budget policy statements are not published in Ghana, Kenya, Nigeria and Zambia. In all four cases information on the macro-economic base and the fiscal framework is only available on budget day (and then often only in the budget speech), too late to discuss these framework decisions separate from the detailed spending proposals.
- Information on actual spending is not available in time to influence decisions for the following year (Zambia) and even if it is (Nigeria, Ghana, Kenya), it is not published with the budget to enable an external check on budget integrity. In addition, in Zambia, Ghana, Kenya and Nigeria information on arrears is not known, although in the case of Ghana and Kenya the budget explicitly provides for cash movements due.
- The cost of new and existing policies is not known, nor explicitly required.
- Information on the fiscal implications of extra-budgetary activities were not sought and/or not available

In the case of Ghana and Kenya the introduction of a MTEF in the late 1990s was aimed at addressing some of the transparency shortfalls mentioned above. In Ghana revenue shortfalls due to macro-economic shocks and expenditure overruns by the outgoing government in the first two years of its implementation damaged its credibility and thus its effectiveness. The study in these two countries found that the MTEF at this stage only allows limited engagement before the budget is submitted to parliament. In Kenya the impact of the MTEF approach on public information availability was still unclear.

Kenya, Ghana and South Africa has predictable budget drafting processes in place. In Nigeria delays were experienced due to conflicting roles and responsibilities. The budget process was not known outside of the executive, making timely inputs virtually impossible, whether directly to the executive or through the public domain. Accountability for decisions taken is also obscured. In the case of Zambia the budget drafting process was not clear even to those inside the executive.

Systems and capacity

The weak availability of information is reflected to some degree in weak capacity and systems for transparency in the drafting process. Questions on the capacity for fiscal and budget planning drew mixed responses. In both Zambia and Nigeria capacity for fiscal management was perceived to be poor and/or misplaced. For example in Nigeria the National Planning Commission had a number of qualified economists, but a low profile in budget drafting, while the budget office in the Federal Ministry of Finance shouldered most of the burden with only 4 economists and no other personnel with relevant professional qualifications. In Ghana and Kenya capacity at the central level was adequate. However in Kenya and Nigeria the capacity at spending ministry level was felt to be particularly poor. In Kenya, where the evaluation of spending proposals is not clearly assigned, this leads to poorly costed policies and huge spending overruns during implementation.

Only South Africa and Kenya reported the explicit use of macro-economic models in budget planning, including the use of external capacity. While the other four countries did postulate a macro-economic base for revenue planning, the strength of the system to produce the forecasts was less clear.

The government statistical services in South Africa, Nigeria, Ghana and Kenya were reasonably independent, although capacity was noted as an issue in the latter three. In Zambia the statistical service falls under the ministry for finance and in Ghana respondents from the office pointed out that the chief statistician's independence is not absolute, since s/he can be removed at will by the president.

Kenya, Ghana and Nigeria had some provisions for pre-budget input by external stakeholders. These however are not formalised, are by often by invite and confined to the private sector and not widely published. In the case of South Africa no formal pre-budget consultations are held, but a pre-budget statement is published three months before the budget creating the opportunity for discussion on the macro-fiscal aspects of the budget and on the main divisions of revenue. In Zambia no consultations are held and meaningful contact with non-executive stakeholders is non-existent. Nonetheless, in recent years civil society organisations have prepared and presented submissions.

Section 2

Transparency in the legislative phase of the budget process

Appropriate checks and balances between the executive and the legislative branches of government are critical for improved budgetary outcomes and only enabled through meaningful participation by the legislature, also in the approval stage. Effective legislative engagement with budget proposals broadens public debate and imposes an implicit cost on bad budget planning within the executive. Full transparency in the legislative phase is critical to meaningful participation in many respects. Firstly, the availability of information determines the quality of legislative oversight. Secondly, the clarity of roles and responsibilities in turn enables broader social accountability for spending choices -- the respective roles of the executive

and the legislature should be clear, as well as the roles of various structures within the legislature. Thirdly, arguably the legislature, as the elected representative of the people and the constitutional keeper of the purse, offers the best access for the public to the budget process.

In order to reap the better spending benefits of enabled legislative checks and broader public debate, transparency and meaningful participation in this phase of the budget process therefore requires appropriate amendment powers, clarity of roles and responsibilities and sufficient information, time and independent legislative capacity to scrutinize budget proposals. Formalized processes for citizen access to budgetary decision-making in the legislature maximize the role of the legislature as a gateway for the public to the budget process.

The study tested transparency in the legislative phase of budget making across the three main aspects with the above criteria⁴ as a standard (see Box 3 for detailed research framework). Of course, the ability of civil society to make use of improved access is equally important for effective transparency. Questions on this aspect are however referenced in Section 7.

The Study Results

While transparency and participation is much stronger in the legislative phase compared to the other three stages of the budget management cycle, the study found the sample country legislatures unable to practice effective oversight over the integrity of budget estimates and/or to engage the executive in meaningful ex ante debate on spending proposals. While the discussion below details reasons for this failure, these observations should be counter-balanced with an acknowledgement of the fact that the executive puts effort into presenting budgets that have at least some bearing on actual spending and does on balance obtain legal authority for its spending activities. However the lack of effective powers in principle or in practice, poor access to information, poor capacity, limited time and entrenched bad oversight practices limits the contribution of the legislature.

Systems and capacity for legislative approval of the budget

Within this overall assessment, the budget management strength of the sample country legislatures varies considerably. Some of this variance can be attributed to differences in the strength of the legal framework. In Ghana, Kenya and Zambia the legal frameworks are clear, granting the legislature amongst other the power to adjust both expenditure and revenue downwards. However, in Nigeria and South Africa the legal framework is less clear. In Nigeria the legal framework makes no provision for expenditure plans to be framed in terms of revenue or a financing plan nor does it clearly stipulate the powers of the legislature to amend the budget. In South Africa the constitutional requirement for framework legislation to prescribe a process whereby the legislature can amend the budget has not been fulfilled.

⁴ The study borrowed this framework from an earlier study by Krafchik and Wehner (1999) on the effectiveness of amendment power institutional arrangements.

In practice however, the other variables also influence legislative intervention in the executive's spending and revenue proposals.

The power of the legislature

On the basis of the table below the Kenyan and Zambian legislatures approve expenditure and revenue, have some control over debt issuance, and can adjust the executive's budget proposals. Ghana has only slightly less power, in that the legislature has no say over debt. South Africa can potentially join Ghana on this tier, should legislation that will enable its amendment powers be passed. Of the five countries, however, Nigeria seems to be the worse off. While it can amend the budget, its powers are not circumscribed – this could create the opportunity for poor budget discipline and blurs the division of power between the executive and the legislature, especially since the legislature does not approve revenue proposals and can therefore increase spending without any reference to how it is to be financed.

	<i>Scope of approval powers</i>	<i>Amendment powers</i>
<i>Ghana</i>	Revenue and Expenditure, no oversight over financing, no aggregate debt limits set.	Cannot introduce expenditure or revenue measures. Can adjust expenditure and revenue downwards.
<i>Kenya</i>	Revenue and expenditure, financing not directly approved as long as it is within the aggregate limit for outstanding liabilities set by legislation.	Can adjust expenditure and revenue downwards
<i>Nigeria</i>	Approval of only expenditure required.	Unclear: constitution grants parliament amendment powers but does not define them, nor establish clear timelines for their use.
<i>South Africa</i>	Revenue and Expenditure. No legislative approval of financing, no limit set on aggregate liabilities.	Unclear: constitution grants parliament amendment powers, but requires framework legislation to set out a process. Legislation not in place.
<i>Zambia</i>	Revenue and expenditure, caps on outstanding liabilities without reverting to legislature	Can adjust expenditure and revenue downwards.

Given the table above the clarity of roles and responsibilities in the legislative phase between the arms of government was generally seen as good in principle, unless the legal framework still needed clarification (Nigeria and South Africa). In Nigeria and Ghana the drafting responsibilities of the legislature (allocated in the legal framework) obscured the demarcation in principle of executive and legislative responsibility in budget making, leading to problems in practice. In Nigeria the legislature drafts its own budget, disagreement over which was a main focus of budget clashes between the executive and the legislature. In Ghana individual parliamentarians have say in spending proposals at a sub-national level, obfuscating executive and legislative accountability for budget making as well as the division between national and sub-national levels of government (and causing problems in implementation, when national parliamentarians attempt to award tenders).

