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A Balancing Act: Fiscal Responsibility, Accountability and the Power of the Purse

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In recent years a greater demand for strengthening the role of the legislature in the budget process has become evident worldwide: more than a quarter of countries have revised their constitutions over the last 15 years to give Parliament more powers. In particular, several African countries are experiencing pressure to increase the legislature's role in the preparatory stage of the budget process and as a check on the executive. This article argues that there are risks in allowing greater parliamentary activism, but that a greater risk is associated with marginalising the role of Parliament in the budget process. The article sets out options for designing a role for Parliament that allows it sufficient oversight, while managing the risks of ill-disciplined parliamentary action leading to excess spending or of Parliament becoming a conduit for narrow, ineffective spending demands.

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1. Introduction

Vertical, or public, accountability (*i.e.* being answerable to stakeholders outside of the executive) is a necessary component of any public financial system. While various formal rules supporting good budgetary outcomes may be in place internally (such as the use of ceilings, commitment controls, accounting rules and audit requirements), public accountability is necessary to ensure that budgetary actors in the system comply with these rules (Schick, 1998). Without a functioning system of public accountability, horizontal, or internal, accountability is weakened and budgetary outcomes are compromised in terms of fiscal discipline and effective and efficient spending.

Vertical accountability is a function of the institutional arrangements within the executive. Functional levels of transparency require that accurate, accessible, comprehensive, regular and timely information is provided throughout the budget process. The processes supplying and demanding such information should be institutionalised if the executive is to be held to account systematically. At the same time, institutionalised mechanisms (points of interface) are required through which information to, and feedback from, external stakeholders can be effectively channelled, such as tabling the budget in the legislature or a process for receiving and acting on Parliament's recommendations following audit reports.

This is the supply side of vertical accountability. In order for accountability to ensue, there should be an operative demand side as well: stakeholders outside of the executive who have an active interest in the information provided and who take meaningful steps to make the executive answerable. The legislature is the institution of state through which such accountability is put into operation.

Thus, an effective legislature is a necessary building block in a properly functioning public finance management system. The institutional arrangements within the executive should supply information and provide meaningful access, and the institutional arrangements of the legislature (*e.g.* legal frameworks, organisational structures and capacity) need to generate the necessary will to demand an effective voice in budget making and implementation.

In practice, many systems have evolved that treat the legislature, at best, as a necessary but largely meaningless step to turn the budget into a legal instrument of control (and, at worst, as a threat to budget discipline and integrity) and a compliance "checkpoint" in the required audit process. In many countries of the Collaborative Africa Budget Reform Initiative, however, the legislature is flexing its constitutional muscles. This article argues the case for why such displays of interest should be welcomed and attempts to provide an overview of the institutional building blocks required to facilitate a constructive role for the legislature and to ease the co-ordination burden that comes with a more meaningful legislative budget phase.

The concern here is largely with the potential role and institutional arrangements for the legislature's oversight of the executive's policy direction *ex ante* (in other words, before the spending year begins). Clearly, the legislature's role *ex post* is of equal (some would argue, greater) importance; this role is more readily accepted by the executive and causes less concern in terms of co-ordination. Moreover, the linkages between having an effective role *ex post* and sound systems for an effective role *ex ante* are not always well constructed. That is the terrain explored by this article.

2. Legislatures, democracy and the power of the purse

Viewing the role of the legislature in terms of its contribution to the internal efficiency of the public finance system is a narrow perspective, although it is one of particular relevance to senior budget and planning officials. It is useful also to consider the broader context in which a functioning public finance system is a necessary component of good governance, and an effective legislature is an essential part of the checks and balances on state power.

Governance can be defined as the exercise of political, economic and administrative authority in the management of a country's affairs at all levels. Good governance may be thought of as a system in which the exercise of such authority is set up so that power is divided constructively across the institutions of society (including the organs of state, civil society and the private sector) and is prevented from being usurped by any singular institution, thereby minimising the risk of it being abused. Participation, transparency, accountability, the rule of law and equity are instrumental to good governance. A public finance system – the system whereby a society decides what level of resources should be made available to fund what public goods and ensures that the funds are used as indicated – contributes to good governance across all dimensions if it is participatory, transparent, accountable and equitable and adheres to the rule of law. This means that Parliament should be included, not marginalised.

