

# In Search of Adequate Public Reasons in Kenya's Budget Documents

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## BACKGROUND

When a democratic government makes decisions, it is acting on behalf of the public. Over time, the ideal of liberal democracy has evolved to encompass a set of practices that go beyond regular elections in ensuring a connection between leaders and citizens. Among these is the notion that decision making should involve the public and its representatives in dialogue that is marked by a culture of reason giving. Reasons and reasoning are at the heart of the democratic ideal of free and equal citizens actively participating in their own governance.

The notion that reasons are important to citizens emerges from democratic theory, particularly from work on deliberative democracy, but it also has empirical support in the Kenyan context.<sup>1</sup> We asked respondents in a nationwide survey in August 2016 how important it was to them that the government provide reasons for the decisions it makes in the budget. Half of respondents said it was “very important” and another 34 percent said it was “important.” We also asked respondents about a scenario in which they had to decide, as a government officer, how to distribute government funds to citizens and whether in that scenario they would simply make the decision or would provide reasons to the public; 68 percent of respondents said they would explain their reasoning to citizens.<sup>2</sup> These findings suggest that there is an expectation in Kenya that the government will provide reasons for its choices.

This leads to a more complex matter: how do we know whether a reason is adequate? Sometimes, when asked to give reasons for decisions, governments provide superficial explanations that do not really illuminate the tradeoffs at stake or clarify the decision-making process. They may even be misleading. When explanations are inadequate, they can be even worse than failing to give any explanation at all.

How do we define adequacy, however? One approach is to treat adequacy as a subjective matter. In our survey we asked respondents how satisfied they were with explanations for decisions provided by the national government.

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<sup>1</sup> Amy Guttman and Dennis Thompson (2004) “Why Deliberative Democracy?” New Jersey: Princeton University Press

<sup>2</sup> See <http://www.internationalbudget.org/publications/how-do-kenyans-prioritize-sectors-public-vs-government/>

The results were mixed. More than half of respondents were somewhat satisfied or satisfied, but few respondents (less than 2 percent) were very satisfied, and roughly 45 percent were dissatisfied or very dissatisfied.

Yet subjective measures of satisfaction do not fully capture what we mean by an adequate explanation. And, if we are to give guidance to government on how to produce adequate explanations, we should define adequacy with respect to objective criteria as well. This does not mean we should ignore satisfaction. Adequate explanations should ideally have certain objective traits, but also be appealing to citizens.

In this brief we try to craft a provisional set of characteristics that might define an adequate explanation with respect to a specific set of decisions: those around the budget. To generate our nine criteria, we consider actual examples drawn from budget documents published by the national government between July and December 2016. Some of these criteria may seem trivial or obvious, but we find that they are often ignored in budget documents. We conclude the brief by summarizing our criteria and suggesting ways in which they may be relevant beyond the context of budget decision-making.

## NINE CRITERIA TO ASSESS THE ADEQUACY OF EXPLANATIONS AND JUSTIFICATIONS

### CRITERIA 1: ADDRESS THE MAIN ISSUE AT HAND

An adequate explanation provides the underlying rationale for major decisions. Explanations cannot focus on only a small part of a decision while ignoring its more fundamental aspects. For example, if we are proposing to spend Ksh 1000, and Ksh 990 will go to education while Ksh 10 will go to sports, the explanation for this allocation would be inadequate if it only explained the Ksh 10 going to sports and did not address the Ksh 990 going to education. In addition, the main issue at hand is often to understand significant changes from past trends, such as significant increases or decreases in allocations to sectors or ministries, departments, and agencies (MDAs). If there are significant changes proposed but not explained, then the explanation is not adequate.

Example: The Budget Policy Statement (BPS) is tabled in February each year and one of its functions is to update revenue and expenditure expectations for the second half of the year. The 2017 BPS updates the 2016/17 total revenues upwards, increasing the expected revenue from investment income, excise duty, and ministerial appropriations in aid (AiA).<sup>3</sup> The BPS shows that investment income fell from 19.7 billion in the 2016/17 approved budget in June to 17.7 in the 2016 Budget Review and Outlook Paper (BROP), which was released in early

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<sup>3</sup> National Treasury, Medium Term 2017 Budget Policy Statement, November 2016, p. 87.

November. Just a few weeks later, it was increased to 31.4 billion in the 2017 BPS.<sup>4</sup> This is the most significant increase (nearly 60 percent) of any revenue source between the budget and BPS and therefore accounts for an important part of the overall increase in revenues between them. Yet there is no explanation of any kind for these shifting projections. The 2017 BPS also reduces the target for investment incomes for 2017/18 back to 17.7 billion, more in line with historical projections and performance. There is no explanation for this projection either.