In practice, however, it can be argued that poor take-up of the parliamentary right to scrutiny over time eroded the clarity of roles and responsibilities, especially in the case of Ghana and Kenya where amendment powers virtually lie dormant for years. In such cases legislative oversight is weakened, leading to scant attention to the submission of good expenditure estimates, poor planning discipline and weakened allocative and operational efficiency. Two of the studies (Nigeria, Ghana) explicitly point out the lack of awareness even within the legislature of its appropriate role.

Processes, time and capacity to scrutinise budget proposals

While the legislatures all have ample time to approve the budget, none gets to do so before the start of the financial year. In Zambia, where the legislature is particularly weak, the budget is tabled up to two months after the start of the financial year. With the exception of Nigeria where the legislature is creating a Legislative Budget Office, not one of the legislatures has access to independent research capacity. At the time of the research Zambia had no public hearings on the budget, while hearings in the other four countries had limited effect.

	<i>Time to consider the budget</i>	<i>Designated committee and process to scrutinise budget</i>	<i>Independent research capacity</i>	<i>Public hearings held?</i>
<i>Ghana</i>	Budget tabled one month before end of financial year. Four months provided for legislative scrutiny, but budget normally approved within 2 weeks of presentation.	Committee designated and process set out in parliamentary rules.	None	Opportunity for submissions or appearance provided, but rarely taken up due to late availability of information and very limited time.
<i>Kenya</i>	Budget tabled 10 days before end of financial year. Provisional approval needed (vote on Account allowing expenditure of up to 50% of funds) before	Committee designated and process set out in parliamentary rules	None	Hearings held, but with limited effectiveness

	year end. Budget approved 5 months later.			
<i>Nigeria</i>	Constitution does not provide deadline for legislative approval of the budget. Executive can spend up to 6 months of previous year's budget before approval is gained.	Committee on appropriation s exists; parliamentary rules sets out clear legislative budget process	Bill in place for the Creation of Legislative Budget Office	Hearings held where experts comment on the budget.
<i>South Africa</i>	Budget tabled 6 weeks before start of the financial year. Legal framework provides for unlimited time to pass -- however new types of expenditure may not begin without approval and spending limits before authorization are set.	Committee designated, but legislation to set out new process not in place.	No capacity	Hearings held with proceedings widely reported. Effectiveness limited due to dormant amendment powers.
<i>Zambia</i>	Budget tabled up to two months after start of financial year. Time for legislative phase extremely limited.	Committee designated, but tenure not assured and no clear process	No capacity	No hearings held

The Availability of information

As a key variable in a transparency system, the availability of information in the legislative phase merits further discussion. On the positive side the enormous amount of detail made available should be noted. However, the information is not provided with useful levels of aggregation, sufficient discussion of the policy base of spending proposals, in useful formats and above all, is often not reliable. The following table summarizes the findings and a more detailed discussion follows.

Country	Availability of information
<i>Ghana</i>	Poor, relatively detailed information available, but not comprehensive, not in useful formats and not accurate ⁵ . No actual spending information on previous year. Supporting documentation not adequate.
<i>Kenya</i>	Poor: detailed information available, but not in useful formats and not accurate. No systematic actual spending information on previous years. Poor supportive documentation. Information not accurate.

⁵ The data can be inaccurate in two ways. Firstly the estimate documentation can be an inaccurate reflection of government plans and secondly it can be an inaccurate reflection of what is likely to happen during the spending year. The assessment of inaccuracy here (and below) refers to the second sense.

<i>Nigeria</i>	Poor, coverage of information poor, excludes at least another 100% of funding that operates through extra-budgetary accounts. No supporting documentation and budget formats not useful. Information inaccurate.
<i>South Africa</i>	Very good, pre budget statement published, budget reasonably comprehensive, good supportive documentation on macro and micro fiscal decisions, measurable objectives (although not always of good quality) set, reporting on spending and delivery of previous years. Information accurate.
<i>Zambia</i>	Poor, relatively detailed information by administrative classification, but aggregate and programmatic supporting information lacking. Budget not comprehensive. No actual spending information on previous year. Data not accurate.

Lack of supporting documentation

For a start budget information is not particularly **useful**, as not one of the four published adequate supportive documentation. Mostly the budget speech (and an economic report, in the case of Zambia) provides the only contextual information. This severely impairs the effectiveness of a parliamentary check on budget proposals, especially when coupled with poor capacity within the legislature to understand the financial information presented (reported in the case of Kenya, Ghana, Nigeria and Zambia), no independent research capacity and limited time. In more detail, the budget is presented without:

- Information on actual spending in previous years, disabling a timely check on the integrity of budget proposals (included in South Africa). In Zambia even information on the previous year's spending proposals is not necessarily useful due to inconsistent classification.
- Sufficient information on the policy basis for expenditure (beyond what is included in the budget speech) including statements of programme objectives and measurable indicators of spending effectiveness and efficiency (included in South Africa). While public vision statements, development plans, poverty reduction strategies and policy documents are available, they are not linked to spending. Quantified fiscal policy objectives are not available (included in South Africa and Kenya).
- Sufficient and/or reliable information on outstanding debt (included in Kenya and South Africa).
- Sufficient information on the incidence of tax and on tax expenditures.

While in all five cases the budget is presented within a macro-economic context (albeit usually only in the budget speech) respondents in Nigeria, Kenya, Ghana and Zambia indicated that the information has not been sufficiently robust, either because key variables are missing, projections are not properly quantified or because no assessment of risk is included. In the cases of Kenya, Ghana and Zambia in-year cash budgeting mediate the fiscal impact of poor revenue reliability (to the detriment of allocative and operational efficiency). In Ghana (and to a lesser degree Kenya) the credibility of the MTEF has been severely damaged in its incipient stages because of

major deviations on revenue availability, and therefore funding for ministries. In South Africa the Budget Review contains a thorough discussion of the macro-economic outlook, assumptions and risks related to the fiscal framework and allocations. For example in the 2002/3 budget a larger contingency allocation reflects the higher risk profile for the budget.

With the exception of Nigeria all five countries publish indicators of the financial position of government. In Ghana and Zambia, where external debt is high, the overall balance and primary balance is given. In Kenya the deficit (excluding and including grants) is provided and in South Africa the deficit and the overall balance. However often the indicators are unreliable. In Nigeria timely information on sub-national revenue and expenditure and lack of consistent aggregate information (between the central bank, Federal Ministry of Finance and Auditor General information) make even the calculation of an indicative figure difficult. Reforms in this regard are one of the key objectives of the upcoming reform process.

While useful aggregations may be lacking, detail is not. In Ghana, Kenya, Nigeria and Zambia respondents remarked on the sheer weight of budget information. The problem is often not the amount of information available (of which there is plenty), but rather the lack of useful aggregation, classification and formatting. In Zambia, for example, reading the budget bill refers to the oral presentation on the floor of the main house of every single line item by administrative home right down to district level.

Classification

Budget classification, the disaggregation of spending into cross-cutting sub-categories, often does not enable scrutiny. In Zambia, for example, a statement on accounting policies underlying the budget is not published with the budget. Some respondents however, indicated that classification practices did support scrutiny (Ghana). Expenditure is classified in the five countries as follows:

	<i>Types of Budget Classifications Used</i>			
	Administrative	Economic	Functional	Programmatic
<i>Ghana</i>	Yes	Not consistent	Yes	Yes
<i>Kenya</i>	Yes	Yes	No	No
<i>Nigeria</i>	Yes, but not for capital budget	Not consistent	Yes, but only for capital budget	Yes, but only for capital budget
<i>South Africa</i>	Yes	Yes	Yes	Yes
<i>Zambia</i>	Yes	No	Yes	No

Revenue, expenditure and financing are not always distinguished sufficiently. The separation of expenditures between a development budget and an expenditure budget further complicates budget scrutiny. For example, in Nigeria expenditure is classified inconsistently across the two budgets, making it difficult to get a complete picture for any one department, type of spending or function. Budget documentation also does not provide information

on the impact of the development budget on the recurrent budget. In any case, the credibility of development budget estimates is always a function of the predictability of donor inflows, which is generally poor. The incentives on donors is often to overestimate their respective contributions in public documents, but under-perform when it comes to paying out and paying on time (Kenya, Zambia, Ghana). The MTEF in Ghana and Kenya may alleviate some of these problems.

The up front separation between discretionary and non-discretionary funds – practiced in Ghana -- also complicates the picture. Non-discretionary funds are statutory payments, interest payments and salaries and wages and are in some way pre-committed. Internationally there are a small number of countries that do not approve these funds on an annual basis, but do so periodically. However, in all the countries in the sample these funds are approved on an annual basis and can in principle be changed. The only difference between non-discretionary funds and discretionary funds is that the latter are more flexible immediately and that spending agencies have a higher degree of say in their allocation. It can be argued that the use of medium term expenditure frameworks provides a tool to plan for reductions in non-discretionary funds. The point here however, is that such a separation makes comparative analysis difficult across spending categories and hides the fact that these allocations are not fixed in stone.