Parliament is a vital organ of state, balancing the power of the executive and the judiciary in the exercise of authority. Denuding it of meaningful power over the purse (however troublesome this may be for an already congested budget process) will detract from its ability to fulfil this role, and may undermine the establishment of developmental democracies.

How the executive and the legislature coexist in the division of checks and balances and the sharing of power is determined by the structure of the state and the political system, the state of politics, and the formal and informal institutional arrangements that have evolved historically in a country.

Both the structure of the state and the formal political system are founded on a country's constitution. Broadly, two types of system for sharing power between the executive and the legislature can be discerned: presidential systems and parliamentary systems. In a presidential system, power is formally divided, with the executive being elected separately from the legislative branch of government. In a parliamentary system, power is formally shared and the executive is formed out of members of the legislature. Usually, legislatures in presidential systems are more influential in determining the level and distribution of public taxes and spending. In parliamentary systems, the constitutional principle that disagreement between the legislature and the executive on the budget would equal a vote of no confidence and bring down the government means that the incentives for members of the legislature and the executive are aligned to avoid such disagreements. It is in such systems that notions of parliamentary checks and balances on the state's power to raise taxes, and oversight of the executive's spending of those taxes, can turn out to be little more than paper ideals.

Notwithstanding the underlying system and its organisational structure, democratic legislatures fulfil a set of core interrelated functions, all of which are relevant in considering their role in the budget process (OECD, 2001). First, legislatures **represent** the interests of the electorate and, as such, are an important check between elections on whether a government's policies, as expressed in the budget, are in line with the needs and priorities of its acknowledged principles. Second, legislatures **make laws** that set the formal rules for a society, in accordance with the country's policy priorities. Clearly, there are conflicting interests in any country, resulting in conflicting policy priorities. In principle, through its functions of representation and law making, the legislature is where the public reconciliation of conflicting interests and different agendas takes place. Insofar as the budget is the ultimate expression of a reconciliation of different interests within available resources, the legislature's approval of the budget is a critical annual process in the legislature's mandate to make laws. Third, the legislature has the function of **oversight**, on behalf of the electorate, of the executive's actions in policy making and implementation. Once again, the budget process is the primary vehicle through which the legislature exercises this function.

In fact, the development of the legislature as an institution providing a check on the powers of the executive is interwoven with the development of parliamentary control over what taxes may be raised and how those taxes may be spent (Schick, 2002; Stapenhurst, 2004). The evolution of this **power of the purse** dates back to medieval times when the English monarch, King John, agreed with the barons in the Magna Carta that no taxes would be raised without their consent. While the king originally still had full say over where taxes would be spent, over the centuries Parliament negotiated further concessions in exchange for voting additional taxes during times of royal need and providing parliamentary support for political and religious battles; for example, the concession that money may only be spent for authorised purposes and that the king's own money should be kept separate from tax income (Schick, 2002).

2.1. From controlling the crown to pork-barrelling

In England, the power of the purse, including its transfer from the crown to an elected executive, evolved over time. In France, a similar battle for control over public resources raged, but it required a revolution to finally break the power of the crown and to establish the principle of control by representatives of the people.

Yet parliamentary systems today are characterised by legislatures that are weak in terms of their role in the budget process. Schick (2002) and Wehner (2003, drawing on the work of Krafchik) identify several reasons for this decline in power.

First, the parliamentary traditions that evolved were in the interest of the legislature at the time of their invention, but have lost their appropriateness as circumstances changed. However, these practices are so entrenched that their relevance to modern-day public finance management is rarely questioned and, if questioned, difficult to change. For example, in Westminster-style parliamentary systems, the budget is often approved several months after the start of the budget year, in effect meaning that parliamentarians approve spending that has already commenced. Even if rules are in place to prevent new spending proposals (over the previous year) from being implemented, when Parliament annually votes the bulk of funding, spending will go ahead without parliamentary approval. This parliamentary tradition (in terms of which Parliament only approves spending proposals that come from the executive and does not formulate its own) derives from mechanisms deployed over centuries to force the crown to spend more of its own money (more economically) rather than tax the population.