## CRITERIA 2: SUPPORT THE DATA

An explanation is clearly not adequate if it explains something that did not happen. In budget documents, a narrative explanation is often provided for decisions or data. It should be straightforward to connect the narrative to the data. If the narrative and the data do not much, the explanation in the narrative is inadequate.

Example: The BROP is released each year to start the process of determining how large the budget should be and how much should go to each sector. One of its key purposes is to propose changes in the allocations to sectors and explain those changes. The 2016 BROP narrative suggests that funding to the energy, infrastructure, and ICT sector will either remain steady or increase over the next three years (paragraph 99). However, Table 12 on page 28 of the BROP contradicts this, with the share of the budget allocated for infrastructure development projected to fall from 29.4 percent in 2017/18 to 27.6 percent in 2018/19.

## CRITERIA 3: IDENTIFY AND EXPLAIN ROOT CAUSES

An adequate explanation should provide the root causes of problems rather than general or superficial descriptions. A disaggregation is not an explanation: for example, we cannot “explain” poor overall expenditure performance by simply naming the specific ministries that spent the least. This is further description, not explanation. Identifying the root causes begins with an accurate description and appreciation of the problem and its scope. Root causes identify specific problems that can lead to specific solutions.

Example: Another key purpose of the BROP is to provide a review of performance during the previous year. Thus, the document looks at how much revenue was collected against the projections for the year. In 2015/16, the BROP 2016 tells us that revenue fell short of target by 7 percent. The BROP describes the specific revenue sources that fell short in 2015/16 (such as AiA and external grants) as the “reasons for the deviations” (paragraph 24). This is a further description rather than an explanation of performance.

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<sup>4</sup> The BROP and BPS were both published in November but the BROP was dated September 2016, and the BPS November 2016. At most, the analyses in these two documents are two months apart.

To get at the root causes of revenue performance, the BROP would need to explain why AiA and external grants performed poorly. For AiA, we are told that MDAs are underreporting (paragraph 9) which suggests that AiA did not perform poorly, as it appears, but are instead not reporting their full revenue collection to Treasury. But this is a partial explanation because it does not identify the root causes of underreporting. If AIA is underreported, we need to know why so that we can identify a solution. For example, do donors not report to MDAs on the value of in-kind AIA provided to ministries, making it difficult to report?

#### **CRITERIA 4: BREAK DOWN AGGREGATES INTO COMPONENTS, ESPECIALLY WHEN THERE IS VARIATION AMONG THE COMPONENTS**

A general explanation of good or poor performance is not adequate when there is considerable variation across units. For example, total expenditure absorption might be 80 percent, but some ministries may have spent 50 percent of their budgets while others spent 95 percent. A general explanation for the 80 percent overall performance is not adequate as it would not address this variation, which is the only way to understand the root causes.

There are reasonable limits on the level of breakdown and explanation that can be provided, but it should at least correspond to the level of information needed to meet the purpose of the document. For example, if the purpose of a document is to determine spending at sector level, the explanations should cover variations at the sector level. If the purpose of the document is to set spending at the program level, then explanations are needed at that level.

Example: The BROP is designed to encourage debate about overall spending and revenue, but also spending at sector and ministry level. BROP 2016 offers a breakdown of financial data to the ministry level, but offers no explanation of performance at sector or MDA level to explain variations in performance in 2015/16. For example, why did the national security sector manage to absorb its full allocation while energy, infrastructure, and ICT only absorbed 50 percent of its budget? The range between the MDA that had the highest and lowest absorption rate is nearly 60 percentage points (see Table 1). The 2016 BROP offers no explanation for the variances in the absorption rates of these MDAs.

**TABLE 1. MDAS VARIANCE IN ABSORPTION IN 2015/16: TOP 3 HIGHEST AND LOWEST PERFORMING MDAS**

<b>Ministry/Department/Commissions</b>	<b>Actual</b>	<b>Target</b>	<b>% expenditure to total target</b>
National Intelligence Service	21,486	21,507	99.9%
National Land Commission	1,527	1,529	99.9%
Ministry of Defense	92,180	92,347	99.8%
Ministry of Water and Irrigation	20,572	41,019	50.2%
Ministry of Environment, Natural Resources and Regional Development Authorities	10,088	21,315	47.3%
State Department of Transport	68,734	170,323	40.4%
<i>Total (All MDAs)</i>	<i>1,205,709</i>	<i>1,494,599</i>	<i>80.7%</i>

Source: BROP 2016, Table 3

### **CRITERIA 5: ACKNOWLEDGE PERSISTENT PROBLEMS, PREVIOUS EXPLANATIONS, AND PROPOSED SOLUTIONS**

If a problem or issue is not new, but persists from a previous period, and if it has been identified in the past, the explanation must acknowledge what has already occurred. An explanation for a problem cannot pretend that a problem began yesterday if it has been persistent. Persistent problems require discussion of whether past explanations have been proven correct. It should also address whether past solutions have succeeded or failed and why.