Comprehensiveness of the budget

The budget as presented is also not sufficiently **comprehensive**. Generally information on extra budgetary activities with a fiscal impact (extra budgetary funds, contingent liabilities, donor project financing) is either lacking or incomplete. South Africa publishes the most information with certain extra-budgetary funds appearing in framework tables and some information provided on contingent liabilities. However its transparency practice in this regard is still lacking with incomplete liability information for the wider public sector, for example.

Generally summative information on sub-national expenditure is not available. In some cases, such as Nigeria and South Africa, the base for the division of revenue between levels of government is also not sufficiently clear to enable accountability for spending outcomes. In South Africa good information on the national and provincial sphere of government is available and on the local sphere of government, although in the latter case the estimates of total local government revenue and expenditure are based on projections based on sample budgets.

In Nigeria comprehensive budget information on all central government expenditure is not timely. The peculiar arrangement whereby each of the three arms of the state draft their own proposals leaving the legislature to harmonise them, means that a full picture of government's spending is difficult to construct in time to have any influence on the budget.

Reliability

With the exception of South Africa one of underlying impediments to transparency is the **unreliability** of budget information. The following table compares across the five countries the average absolute deviation⁶ of aggregate expenditure and revenue between 1997 and 2000.

Country	Absolute average deviation (1997 to 2000) between estimated and actual revenue and expenditure	
	Revenue	Expenditure
South Africa	2.5%	0.7%
Nigeria	18.6%	62.5%
Kenya	6%	8%
Zambia*	26%	28%
Ghana	21.7%	9.2%

Source: Country case studies.

*Information only for 1997 and 1998. Audited actual expenditure information for latter years not yet available.

Kenya's reliability performance is commendable on aggregate. However, respondents reported huge variation in the composition of expenditure. Shifting considerably large amounts of money within spending heads and between spending heads (virement) are a well-known feature of Kenyan budget management. The expenditure deviation figure also does not take into account arrears, which represent the difference between cash spent and commitments against budget. Shifts in the composition of expenditure are not exclusive to Kenya. It is a common feature of budgeting in the sample countries. However, elsewhere virement comes *on top* of high deviation (62% in the case of Nigeria) in the aggregate figures. Nigeria, Kenya, Ghana and Zambia identified the poor information base for budget preparation as a factor in poor implementation and the high unreliability of budget estimates. However in Kenya and Zambia poor costing of new policies was singled out in this regard.

Access to budget documentation

Finally, the obstacles citizens face when trying to access published budget information, poor as it is, make meaningful participation even less likely. In Kenya, Zambia and Ghana budget documentation is expensive, the number of copies is limited and usually it can be bought only in the capital. In Kenya a complete set of budget books for a year would cost an interested party US\$1000 and more, for example.

Effective legislative intervention

At the level of research for this study it is very difficult to estimate legislature effectiveness in scrutinising executive proposals. The number of times the

⁶ The absolute average deviation was calculated averaging deviation over the four years, whether positive or negative. Actual spending information was obtained from public documentation, whether the budget statements, audit reports, central bank reports or from the budget speech. While the research teams checked for changes in definition between different sources, it should be noted that the data may still be unreliable. The table above however represents the best estimate under the circumstances.

legislature intervenes can be one indicator, but it says very little about the quality of these interventions. On the other hand, the legislative scrutiny may not manifest as amendments, but nevertheless be effective. The following table provides an overview of the evidence of legislative intervention collected in the case studies.

The Nigerian legislature is by far the most active. The legislatures in Ghana, Nigeria, Kenya and South Africa mostly rubberstamp the budget.

	<i>Legislative intervention</i>
<i>Ghana</i>	Mostly rubberstamp, with the exception of adjusting rates downward on revenue proposals and once rejecting budget.
<i>Kenya</i>	Mostly rubberstamp, smaller amendments effected over years.
<i>Nigeria</i>	Delayed approval of budget for 2000 year, causing engagement by executive on legislative powers. Frequent and significant amendments to executive proposals.
<i>South Africa</i>	Mostly rubberstamp. However, committee holds hearings and drafts report with detailed comments, reported in media.
<i>Zambia</i>	Mostly rubberstamp. However, in 2001 the new Budget Committee drafted a report criticising proposals and budget management practices.

Section 3

Transparency in the implementation phase of the budget

The five case studies (and the differences between them) accentuate the importance of robust in-year transparency mechanisms for improved spending outcomes. The best systems and information during budget drafting and approval become worthless if weak institutional arrangements in the implementation phase allow unreasonable deviation from spending objectives and the estimates, albeit through underspending, overspending, virement or wasteful spending and corruption. The study framework incorporated the principle that appropriate checks and balances on the integrity of budget information cannot be left for the audit phase. With the exception of South Africa audit information comes up to 3 years after the close of the financial year and is not in formats that allow for easy comparison. By that time it is too late. In any case, remedial action is not a striking feature of budget management in any of the countries. Against this backdrop the availability of in-year timely, regular and accurate spending information to appropriate audiences is critical. Also, the existence of strong and transparent systems for the disbursement of funds and control of expenditure is a requirement for effective transparency, as is enforced and reasonable limits on deviation and sufficient provision for mechanisms to manage the risk of uncertainty inherent in revenue and spending plans.

This section (see Box 4 for more details on the study framework) therefore emphasizes robust systems for budget implementation (including transparent

and predictable disbursement, internal control and audit, procurement, reporting and monitoring), the provision of reliable information during the budget year to internal and external stakeholders and the clear assignment of roles and responsibilities within the systems.

Study results

In all five countries relatively good legal frameworks were supported by basic capacity and systems to control and report on expenditure. The responsibilities of individuals in the systems were set out relatively clearly. Taxes were seen as transparent and had a legal base.

In all five countries accounting and reporting systems are geared toward cash control and compliance monitoring and not commitment control and monitoring for propriety and economy. While accounts are produced, in-year reporting deficiencies, poor accounting systems and poor capacity contributes commonly to non-compliance with the fairly detailed and comprehensive legal frameworks. In Nigeria, Ghana, Kenya and Zambia financial management reforms are on the agenda. In most countries procurement (except in Zambia) was singled out for recent reforms, but information on tender awards and winners is still not published. In South Africa an on-going programme of financial management reforms emphasizes modernization of the legal framework, systems redesign and capacity building.

From the above it is clear that budget implementation cannot be seen as strong. One area merits specific discussion: cash budgeting. In Ghana, Kenya and Zambia⁷ cash budget systems have been implemented to ensure that the state never spends more than what is in the kitty – an essential (and often donor imposed) requirement to ensure affordable aggregate spending. The focus here is on their transparency effects and causes. In all three cases an internal committee periodically meet to review available funds and the claims for funding from spending agencies. In principle the most urgent claims are supposed to be funded first, but in practice this is not always the case. The decision-making of the committee is not transparent at all: the criteria for decisions are not known internally or externally, while the outcomes are not published. The committee therefore does not have to account for its decisions in any way. In Zambia the results of committee decisions filter into publicly available information years after the fact.

The cash budget system causes the composition of actual expenditure to differ greatly from the approved composition. For example, in Zambia the trend is for the expenditure shares to shift from the economically and socially relevant ministries (such as health) to general public services (defence and police) and the ministries and bureaus associated with the Office of the President. During 1997, for example, the defence release matched the defence allocation, while health received only 56% of its allocated budget. At a departmental level, the disbursement fluctuations alter the composition of expenditures. Cash releases for materials and supplies (RDCs) to the

⁷ In Nigeria too the study revealed that the federal treasury is increasingly withholding funds as a budget balancing measure.

ministries of health, education and agriculture respectively varied an average 33 per cent, 57 per cent and 73 per cent on a month-on-month basis during 1998. While salaries can be held stable due to the short-term overdraft facility with the Bank of Zambia to avoid funding shortfalls in this category, expenditure on RDCs absorb the cuts.

Besides reducing the accuracy of budget information, cash budgets have several other negative effects on transparency and accountability. It can be argued that cash budgets perpetuates a vicious circle where poor revenue estimation requires in-year adjustment mechanisms, which reduces the incentives on accurate revenue estimation. Planning discipline and effective parliamentary oversight are also affected negatively. When funding is unpredictable or less than planned, departments are also less accountable for service delivery.