A second set of reasons concerns the marginalisation of Parliament in fundamental decision-making processes. The budget is probably the most important policy vehicle for government: it is the instrument through which government makes choices about what its real priorities are and how they are ranked. For a long time, the budget was thought of as merely the technical expression, in financial terms, of policy made elsewhere and as a tool to deliver financial objectives and produce the public accounts. It was only over the past few decades that the role of the budget process in making policy became fully appreciated. By then, however, the role of Parliament as an institution had been sidelined: while it still approved the budget, the process of doing so had become a hollow ritual, focused on appropriation for purposes of control and restriction rather than in terms of policy, accountability and government performance.

One contributing factor towards this was the rise of organised political parties which set the legislative agenda and force legislators to vote according to the party line. In coalition governments, for example, trade-offs are negotiated between political parties behind the scenes at the start of the parliamentary session, diminishing Parliament's role in making laws and in exercising oversight. Also, the rise of interest groups and pressure groups means that agreements about resource allocation are reached outside of Parliament, making it difficult for parliamentarians to introduce changes that represent their constituents' needs. Schick (2002) draws a distinction between pluralist and corporatist democratic societies. In the former, the large number of narrowly defined interest groups means that decisions are made on the margin; the demands of individual interest groups can be satisfied by a little less tax or a little more spending, detracting from the formation of a comprehensive view of public finances. In the latter, larger pressure groups are formed around collective interests (*e.g.* labour or the private sector), and institutions outside of Parliament negotiate agreements that are then simply ratified in the parliamentary processes.

A third set of reasons concerns the growth in the size of the state and the complexity of its structures, financing mechanisms and expenditure agendas, which make it increasingly difficult for parliamentarians to get a comprehensive picture while assessing the marginal social cost and benefit of individual spending and taxing proposals. As governments have grown, their bureaucratic institutions have become more complex. Budgets are determined and implemented through professionalised and frequently huge government bureaucracies and bureaucratic processes that are difficult to penetrate. The proliferation of arm's-length agencies, boards and commissions in recent decades has added another layer of complexity to the practice of parliamentary oversight of budgetary decisions and their execution. Of course, the tradition of executive secrecy in budgeting has not helped.

The expansion of government services has meant not only that bureaucracies have grown impenetrable, but also that voters (rather than the crown) are increasingly benefiting from public services. While Parliament's early task was relatively simple and focused on restricting the burden placed by executive spending on the pockets of the people, its task is now far more complex; it needs to weigh the distributional burden against the distributional benefits of spending. It is sound budgetary practice to pool spending proposals in a comprehensive, periodic budget for a consistently fixed time period against an assessment of the available revenue for the same period. This supports fiscal discipline, policy contestability, redistribution and efficiency. However, it makes it more difficult to assess the marginal cost and benefit of individual proposals. Schick (2002) points out that earlier Parliaments made appropriations long before governments budgeted. While such piecemeal approvals had a cost in terms of overall budgetary outcomes, it was much clearer what was being proposed and who would pay for it.

Schick (2002) argues that voters may not always want Parliaments to restrict spending in order to limit taxation, since those who benefit from spending, often the majority, may not carry the burden of paying for it. Similar to legislatures, voters also face the difficulty of calculating the trade-offs between what they pay in tax (given the complexities of tax structures and intergovernmental systems) and what they receive from spending programmes. While the principle of no taxation without representation led to the rise of Parliaments, the effect of representation without taxation may be detrimental to parliamentary power; the incentive then would be to not take a comprehensive view and turn down spending proposals because they are inefficient or even ineffective, but rather to approve them. In addition, the main growth in spending over the last 50 to 100 years has not been through tightly authorised spending on limited activities, but rather spending on entitlement programmes, often established under laws that operate outside of the main budget process.