Example: One persistent problem in budget performance in Kenya is the failure to reach targets for development spending each year. This is frequently blamed on “non-inclusion of expenditures from the sub-Counties and some donor funded projects.” This explanation does not get to the root causes of the problem (Criteria 3) and is also a recurring explanation for a recurring problem. It is unclear how this problem has been dealt with in the past and whether the proposed solutions are bearing any fruit. The government has repeated both its diagnosis and its proposed solutions from year to year without commenting on their success or failure (see Table 2).

**TABLE 2. PERSISTENT CHALLENGES AND REPEATED SOLUTIONS IN THE 2014-2016 BROP**

<b>Challenges</b>	<b>Solutions</b>
Underreporting on A-in-A expenditure (BROP 2014, paragraph 25; BROP 2015 paragraph 32; & BROP 2016 paragraph 24).	The National Treasury is working on modalities that will be issued requiring all expenditures are reported as stated in the Financing/Grant Agreements and guidelines' (BROP 2014, paragraph 25; BROP 2015 paragraph 32; & BROP 2016, paragraph 25).
The development expenditures in large ministries were below the target because of non-inclusion of expenditures from the subcounties and some donor-funded/foreign financed projects (BROP 2014, paragraph 18; BROP 2015, paragraph 18; & BROP 2016, paragraph 19).	The National Treasury will work closely with the implementing agencies to improve resource absorption to at least 80 percent of externally financed projects. To improve on this absorption of external resources Accounting Officers are expected to realistically prepare budgets and work plans for projects, monitor closely the implementation of these projects and observe high standard of accounting, auditing, and procurement procedures in order to scale up absorption to at least 80 percent (BROP 2014, paragraph 27; BROP 2015, paragraph 34 & BROP 2016, paragraph 25).
To improve development absorption (BROP 2014, paragraph 28; BROP 2015, paragraph 35; & BROP 2016, paragraph 26).	Include convening quarterly meetings of the Aid Effectiveness Group so as to engage Ministries and Development Partners to come up with solutions to the challenges that hamper project implementation and encourage Development Partners to utilize County Systems (BROP 2014, paragraph 28; BROP 2015, paragraph 35; & BROP 2016, paragraph 26).

Source: BROP 2014, BROP 2015, and BROP 2016.

## **CRITERIA 6: JUSTIFY PROPOSALS THAT DEVIATE FROM PAST PERFORMANCE**

When projecting future revenues or expenditure in ways that are dramatically different from recent performance, or out of line with multi-year averages, it is necessary to give compelling reasons for these expectations. For example, it is possible that new taxes or automation of revenue collection could lead to a significant change in revenue performance in a given year, but a robust explanation for this and for the particular projection is needed to justify the projection.

Example: There has been a tendency to overestimate revenues in the BROP, particularly revenues from external grants and AiA. Between 2013 and 2016, the government consistently collected less revenue through external grants than it projected it would in its targets. Expecting particularly high collections from these sources that is inconsistent with recent trends requires an explanation. The 2016 BROP projects an increase in collection of grants

by 63.7 percent. This is 44.9 percentage points above the average growth (18.8 percent) in collection in the past five years.<sup>5</sup> There is no explanation given for this optimistic projection.

Example: In the 2016/17 Budget Summary, Treasury indicated that the government was unlikely to absorb almost half (Ksh. 195.2 billion) of the external financing in the budget it was proposing. The government tabled this optimistic budget (which was approved). No explanation was provided for tabling a budget with what Treasury acknowledged were historically improbable figures. As the budget has been implemented, the 2016 BROP and 2017 BPS have reduced the external financing in the 2016/17 budget by almost the same amount that was predicted as unlikely to be utilized. There are no adequate explanations for this revision.

## CRITERIA 7: PROVIDE THE CONTEXT FOR DECISIONS

Decisions about the future should take into account performance in the past. For example, if a ministry or agency has not been able to spend resources received in the past, and the government proposes to provide it with still more funding in the future, some explanation is needed.

Example: The BROP both reviews past performance and makes proposals for the future. There should be a connection between the two. The BROP 2016 gives sector projections for 2017/18. While the environment protection, water, and natural resources sector had the lowest absorption of any sector in 2015/16, the BROP proposes to increase its share of the total budget share in 2017/18. There is no reflection in the BROP on how the sector will be able to spend additional resources going forward. Why should more funding be given to a poor performing sector? There may be good reasons, but they are not contained in the BROP 2016.