The aggregate control benefit of cash budgets is somewhat diminished in that they are less effective in controlling the real deficit than the cash deficit. In effect a cash budget system passes the real deficit (which can be defined roughly as the difference between accrued revenue and accrued expenditure) on to future years. This compounds over years with proportionately increasing disruptive effects on expenditure. In 1995, less than 4 per cent of total domestic budget outlays in Zambia were spent on paying off arrears. By 1998, this figure had surpassed the 10 per cent mark. Between the introduction of the cash budget and 1997, the annual accumulation of arrears has increased from 0,6 to 1.5 per cent of GDP. In Kenya in 1998 total outstanding bills were KSh 22 billion, 12.9% of domestic revenue for that year. In Ghana approximately 3% of annual expenditure goes towards paying off arrears. It seems obvious that this effect of a cash budget system can be controlled by improved transparency. In Kenya arrears reduced to approximately KSh 10 billion within 18 months after a focused programme, supported by the simple requirement that spending ministries report outstanding bills as part of their monthly submissions. However, it is not necessarily as simple as that. In all five countries the state only accounts for cash: collecting information on new commitments and arrears in an environment of low capacity and poor record keeping may be easier said than done.

The legal framework for budget implementation

All five countries had detailed legal frameworks (legislations and/or regulations) that control expenditure and direct financial management. In general governments were at pains to comply with the constitutional requirement that all expenditures should be authorized. In three of the countries the framework legislation for financial management is older than 20 years (Nigeria, 1958; Ghana 1979; Kenya). In Nigeria revised regulations (2000) updated the system. In Zambia and South Africa framework legislation is much more recent (1996 and 1999). However in four of the five countries either the legal framework or the mismatch between the framework and practice was perceived as detrimental to transparency and good budgetary practice.

Zambia can be singled out as the country where the legal framework, particularly some constitutional provisions, lends itself to poor or mismanagement of public funds. Politicians and their administrative counterparts have virtually limitless scope to remake the budget during the spending year, with the only proviso that they have it authorized by parliament, up to approximately 3 years after the fact.⁸

Such use of legal mechanisms to legitimize non-compliance with other parts of a legal framework is not confined to Zambia. In Kenya similarly, although with stricter limits, the supplementary estimate mechanism is used after the fact and disproportionately to cover substantial shifts in spending. These in turn are due to spending overruns, new expenditures arising and accumulation of budget arrears that, despite being technically illegal, are so much the norm that they are standard practice.

The legal base is adequate for the separation of roles and responsibilities and appropriate checks and balances between the accountant general, the treasury, the central bank and the spending agencies as regards commitment control, disbursement, recording financial management information and reporting. Again, Zambia stands out as the exception where most of these functions are controlled within the ministry of finance (including the Central Bank, which falls under the finance minister).

Accountability provisions

It is interesting to note that legally in all the countries, accounting officers (usually the heads of departments) are accountable for controlling spending in line with budgets within the main heads of expenditure. In Zambia the system is slightly different, where an accounting officer is designated by the finance minister and directs expenditure for the department, subject to instructions by the head of department: public spending therefore remains very much in the control of the minister for finance. South Africa went a few steps further and devolved responsibility for the establishment of appropriate systems of financial management, procurement, internal control etc to the accounting officer. This could be seen as adding instrumentality to the authority, and may enhance accountability.

Ghana, Zambia and South Africa stipulate pecuniary (or criminal in the case of South Africa) liability for the loss of any public or trust moneys or stores through any action or inaction by public officials or through the commitment of

⁸ This happens in a two tiers – supplementary expenditure and excess supplementary expenditure. Should, for example, expenditure be required that was not provided for in the budget, a presidential warrant is sufficient to spend as long as Parliament approves such expenditure within four months. However, should over-expenditure on a voted amount occur, this can be ratified too. In addition, should unconstitutional expenditure have occurred, or should overspending on supplementary expenditure occur, it can be ratified up to 30 months after the end of the financial year. In addition, if any public money or stores have been lost or misappropriated, then such loss may be charged against moneys appropriated by the legislature with the approval of the permanent secretary for finance. The Financial Regulations also empowers the permanent secretary for finance to impose restrictions on any subhead or item of expenditure in the estimates. Coupled with the cash budget system this allows the ministry to decide unilaterally which activities will be funded.

any act in contravention of the law. In South Africa the criminal liability extends to failure to implement key parts of the new financial management framework legislation. However in Ghana and Zambia the enforcement of these provisions are virtually non-existent. In South Africa the act is still being implemented. Respondents indicated though the compliance with the act is high, which may be an indicator of the deterring strength of stringent sanctions.

Finally it is worth noting that all the legal frameworks include explicit provisions to ensure that expenditures are lawful. However the propriety of spending is not covered with an equal degree of clarity. In Ghana, for example, the controller and accountant general is tasked with the receipt custody and proper disbursement of funds, while propriety of spending is addressed in non-cohesive provisions in a number of other acts. In South Africa the new financial management legislation tasks accounting officers with ensuring that expenditure is economic, effective and efficient and in line with the approved budget.

Clarity of roles and responsibilities

The case study results on the clarity of roles and responsibilities provide food for thought:

- On average the responsibilities of parliament and the executive in implementation is clearly demarcated (with the exception of Ghana, where national parliamentarians get involved in procurement at local level). However, this does not lead to better accountability for spending since the oversight role of parliament is mostly confined to the audit phase (where it is easily ignored).
- In South Africa, Kenya, Nigeria, Ghana and Zambia expenditure responsibilities between levels of government are murky. In all cases vertical fiscal imbalances are corrected through revenue sharing systems,⁹ with lesser or greater degrees of transparency. In South Africa, for example, even if practice has succeeded in clarifying the complex implications of the constitutional framework, the demarcation of responsibilities are not widely known nor understood, detracting from the ability of different stakeholders to hold government (at different levels) to account. In Nigeria non-transparent division of revenue between the levels of government (a federal function) results in intergovernmental obfuscation of responsibilities. And in Kenya, low autonomy of sub-national government leads to under-funding and the ability to argue that interference by the national minister is to blame for poor services. On the other hand, at district level district heads shift the functional allocation of funds as authorized by the national parliament in accordance with their understanding of what is priority in their district – and have it authorized ex post through the supplementary budget.

⁹ It should be noted that Kenya and Zambia do not have independent middle-tier governments. Funds are channelled through the national spending departments down to district level in the appropriation phase, but often pooled and managed by district level administrative offices. However, the points made apply to the fiscal imbalances between the national and local levels of government and the mechanisms designed to address them.

- The expenditure control and financial management responsibilities within the executive may be clearly demarcated in principle, but are obscured in practice. Three reasons apply. Firstly in a number of instances the ad hoc creation of structures in addition to those mandated in the legal framework to address specific expenditure/financial management problems, created more problems than what it solved. In Kenya for example the role of a new budget monitoring unit (created in an effort to improve poor implementation) overlaps with that of the accountant general's department, as do the roles of the new financial officers in spending ministries with existing systems of budget planning, implementation and monitoring in the ministries. Secondly, when poor capacity in one area creates a vacuum in the system, a 'neighbouring' unit (in terms of their budgetary functions) expands its mandate, often leading to conflict of interest and diminished checks and balances. For example, in the case above, the AGD took up a full financial management function and expanded its accounting and reporting activities into expenditure monitoring when the budget supply department failed to fulfill its legal mandate in this regard. And in Nigeria poor capacity at line ministry level has the accountant general of the federation's staff compiling accounts instead of monitoring that the accounts are sound and reliable. Thirdly, poorly designed reporting lines or murky responsibilities leave certain functions unclear. In Kenya internal auditors sit between the Accounting Officer of a department and the central Inspector of Internal Audit, leaving them unable to fulfill their role and weakening the internal audit function. Accounting officers in Zambia face similar problems.
- The separation of roles and responsibilities of the central bank and the ministry for finance is not always clear. In Nigeria spending agencies can either finance funding shortfalls by requesting supplementary provisions from the minister of finance, or they can finance it through the central bank. In Zambia the central bank is part of the ministry and loopholes still exist for the bank to finance fiscal expansion. In Ghana the pre-election spending spree was financed in part by printing money.
- With the exception of South Africa and specifically in Ghana and Kenya low awareness of the legal framework for financial roles and responsibilities and the prevalence of long-established but non-compliant practice was a factor in obscuring accountability.

Availability of information

Generally sufficient in-year information to enable disciplined implementation of the budget was not available, either internally or externally. South Africa is the exception to this where the monthly submissions of spending outturns to the treasuries (national and sub-national) and the regular release of actual spending against budget have tightened financial management in the spending agencies and enabled continuous external engagement. Disciplined non-interference in spending by the central treasury has shifted accountability for spending deviations firmly to the spending agencies, who find themselves defending their delivery in public during the spending year.