A fourth set of reasons concerns the public finance impact of representational political systems. The work of Von Hagen has been influential in this regard. Von Hagen (2005) is concerned with the nature of public spending as a narrative in which some people spend other people's money, often even on a third group of people. This disconnection between the cost and benefit of public spending means that voters can reward politicians for targeted policies that benefit them, but for which they do not have to bear the full cost. Thus, politicians can use the public purse strategically to reconfirm their election to office. Schick (2002) points out the tension between this incentive on parliamentarians as individuals to promote their own careers or the interests of their constituents, on the one hand, and their role as members of a collective institution with the interest of making sound, coherent laws, on the other.

This common-pool property of public finance where each individual would seek to maximise his or her personal benefit from the common resource pool without fully perceiving the long-term cost of the combined actions has operated to give legislatures the bad reputation of being a high risk for pork-barrelling budgets and breaking fiscal discipline, either in pursuit of electoral interests or in pursuit of parliamentarians' private gain. There are many examples of parliamentarians acting as agents for particular interests (especially in pluralist societies where there are many small interest groups) or only being interested in the short-term gains of their constituencies, leading to a multiplication of claims on the budget, collusion between individuals within parliamentary processes to approve those claims, and a gradual, incremental increase in spending, taxes and borrowing. To put it simply, there are histories of Parliaments that are less concerned about using the power of the purse to oversee the executive's proposals for spending in the long-term interest of the country than they are in adding to those proposals the financial impact of their own short-term interests. The recent example of the Kenyan Parliament refusing to pass the supplementary budget unless concessions were made to increase the personal allowances of parliamentarians is a case in point (the negotiated compromise, after a significant public outcry, was that ministerial allowances would not be financed by the parliamentary budget, which was the second demand).

Of course, none of these reasons on its own or in combination is sufficient to argue that the legislature should not play a role in budgeting. Traditions can and often should be changed in the pursuit of better budgetary outcomes, even if it means reorganising the full budget calendar. Institutional arrangements should be such that Parliament's role in negotiating trade-offs between interest groups adds to the likelihood of better outcomes. Fiscal and budget transparency, the parliamentary budget process and the institutional arrangements around accountability chains should be such that Parliament has both a comprehensive view to assess the marginal cost and benefit of spending proposals and the technical expertise to do so.

It is easy to forget that in a democracy, whether a presidential or parliamentary one, marginal decisions in the executive are also driven by politicians, subjected to the same political incentives as parliamentarians. There are far more examples of spectacular public finance collapses being driven by poor, short-term executive decision making than by parliamentary decision making (partly, of course, because few Parliaments have the power in practice to have such impact). It is not difficult to see that if Parliament, backed by sufficient technical expertise, retains its role as an effective check and balance against executive short-term largesse, the division of power within the state would operate better to enrich the debate, point out dangers and restrain deficits.

2.2. A new millennium

The pendulum is swinging back. An OECD survey of Parliaments conducted in the late 1990s (OECD, 1998) highlighted that an increasing number of countries are assigning more active roles to the legislature in budget processes. While the changes may not directly increase the power of the legislature, they may improve the quality of discussion, impacting on the wider political context. Trends include the following: some legislatures now vote budget totals before considering the distribution of spending, allowing a greater voice in fiscal and economic policy making; many legislatures have created specialist budget committees with the expertise to engage with budgets (these committees are backed by legislative support staff, often with dedicated offices for budget committees); much more and much better information is forthcoming from the executive on spending proposals and implementation; and legislatures are more active not only in approving budgets, but also on the monitoring and audit side.

Recent changes in African practices concerning budgets and Parliaments reflect similar trends: improved budget documentation, containing more information in terms of comprehensiveness and frequency, and better classification systems have improved discussions in Parliaments; Parliaments have become more vocal in their oversight roles, demanding changed systems or holding members of the executive publicly to account through strengthened committees; and Parliaments have become more effective in channelling voter discontent with fiscal decisions.

The reports on the OECD survey (OECD, 1998 and 2001, the second containing results of a wider survey including non-OECD countries) and several other authors such as Schick (2002), Stapenhurst (2004), Wehner (2003) and Kunas (2002) talk about a continuum of legislative activism. On the one hand, modern legislatures are very active, often in presidential systems (*e.g.* in the United States where the Congress has constitutional powers and the technical resources to make its own budget proposals). On the other hand, they can be very inactive, usually in parliamentary systems. In either system, the prevailing political context is an important variable. When there is a single-party majority government in a parliamentary system or when both the legislature and the executive are controlled by the same party in a presidential system, there is less legislative activism, given constitutional powers. However, when there is a coalition government in place or where different parties control different branches of the state, legislatures are more active.