## CRITERIA 8: CLEARLY EXPLAIN WHY A PARTICULAR CHOICE IS CONSIDERED SUPERIOR TO OTHER OPTIONS

There are normally multiple options available when prioritizing sectors or deciding on the overall size of the budget. In many cases, the government also consults with the public about budget decisions and then must decide which public proposals to incorporate and which to leave out. An adequate explanation informs us of the criteria used to sift through the various options and why some were favored over others. This goes beyond simply listing the options and requires some analysis of the merits of the alternatives.

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<sup>5</sup> See Table 10 of IBP Kenya's analysis of the 2016 BROP available at <http://www.internationalbudget.org/wp-content/uploads/kenya-2016-budget-review-outlook-paper-analysis.pdf>

Example: The 2017 BPS provides information on public participation and involvement of stakeholders, including specific requests from the public by sector. However, in most cases it is very difficult to understand if and how the government used the inputs from the public to determine the budget for each sector. For example, in the energy, infrastructure, and ICT sector, the public called for provision of affordable housing and energy. In response, the sector stated that they were liaising with the private sector for affordable housing and targeting improved access to electricity. However, there is no way to connect these claims to the budget allocations. The 2017 BPS projects a decrease in the allocation to both of the departments with responsibility for these items, as well as the programs most likely to focus on them. No explanation is provided for these decreases.

Example: Every year, the Commission on Revenue Allocation (CRA) and the Treasury make recommendations on the funds that counties are to receive, including conditional grants. Recently both recommended conditional allocations to counties toward level 5 hospitals for 2017/18. While Treasury failed to give the criteria for distribution of the conditional grants, CRA changed the criteria for distribution from percentage bed occupancy per hospital to each hospital's proportion of overall inpatient days. Both CRA and Treasury failed to explain their positions on the hospital grant distribution criteria; CRA failed to explain why their position had changed.

## **CRITERIA 9: EMERGING ISSUES SHOULD BE CONSIDERED IN A WELL-INFORMED MANNER.**

The political and economic context is always changing. Making budget choices demands the flexibility to respond to crises or new issues that are emerging on the political agenda. Some of the issues that might require changes in the budget include elections, security threats, floods/droughts, recent changes in legislation and so on. However, the decision to respond such issues should be anchored in reason and evidence, and these should form part of the explanation for budget shifts.

Example: Increasing cancer rates and difficulties in accessing cancer treatment has become a major challenge in Kenya in recent years. CRA appears to respond to this crisis by recommending a conditional grant to cancer treatment facilities in its recommendations for revenue sharing in 2017/18. However, no reference is made in the recommendations to any data estimating the prevalence of cancer, the severity of the access to treatment problem, or its regional spread; an explanation of why CRA has proposed this particular solution instead of other available options has also not been provided. Although such a decision requires the Ministry of Health and other stakeholders in the health sector to play a leading role in such a proposal, there is no reference to consultations with these agencies. CRA does not adequately justify its particular approach to addressing the cancer crisis.

## CONCLUSION

This brief has proposed a set of criteria for assessing the adequacy of public reasons given by government for decisions. We examined the reasons given in public budget documents to justify decisions against these criteria and found that many of the reasons given are inadequate. A lack of adequate explanations undermines transparency and reduces the quality of public deliberation. It is difficult for citizens to debate budget decisions if they are unaware of the reasons for them. Likewise, decisions are less likely to be seen as legitimate if they are not well grounded in reasons.

Our emphasis on reasons is not intended to be a demand that every minute decision be justified publicly or that all reasons given should be acceptable to everyone. However, major decisions require justifications. In many cases the government does provide some explanation for its decisions but, as we have shown, these are often inadequate. It is impossible for everyone to agree with the reasoning behind all government decisions, but they can agree that the explanations provided are reasonable or adequate. The criteria and examples provided here are designed to help government achieve the latter goal: convincing the public that the decisions it has made are founded on reasons that are adequate. This is just one step in improving the quality of debate about public finances, but is nonetheless a critical one.

Although our criteria were developed to address the reasons for decisions given in public finance documents, they are relevant for other kinds of reporting on performance and for other types of decisions. Most reporting on policy implementation, for example, requires an investigation of root causes, a disaggregation of the overall performance measures into smaller units, and an attempt to address persistent challenges and attempted solutions. While the examples we have given are limited to public finance, there is nothing in the criteria themselves that would not be equally relevant to policy choices and monitoring of policy implementation. While they may not be exhaustive, we believe that these criteria can and should apply to most sectors, not only to the budget.