Elsewhere internal reporting is inadequate and systematic external reporting non-existent. In Kenya, for example, the monthly submissions to the

accountant general department in the treasury exclude spending on wages and are not in alignment with the release of cash system. The quarterly report on the budget (Kenya is the only country where a comprehensive in-year state of the budget report is required) does not systematically release all spending outturns, but comprises a selective and mostly positive discussion of government's performance. In Ghana the detailed provisions in the legal framework for internal and external reporting is mostly just ignored. In Zambia the provisions are inadequate (only an annual financial report is required) and not implemented. Record-keeping is poor and a number of transactions take place outside of the official system. In Nigeria misalignment in the reporting periods for various kinds of spending makes it difficult to keep adequate internal control during the year. None of these reports, inadequate as they are, are released for public scrutiny.

Finally, an assessment of the ease of public access to unpublished state-held information revealed that Ghana, Nigeria and Kenya have official secrets legislation in place that makes it extremely difficult for public officials to release information on request (assuming willingness to do so). In Ghana and Nigeria in fact, the research for this report occasionally ran into stonewalling with officials arguing that their hands are tied by the official secrets legislation. In Zambia the legislative field on this issue is relatively neutral, but in South Africa government passed an open democracy bill that enshrines the right of public access to state-held information. The benefit of this legislation will become evident. Recently a civil society organization took the minister of safety and security to court to release suppressed crime statistics, which arguably is a key indicator of performance in this sector.

Existence of systems and capacity

Financial management information and accounting systems

All five countries accounted for cash. In Ghana account classifications are required by law to coincide with budget classifications, which in principle makes budget scrutiny easier, provided that it results in the timely publication of actual spending information. In Ghana and South Africa internal reporting requirements were thought to be stronger, but in Ghana internal reports were not always produced as required or on time. Internal reporting is confined to financial information. Commitment control and reporting on commitments and arrears are generally weak, as are internal controls¹⁰ and early warning systems. Ghana, Kenya, Nigeria and Zambia use disbursements to control for levels of expenditure, but with no checks on the resulting composition. Virement controls are in place in principle, but are not necessarily enforced. South Africa operates a system of predictable disbursements against the approved budget and controls for compliance through an early warning system based on internal reporting. Virement within this system is limited and controlled.

Procurement

¹⁰ For the purpose of the study internal control systems were defined to include internal audit, mechanisms to control deviation, the level to which deviation would be detected (aggregate, lower levels of classification, at disbursement level or through reporting), reporting, reconciliation, and procedures for remedial action.

In Ghana, Kenya, Nigeria and Zambia procurement systems were recently revamped. In Ghana, Kenya and Zambia the system moved towards more decentralized procurement. In Zambia only the administrative aspect moved and the central tender board was retained, while in Kenya and Ghana the administrative function and decision-making authority were moved out to departments or lower levels of government. In South Africa procurement has become the responsibility of accounting officers at spending agency level within framework regulations detailing different authority mechanisms for different levels of spending. In Nigeria and Ghana the reforms included more open procurement practices.

The main shortcoming in all five countries is that information on awards is not made available systematically. In South Africa there are plans to establish an internet site that will make this information available across all levels and units of government.

Debt management

The creation of debt management units in Ghana, Kenya, Nigeria and Zambia is a positive development. All of these units still struggle with lack of capacity to move existing debt onto the system, not to mention recording and managing new debt. The mandate of these units differs. In some countries they are supposed to negotiate, channel and manage all external money inflows (Ghana), while in others they act as central information depositories (Kenya). In Kenya domestic debt is managed well and reported regularly (as a market function), while in South Africa debt and asset management is increasingly sophisticated. The only country that routinely publishes information on changes in debt is South Africa, where quarterly statements and monthly financing reports are released.

Systems authorizing expenditure if the budget is passed after the start of the financial year

All the countries have transparent provisions for spending after the start of the financial year and before the budget is passed. Ghana and Zambia control expenditure through a time limit, Kenya through a limit on the amount that can be spent, while Nigeria and South Africa uses a combination of time and money limits.

Country	Provisions
<i>Ghana</i>	President may withdraw funds (limitless) within the three months provided to approve the budget.
<i>Kenya</i>	Parliament votes up to 50% of proposed expenditure on account after a week-long review of spending and revenue proposals
<i>Nigeria</i>	President may authorize spending for up to 6 months along the lines of spending on the previous budget in this period.
<i>South Africa</i>	Funds may be withdrawn, but only for purposes included in the previous year's budget, and only 45% of previous year's budget in the first four months, 10% in subsequent months, but never exceeding total of previous year's budget.
<i>Zambia</i>	Four months of expenditure allowed without approval of

parliament. No money limits set.

Systems to manage emergency funds and contingency reserves

Kenya, Nigeria and Zambia have established contingency funds with clear rules regarding the use, reporting and re-imburement of the money. In all cases funds may be withdrawn for needs (defined as unforeseen, urgent and/or emergency needs), but only with the authorization of parliament and only if a supplementary appropriation is passed to replace the funds. In Ghana the president is allowed to make emergency expenditure, but it needs to be ratified by parliament. In South Africa a 2% of total budget limit is set on the amount of money that can be withdrawn by the minister for finance for emergency needs. The minister must also report on the use of these funds within 14 days to the parliament and the auditor general and authorize it through the adjustment budget. In South Africa a contingency fund is operated within the medium term expenditure framework to allow for uncertainty during the spending year. This fund does not operate under the provisions for emergency spending (although the money may be used for such purposes) has no legal bases however, and the rules for its use are not clear. It is usually absorbed in additional allocations in the adjustment budget.

Capacity

All the countries reported weak capacity at central and spending agency level to manage the budget and record spending. In Kenya the low public service remuneration levels were noted as a root cause of high turnover and low capacity. In South Africa early concerns about the capacity to implement the demanding provisions of the new financial management legislation were partly laid to rest in the first two years of implementation.

In conclusion, while the legal frameworks set out the minimum requirements for sound budget management, non-compliance has become the norm. In many cases new arrangements in response the challenges not adequately regulated by the framework, have not improved adherence to norms and regulations. Most of the countries have good systems on paper: emergency spending, procurement, debt management and virement control are all examples of issues that are adequately covered in principle, but not always followed through in practice. The lack of periodic and timely information on actual spending, actual procurement outcomes, actual changes in the level of debt and actual shifts in the composition of spending is a critical shortcoming. The beneficial effect of good information is illustrated in the South African case, where the monthly publication of actual spending data (with a month lag) has not only created an effective demand for better accounting and reporting, but facilitated early detection of spending problems, leading to earlier remediation. The public availability of these reports encourage good financial management practice. The explicit liability of individuals for compliance with the reporting requirements and the stringent sanctions applicable to non-compliance, contribute to the development of capacity in structures to comply. These provisions have their base in the new financial management legislation that holds individuals responsible for compliance, and poses stringent sanctions for non-compliance.

Section 4

Transparency in the Audit phase

The audit phase guarantees the integrity of implementation data and systems. Audited budget outturn information is a credible source of actual spending information and essential to constructive engagement with budget estimates in the drafting phase. Also included in the framework definition of this phase is the legislature's oversight over the public accounts, its reports and the fate of its recommendations. Effective audit and ex post legislative oversight serve to correct past wrongs. However, an equally important result of effective processes in this phase is the implicit cost it places on non-compliance and poor financial management. A weak audit phase on the other hand, makes it less costly for budgetary actors to neglect their obligations and/or act in ways that contravene the regulatory framework.

The timely availability of information, the independence of the auditor general, the capacity of his office and the scope of his powers are all contributing factors to the strength of the audit system (See Box 5 for more detail on the study framework). However, the publication of audit reports is necessary, but not sufficient to enable accountability. The ability of the legislature to take up the issues raised in the reports and demand accountability from the executive is important, as is the strength of public interest in the reports and clear assignment of the responsibility to prosecute.

Study results

Although the independence of auditors general is entrenched in the constitutions of the five sample countries, this independence is often only nominal. Lack of resources, capacity, poor practice, low compliance with information submission requirements and lack of follow up impedes the functions of the auditor general. South Africa is the exception in many ways, with the auditor general not being dependent on a single budget vote for funding and where recent changes in public financial management has sharpened practice generally, assisting the auditor general in the timely submission of reports. However even in South Africa follow up on the reports remain weak. While some countries have attempted to establish mechanisms to improve this aspect, the political will is lacking to see it through.