3. Building better public finance institutions

Countries face a critical choice regarding which road to take for legislatures to express the greater demand for legislative action. The wave of public finance management reforms affecting the full cycle of policy, budget, implementation, audit and evaluation creates opportunities to address the role of the legislature in this cycle in the interest of better development outcomes. There can be little doubt that given the primacy of budgets in determining the nature of governments, a changed role for the legislature in the budget process will eventually alter the underlying relationship between the legislature and the executive.

There are several dimensions to the choice, some of which have already emerged from the discussion above. Primarily, legislatures need to choose between a system that is fundamentally in conflict with the executive or one that acknowledges the tension, but which embraces co-operation towards the shared objective of improving the outcomes of spending. Linked to this is the choice as to whether the legislature wants to be an institution that remains a powerless instrument of financial control, or an institution that is engaged in the budget process. If it is the latter, the choice is between making budget policy (*i.e.* proposing new spending options), either in conflict or in a participatory manner with the executive, and playing an active role in policy accountability and performance. The choice is whether the legislature will attempt to duplicate or take over the executive's role of drafting and implementing the budget or whether its role will be primarily one of oversight of executive action (see Box 7).

Box 7. **Parliamentary action in action**

In Kenya, the government has introduced a constituency development fund through standing legislation, the aggregate level of which is set to a percentage of GDP. The fund is allocated to constituencies outside of the budget process, and within constituencies by constituency development committees chaired by the sitting member. The implementation of the fund is managed separately from the budget.

While there are good arguments for locally-based development funding, the way in which this fund is managed creates several classical budgeting problems. First, the allocation of funds to constituencies is not viewed in terms of all the claims on national resources. In voting for the system, parliamentarians did not have a comprehensive view of the impact on public finances and the opportunity cost involved, which allowed for a focus only on the social benefits that would ensue without measuring the social cost (and social opportunity cost). In early 2006, there were already demands by parliamentarians that the allocation should be doubled; however, such a move would effectively absorb all the domestic resources that are currently available for investment in development.

Second, projects undertaken at community level with the funds are not integrated with the budget, and economies of scale are not accessed. Two neighbouring constituencies may both build secondary schools, which will not only have an unacceptably high unit cost when finished, but may not even have teachers and text books because either the linkage was not made or the aggregate impact of many constituencies building schools constitutes an unsustainable recurrent budget.

If the fund had been set up in an established institution with sound legislative public finance practices, these potential negative effects could have been prevented.

Of course, there are trade-offs between these roles. Parliament's role in the budget process is best conceptualised against the budget cycle, from policy planning and preparation (currently, predominantly the domain of the executive, particularly in parliamentary systems), through legislative approval, to budget execution and finally evaluation and audit. There are trade-offs involved in participation during these phases: a legislature that actively contributes towards budget making during budget preparation is compromised when it comes to oversight of the resulting proposals in the legislative phase; similarly, a legislature that makes budget policy through the introduction of spending proposals, or amends proposals significantly during the legislative phase, is compromised when it comes to holding government accountable for the results achieved with spending. It would be far too easy for government to argue that it was unable to achieve the objectives set because Parliament significantly altered its financial plan.

The executive's choices regarding the supply of information and points of entry for legislative action, and the legislature's choices of institutional arrangements for its budget process, will determine whether, given a particular constitutional structure, the effect of Parliament's role is one of stabilising and enhancing the pursuit of the development goals of public finances, or one of disrupting fiscal balances, growing deficits, ineffective and inefficient spending and unsustainable levels of government debt.

There are sound reasons for senior budget officials and ministers of finance to be wary of active legislatures. Executives have superior access to information and arrive at the budget proposals after months of analysis and negotiation. An active Parliament, especially one that is not supported by dedicated capacity, or where the committee system does not encourage the development of members' capacity, introduces risk into the system. This risk takes several forms.