The recent reduction of audit backlogs in some of the countries is a positive development. However, information availability in the audit phase remains weak, if only because it comes too late to be of much use. Audits are also incomplete and not classified and presented in ways which make the reports useful. All the countries publish reports that supplement the audit reports. These too often come years after the fact and aggregate information at country level, but they are useful documents even if they only present actual spending information in line with the budget and/or provide a statement of government's financial position. Line ministry level reports containing non-financial information is available only in South Africa.

Legal framework and clarity of roles and responsibilities

Independence of the auditor general

The independence of the auditor general and his office is guaranteed in the legal framework of all five countries. Mostly the auditor general is empowered to audit the accounts of all public offices, but with limited powers regarding public enterprises and entities. In Ghana and Zambia the auditor general have full authority to audit the accounts of the public enterprises. In Kenya the Auditor General State Corporations audits public enterprises. In Nigeria and South Africa the Auditor General has supervisory rights over the audit of public enterprises. In Nigeria these rights are much weaker.

The independence of the auditors general is guaranteed in principle. In Nigeria, Ghana, Zambia and Kenya the auditor general reports to parliament, but is funded from the main budget. In Zambia the relationship between the auditor general and the legislature is not direct: the auditor general does not submit to the legislature. The president is instructed to submit the report within 7 days of the first sitting after receiving them from the auditor general. In Ghana in addition the auditor general is funded from the ministry of finance, which in effect means that the ministry approves all his/her activities, in addition to being under-capacitated and under-funded. In South Africa the auditor general reports to parliament and works on a cost recovery basis from his/her clients, ensuring a greater degree of independence and incentivising the preparation of good accounts (since the longer s/he spends on an audit, the more it will cost the client).

Specific instances can erode the independence of the auditor general. In Nigeria, for example the President ordered an audit of the account of the National Assembly, following friction between the executive and the legislature. The Auditor General complied and submitted his report to the president (although constitutional reporting to parliament) who released it to the media. The events generated by the published audit report raised doubts as to whether the auditor general was not used to punish the leadership of the legislature who were at loggerhead with the executive on a number of issues.

The constitutional arrangements for the tenure of the auditors general are set out below:

	Appointed by	Tenure	Removal
Ghana	President	Up to 60 years of age	On grounds of inability, incompetence or misbehaviour by a vote of more than two thirds of the judicial council.
Kenya	President	Up to an age determined by president	By president for inability or misbehaviour and after recommendation by tribunal appointed by president.
Nigeria	President, on recommendation of the public service	Up to an age as determined by law	By the president if asked by a majority of two thirds of the senate for inability to fulfil his/her mandate or misconduct.

	commission and ratified by the Senate		
South Africa	President	Fixed non-renewable term of up to 10 years.	By a two thirds majority vote of the national assembly on the grounds of misconduct, incapacity or incompetence and after investigation by an assembly committee.
Zambia	President, approved by parliament	Up to 60 years of age	By the legislature after constituting a tribunal and holding an investigation, only in cases of incompetence, inability or misconduct

Scope and coverage of the audit

With the exception of Nigeria, the national auditor general audits the accounts of all levels of government. In Nigeria the states of the federation appoint their own auditors general and they have similar powers to that of the auditor general of the federation.

In the five sample countries the auditor general is mandated to audit for compliance with financial regulations and the integrity of financial information. In Ghana s/he is also mandated to audit whether financial transactions were conducted with due regard for economy. In South Africa the intention of the auditor general to audit performance to some degree has been mooted, even if it is constrained to auditing the integrity of performance information.

With a few exceptions, audit coverage is reasonably complete. In Ghana the auditor general is unable to audit the defence budget properly, since s/he is not allowed access the physical assets. Often ministries refuse to make available information or accounts (for example the lapse by the Ministry of Finance to submit information on a foreign bank account) or are unable to, due to lack of proper records. Also, not all departments are audited, due to low capacity in the office of the auditor general. In Zambia the presidential fund is audited only up to disbursement level and information on financing is not complete. In Kenya local government budgets remain un-audited years after the fact.

In Nigeria the powers of the auditor general as regards public enterprises is limited to providing a list of approved auditors for public enterprises. The auditor general reported that his requests for information from these enterprises have often been ignored and that he is not always satisfied with the performance of the auditors. However, recently it has been recommended that the auditor general should be able to remove auditors from the list.

Availability of information in the audit phase

Spending agencies publish annual reports only in South Africa, as required by the new financial management legislation and the public service regulations.

In the Zambia, Kenya and Ghana country-level reports are required and published (in addition to the auditor general's report) but these are often late. On the positive side these reports aggregate information that is not aggregated anywhere else, even if it is late. For example in Zambia the report provides some information on all payments made, all revenues received and can be used by parliament to demand additional information. Nigeria has no requirement for a report offering a comprehensive view of government performance.

In Kenya there is no requirement to make the audit reports public, although they are published. On the other hand, because the auditor general is also the controller general in the disbursement process, s/he can refuse to disburse to spending agencies on the basis of non-compliance with financial requirements. This power however, is not exercised.

The timeliness of audit reports detracts immeasurably from the effectiveness of the audit process to enforce accountability. The table below demonstrates that in four of the five countries audit reports are more than a year late (and generally come 2 years after the end of the respective fiscal years). This means that serious problems may remain unaddressed for up to 18 months longer, the interest of the public is less acute and the ability of the legislature to fulfill its functions is reduced – often ministers and officials may have changed. On the positive side in some of the countries, for example Nigeria and South Africa, audit lags have been reduced considerably in recent years.

	In principle	In practice	Deviation
Ghana	6 months after fiscal year end	24 months	18 months
Kenya	11 months	24+ months	13 months
Nigeria	3 to 6 months	24 months ¹¹	18 months
South Africa	7 months	7 months	0 months
Zambia	9 months after fiscal year end	24 months	15 months

With the exception of Ghana and South Africa classification of audit reports was not consistent with budgets, making the information less useful for public scrutiny of budgets. In all cases expenditure was audited – as set out by the legal framework -- not programmes. This means that the audit reports (and rarely any other reports) do not provide any information on the results of spending. In addition the formatting of the reports is not conducive to easy reading. A lot of detail is provided without useful aggregation or analysis. In South Africa the format of the report was recently revamped, making it more accessible.

Systems and capacity in the audit phase

In all the countries the capacity of the office of the auditor general is not sufficient to fulfill his/her mandate effectively. Complaints are frequent of lack

¹¹ No audited accounts were available for the period 1992 to 1998. The last of this backlog was only recently cleared with the submission of accounts for 1998. However, audit reports still lag.

of resources, lack of capacity, high staff-turn over and low morale due to lack of follow up and lack of compliance by spending agencies in the submission of information. Part of the problem is often that the capacity does not necessarily exist in the country itself and that it is therefore even more difficult to attract scarce skills. In December 1997, there were 511 qualified Chartered Accountants in Zambia. Of these, 416 were Zambians, and four (4) worked for the government. That a mere 44% of the voted allocation was released to the auditor general in these years exacerbates the difficulties the office face. The one exception may be South Africa where recent strategic redirection of the office of the auditor general has had positive consequences, although capacity is still constrained.

Systems to follow up on audit reports

In all five countries the auditor general submit the audit reports to parliament, where a designated committee scrutinises the information and prepares a report for the house. In some cases the remit of the public accounts committee includes the mandate to make recommendations to the executive (through the floor of the house) for remedial action. In most cases the committee can hold hearings, although these are not always required to be public. In Zambia parliament makes recommendations for follow-up, a responsibility that reverts to the auditor general.

In Kenya the public accounts committee calls all accounting officers to appear before it. These hearings are not required to be public, but the parliamentary debate on the reports receives wide media coverage. The treasury must implement parliamentary recommendations and prepare an annual memorandum in this regard. These reports generally are in place. However, that has not necessarily enhanced accountability. Over the years the reports of the Auditor General have cited numerous instances of fraud, wastage and poor accountability. However, indiscipline has gone unpunished, and suspected corruption not brought to justice.

Nigeria, Zambia and South Africa specifically reported good relations between the auditor general and parliament, with technical support provided to public accounts committees by staff of the auditor general's office.

In Ghana a number of external bodies (for example the Commission on Human Rights and Administrative Justice), are mandated to follow up or assist in some way in building an accountability structure. The constitution also allows any person to bring an action before the Supreme Court against alleged contraventions of the constitution. This mechanism was used, for example, to stop government plans to use public funds for a political celebration. The public accounts committee finds itself unable to hold the executive to account in practice: the committee is unable to enforce representation of public institutions at its sittings and has not power to enforce follow up on its recommendations. However a new executive unit set up in terms of the 2000 audit service legislation, the audit report implementation committee, will address this lapse. Apart from Kenya (see above) not one of the other countries reported success in enforcing recommendations or any institutional arrangements to facilitate follow-up.

Section 5

Transparent management of extra-budgetary activities and the wider public sector

Transparent fiscal management requires that all fiscal activities should be subject to scrutiny as part of the budget process. For the purpose of the study the definition of extra-budgetary activities was expanded to include those activities in the public sector that do not use funds directly raised or appropriated under the annual budget, may impose an implicit cost on the fiscus, or have fiscal implications. Although extra-budgetary activities may be managed independently and have standing legislative authority, they should still be reviewed periodically as they directly or indirectly use public resources or impose costs on households and should be part of the priority setting process. Furthermore, the affairs of these institutions and funds should be included in any picture of the public finances since the burden for any shortfall in such funds often reverts to the central budget.

Secondly, transparent fiscal management requires that the boundary between the government sector and the rest of the economy should be clearly defined and widely understood. Government involvement in the rest of the economy (regulation, equity ownership, financial support) should be conducted in an open and public manner and on the basis of clear rules and procedures that are applied in a nondiscriminatory way, and be widely known. (See Box 6 for more detail on the study framework).

Results

The lack of information on extra-budgetary activities and other operations with fiscal implications detracts from the transparency of public finances in all five countries to a lesser (South Africa) or greater (Nigeria) degree. Low transparency practices regarding the management of these activities create opportunities for corruption. In addition, Nigeria, Ghana, Zambia and Kenya fall far short from considering or publishing comprehensive budgetary information in this regard, making public scrutiny of allocative decisions incomplete.

The sample countries all had extensive fiscal operations of an extra-budgetary nature, albeit through public enterprises and public financial institutions, extra-budgetary funds or contingent liabilities and tax expenditures. For example in Nigeria a \$100 billion was sunk into public enterprises between 1979 and 1992 (with very low returns) and in 1998 alone, government transferred N256 billion to public enterprises, roughly equal to spending on the main budget.

The studies in all five countries found the legal framework weak. While separate legislation usually controls the financial management of extra-budgetary activities, there are no provisions to bring information on these activities into the budget process or make it public in an easily accessible and uniform way. The revamped South African financial management legislation took a step in the right direction by bringing all public enterprises under the umbrella of the act, requiring similarly stringent financial management systems and assigning accountability to the boards as accounting authorities.

Also, more information on these activities is available on budget (or in the background information to the budget) in South Africa than in the other countries.

Extra-budgetary funds

Extra budgetary funds are common. In Kenya for example 38 such funds operate, often on unclear legal bases. The financial management of these funds is clouded, with limited referral to parliament. In addition, there are concerns about their effectiveness: some continue to raise their entitled levies, but are not longer operative on the ground. In Nigeria off budget accounts provide finances for a significant number of public activities. Government extra budgetary expenditure financed through these accounts and funds include domestic and external interest payments, recurrent expenditure, special projects, government expenditure on the foreign exchange market and other expenses. Some of these accounts are operated without due rules for deposits and withdrawals and are used to divert funds from the Federation Account. There is no systematic information available on the magnitude or intended use of these funds on budget, and no reporting on actual use. Given the size of these funds, that is problematic. The study showed that an amount of N198 billion from excess oil sales was not recorded in 2001, and a total of N402.9 billion for 2000 (against a total approved budget of approximately N700 billion) was not covered in either the appropriation or supplementary appropriation acts for that year.

Public involvement in the private sector

The division between the public sector and private sector is made transparent in some countries, but not widely known. In other countries the division itself is not clear. The studies reported that the management of these enterprises is not always transparent. Appointment of boards in the case of Zambia and Ghana is by the government, creating opportunities for political patronage and continued interference. The availability of information on flows from the main budget to the enterprises and on their financial returns is often weak. In Zambia, where the defaulted liabilities of public enterprises sometimes are the first calls on money available under the cash budget system, information on the flows is not routinely available and may only filter into the public domain two years after the fact. Audit reports on the enterprises are not readily available in Nigeria (where their audit is not within the remit of the auditor general), while in Kenya and others they are often late, similar to the audit reports on the main budget.

Privatisation

In Nigeria and Zambia, where the state has been divesting in public enterprises, information on privatization is not always available and the process was not always transparent. The study in Nigeria, where a national council for privatization has been constituted, found negative and positive aspects of privatization: the positive aspects include the advertisement of all consultancy positions and for all core investors in the privatisation process, publication of the process of selecting consultants, advisors and core investors including their qualifications as well as conducting all bids for some of the enterprises publicly, in front of TV cameras. On the other hand the

council has sweeping powers to change the institutional arrangements for privatization without reference to any authority. In addition, the proceeds of privatization have been paid into a separate fund, from where it has been allocated without reference to parliament.

In South Africa and Ghana there is better reporting on the income from and outflow to public enterprises and the privatization processes have been more transparent with information on the outturns readily available.

Contingent liabilities

Contingent liabilities and other operations with fiscal implications are poorly reported, both before and after the fact. In Kenya, Zambia, Ghana and Nigeria no statement on contingent liabilities is published with the budget, while in South Africa the information is incomplete. In Zambia there is a legal requirement to report on these liabilities (and equity holdings) but it is not always fulfilled.

Section 6

Civil society participation

The study was grounded in the principle that the level of transparency in any country is a function of the actions of both the state and its clients. While the executive may provide fiscal information, the results require scrutiny and verification by other institutions to be true transparency. Whereas the previous sections of the chapter referred to the state's supply of information, this section deals with the ability of civil society to take up that information and demand accountability and contribute to policy (See Box 7 for more detail on the study framework).

Study Results

In all five countries the activities of civil society organizations have opened up the budget process, even if it is to a limited degree. While the evidence collected in the survey is anecdotal, it is a striking feature that good analysis underpinned the limited degree of voice that resulted. For example in Zambia, where the budget is kept close to the chest of the ministry of finance, analysis by civil society organizations on the poverty impact of the budget has forced these priorities onto the minister's agenda. Similarly in Kenya technical input by civil society in the drafting phase is utilized by the executive. In South Africa recourse to the judiciary by civil society organizations has been on the rise. In one recent case the first government was forced to speed up the registration of new applicants for a child support grant and wipe backlog applications after a court application by civil society. In another a group of civil society organizations took the government to court for its refusal to publish crime statistics on the basis of the open democracy legislation. In Ghana similar action is possible under the provision that anyone – even without legal standing -- can initiate court-action on the basis of alleged contravention of the constitutional provision.

In all five countries there is no legal obligation on the government to allow civil society access to the budget process, as can be expected given the traditional understanding of the budget process as closed and entirely within the purview

of the state. However, demand by international institutions and donors to increase accountability in the budget processes of the countries studied (mirrored in South Africa by internal interest in the contribution of external accountability measures) have created more opportunity for voice by the citizenship. In Ghana, Nigeria, Kenya and Zambia where poverty reduction strategy paper processes have gotten under way, this voice however was confined to the identification of priorities and broad policy discussions. Access to the heart of the budget process is still very limited and the required role from civil society unclear or not widely known. In Ghana and Nigeria, calls for civil society involvement in monitoring complements input in the setting of priorities. However, access to the allocative process is still barred, where civil society experience in innovative delivery on the ground and understanding of circumstances can produce better policy.

With the exception of South Africa all the studies reported that low availability and usefulness of information prevents civil society engagement and the growth of capacity.

That access is still limited should not detract from the growth in civil society capacity to engage with the budget. In Ghana, Kenya, Nigeria, Zambia and South Africa specialist non-governmental organizations are gaining technical expertise to engage government in public debate on its own terms. These organizations access processes either directly through the executive, through the legislature or by attempts to leverage public opinion through the information releases and the media.

It is only in Ghana that civil society organizations are involved both in policy research and analysis on budgetary allocations and in the monitoring of spending. In Ghana, Kenya, South Africa and Zambia civil society accesses the policy process directly through the executive and through information releases into the wider public domain. In South Africa the legislature is also a major access point and in Nigeria the few active budget groups work mainly through the public domain. In all five countries the activities of civil society are still mostly on their own volition, however in Ghana the executive has shown increasing interest in using civil society capacity to supplement the research and analysis underpinning budget decision-making.

The freedom to organise and freedom of speech is not equally guaranteed in all the countries. In Zambia freedom of association and speech is curtailed in practice, although guaranteed in theory. For example, in the last two years the independent press have come under fire for printing allegations on the use of public funds and resources to sustain actions outside of Zambia's borders and about the president's use of public funds. Civil society and especially the press find itself in a difficult situation in such cases as it has only limited financial means to seek recourse from the judiciary.

Section 7

Donors and transparency

External donor financing of budgets in Nigeria, Ghana, Kenya and Zambia¹² is considerable. How these funds are decided and managed is a transparency concern. The domestic transparency argument as regards donor funds are complicated by the material interest of donors – and their own taxpayers – in how funds are spent. While transparency for these purposes is legitimate, it is seen as a separate issue and not covered here. The study was concerned with the implications of donor funding for domestic transparency, for the ability of the citizenship to hold government to account for the level, use and achievement of spending. As with transparency for spending in general, citizens have a right in principle to timely information about any decisions made on their behalf, whether the funding comes out of their pocket or not. In addition, the interest of donors, the management of donor funds and the use of the funds themselves have implications for the rest of the budget that should be transparent.

The transparency of funds that are managed through the main prioritisation and financial management machinery of the state (the rare cases of general budget support) are by definition covered in the sections above. However, where government commits to loans on behalf of the citizens and these loans are earmarked (excluding citizens from the trade-off decisions made), or agrees to grants where the use of the money is predetermined, or agrees to conditionalities a new set of transparency concerns arises.

1: The funds themselves have implications for current and future budgets that should be transparent and for which government should be accountable.

2: Donor activities can introduce new priorities that cut across domestic priorities.

3: The management of these funds impact on financial management overall either undermining accountability or increasing transparency even if only in a specific area of spending.

4: Donors can introduce systemic reform priorities that impact on transparency and accountability.

In addition the transparency of donor relations with the sample country governments was assessed, especially insofar they impact on a governments engagement with its domestic stakeholders, positively or negatively (See Box 8 for more detail on the study framework).

Study results

Donor involvement has both negative and positive consequences for budgeting systems. On the positive side, donor conditionalities increasingly focus on the systems for budget and financial management, and require reforms that will improve transparency and accountability. In all four countries systemic reform programmes are afoot, all with the support of donors. However, the process to design these programmes is often not transparent, excluding external stakeholders that have a material interest in their effects.

¹² South Africa, where donor funds contribute less than 2% of the budget, was not assessed.

Donors are also active in enforcing the existing framework, for example in Zambia where donors apply pressure for cases of misconduct to go through the disciplinary system. In recent years donors have also become an unexpected (and sometimes uncomfortable) ally of many civil society organizations with shared priorities for public spending -- donor interest in pro-poor spending coincide with civil society interests. Despite these positive effects on budget systems, donors, in the face of poor financial management systems in client governments, also create parallel project financial management systems that comply with donor internal financial management and reporting requirements, but divert capacity away from the main budget systems and disallow transparency.

On the negative side decisions about donor funds, which can displace funding through the main budget, distort the effectiveness of spending allocations and undermine internal accountability systems, are still made in ways that are non-transparent and exclude stakeholders. In addition, the level, allocation and use of these funds are not transparent, affecting the comprehensiveness of budget information available. Adequate management systems are lacking, affecting the effectiveness of their use.

Donors also do not engage with parliaments and other domestic stakeholders, but with the executive. With low information release on these transactions, parliament and civil society is marginalized. The higher the contribution of donor funding to expenditure, the more internal stakeholders are marginalized.

The four countries assessed all have seen the recent creation of debt management units that provide some capacity to coordinate donor funds and make their allocation and use more transparent. However, in many cases the units operate within opaque rules, may handle only certain aspects of financing, are not well coordinated and have very low capacity. Common frameworks or guidelines on donor management are not in place. It is only in Ghana that parliament has to approve all loans. In all the other countries the executive is unfettered (except for a high aggregate ceiling in Zambia) in taking on debt on behalf of the citizenship.

The roles and responsibilities within the executive as regards donor funding are not clearly assigned (Zambia, Kenya, Nigeria) and frameworks for their management are weak. In Ghana donor coordination is better with donor coordination units in each spending agency that can engage with donors. However all agreements are negotiated and signed with the ministry of finance, which has a debt management unit. Not all respondents agreed that these roles are applied clearly in practice.

Availability of information

Generally the availability of information on donor financing is poor.

- Either very little information is known (Zambia) or where adequate financial information is known, information on conditionalities and use of funds is lacking (Ghana). In all four countries some information on donor funds is

carried on-budget, but is either incomplete or in the case of grants, best-guess estimates of what the total eventual grants will be.

- The on-budget information, inadequate as it is, is not disaggregated by its use and not always by source or type of financing.
- Information on project implementation and completion rates is also not available or minimally available.
- Information on the future implication of donor funds is not readily available. Even where it is assessed, the results are not released to the public (Ghana).
- Donors in all the assessment countries engage directly with spending agencies. Information availability on such projects is particularly low.

Conclusion

While the issues raised in the report may seem overwhelming, it is important to remember that some of the budgeting basics are in place. The decade of the 1990s saw many positive developments that set the stage for better economic governance. The reactivation of the legislative arm in Nigeria and Ghana and tolerance for the rekindling of legislative oversight in Zambia and Kenya, the introduction of medium term expenditure frameworks in Ghana and Kenya, and incipient moves to utilise civil society capacity in budget monitoring (Ghana and Nigeria) can all be listed in this regard. In addition in all the countries reform drives are underway to build on these towards better budget systems. In many ways the case studies, in pinpointing transparency, accountability and participation shortfalls, can contribute to the success of these reforms.

Before turning to the recommendations, we list the most important concerns raised:

- Legal frameworks are either inadequate or not applied (or both).
- In the legislative phase information is not comprehensive, useful or (above all) reliable. Given that scant information is available during implementation and that audited actual spending information filter into systems up to three years later, stakeholders outside of the executive rely on the published budget to engage with key policy issues. Unreliable budget estimates render parliamentary scrutiny futile and prohibits the growth of citizen engagement.
- The lack of transparency in the implementation phase is lamentable. The use of cash budget systems creates problems in themselves, but when they are accompanied by non-transparent allocations and no actual spending information, these problems are exacerbated.
- Internal audit units and auditor generals are underfunded and lack the capacity to produce timely audits. Follow-up on audit reports is weak. This allows non-compliance to go unchecked.
- The use of extra-budgetary mechanisms undermines parliamentary and public scrutiny of state activity. The low levels of transparency on these mechanisms are not conducive to the principles of economy and propriety in public spending.

On the side of external stakeholders the study showed growing civil society and legislature demand for transparency, access and better results in all the countries. This positive trend could be harnessed to promote positive change. Given the shift in the political climate towards democratisation now is a fortuitous time for the budget reforms mooted, provided that they pay attention to the principles of transparency and participation. The first steps on the road to more open systems need not be enormous to kick-start a virtuous cycle of greater demand for transparency and better spending results. The country specific recommendations are many and detailed. Here we address a number of core issues:

- 1: Repeal official secrets legislation and replace it with legislation that guarantees appropriate citizen access to state-held information. Entrench the provision of comprehensive and timely information on the estimated allocation and actual use of state-funds in a budget law that also sets out a clear process and clarifies roles and responsibilities.
- 2: The improvement of budget documentation is a critical first step. Budget documentation should include fiscal policy statements, explain the policy base of allocative decisions and be framed in the available actual spending and non-financial information on the previous fiscal year.
- 3: External reporting during the spending year should be obligatory. Allocations under the cash budgeting system should be published. All departments should report on achievements. If late audit information makes early annual reports at central government and spending agency level unfeasible, interim mechanisms should be created.
- 4: Extra-budgetary spending should be brought onto budget. If this is difficult, comprehensive and accurate information on these activities should be included with the budget.
- 5: The enhancement of external transparency should coincide with efforts to build internal transparency. Often political decision-makers and their administrative advisors make decisions on very imperfect information. The efforts to enhance the external transparency should be mirrored by the use of internal transparency tools, such as a comprehensive view of spending and available funds at key decision-making points and internal reporting during the spending year.
- 6: The capacity of auditors general should be enhanced, as well as in the various functions of the Treasury. Parliamentary capacity to scrutinise budget proposals and oversee implementation should be institutionalised.

Improvements in transparency and accountability require political will. All too often this is seen as the will of the government of the day to be responsive to citizens and accountable for its failures and achievements. A glance at the recommendations above shows that the entrenched interests of individuals in government may make their coming to pass unlikely. In any case efforts by reform-minded individuals within government require the support of increased citizen voice not only on how funds are spent but also on how they are managed and what is known about it. These are the essential and co-dependent building blocks towards better economic governance.