First, Parliaments, parliamentarians and parliamentary committees may be vulnerable to lobbying, whether by external interest groups or by spending ministries; for example, line ministries that have been turned away by the executive for good policy and public finance reasons may use their dedicated committees to get proposals funded.

Second, an annual budget cycle is already a very short period in which to plan and implement public programmes. In principle (and in practice), ministries wait for final approval before starting this cycle. Medium-term expenditure frameworks have been introduced to promote funding and policy predictability and a medium-term outlook for public planning and spending. If Parliaments are going to make last-minute fundamental changes, the loss of policy and planning predictability could have an adverse impact on implementation.

Third, there is the risk that Parliaments may set out a legislative budget process that is at odds with the public finance management vision; for example, executive-driven reforms may have the aim of giving managers greater discretion in exchange for their accountability for results, whereas a legislature, in constructing a new role for itself, may be more interested in directing and controlling the details of the inputs chosen.

Finally, the ubiquitous risk is that Parliament's impact on the budget (in the interest of specific sectoral development objectives, for example) may be at odds with the executive's macroeconomic and fiscal policy stance.

Despite these risks, it is desirable that Parliament has an effective role in the budget process. One way of limiting the risks is to design a role for Parliament that is primarily about oversight of implementation, with very limited powers to make or amend budgets *ex ante*. On the face of it, this would fit well with a role focused on strengthening accountability and the incentives for performance by managers. However, experience has shown that in the absence of powers to affect the funding that line ministries receive, Parliament's oversight of implementation is compromised. Parliament's contribution to *ex post* accountability will be limited to the public shaming and blaming effect of calling officials to account for things gone wrong, unless it is accompanied by the threat of interference in future years. When officials know that a call to account for spending transgressions is a first warning that may lead to changes in a department's funding, parliamentary committees gain some effective bite. This is particularly true of parliamentary systems with large single-party majorities; the parliamentary check on executive exercise of power generally remains weak without an effective right to engage and amend the budget.

What then are the institutional arrangements that need to be in place to balance Parliament's right to affect and oversee the budget against the risk of its engagement affecting budgetary outcomes adversely?

3.1. Ex ante substantive rules

One set of instruments involves setting *ex ante* rules that limit the effect Parliament can have on the budget. Unfettered amendment powers would allow Parliament to increase and reduce expenditure and revenue, and to change the fiscal deficit. This would mean that Parliament would have final control over fiscal policy. Many Parliaments across the world have chosen to limit their powers substantively; for example, by not allowing amendments that would change the deficit.

In principle, parliamentary decisions can have four types of effect: first, they can merely adjust the distribution of expenditure (or adjust budget allocations); second, they can also adjust the distribution of the tax burden (or adjust tax policy, but not affect the balance between expenditure and tax); third, they can affect fiscal policy narrowly (altering the balance between revenue and expenditure); and, finally, they can affect fiscal policy broadly (increasing or decreasing borrowing requirements and the debt burden). Parliament needs to decide where it should set the limit as to the public finance policy areas that its amendments affect. A brief review follows of a few options deployed elsewhere.

- **Adjusting expenditure only.** Rules that allow adjustments to expenditure only either permit no adjustment to the fiscal balance or leave it to the executive to balance the budget. In other words, if Parliament adjusts expenditure downwards, the executive would have the choice of either reducing borrowing or reducing the tax burden. Three versions are commonly used, in terms of which Parliament:
  - ❖ may adjust expenditure upwards or downwards;
  - ❖ may not adjust expenditure upwards, but can adjust it downwards. This would mean that Parliament can use its amendment powers only to reduce spending department budgets;
  - ❖ may only adjust on a "pay as you go" basis (similar to the balanced budget rule considered below, except that increasing the revenue side of the budget is off limits). Parliament can adjust expenditure upwards or downwards, but can do so upwards only if it cuts expenditure elsewhere. If it reduces expenditure, it is up to the executive to reduce the deficit or reduce revenue.
- **Adjusting both expenditure and revenue.** Parliaments are allowed to adjust both revenue and expenditure, and this capacity may or may not be subject to further limitation. Common models of this option are:
  - ❖ A balanced budget: when a balanced budget option is exercised, Parliament can reduce and increase both expenditure and revenue, as long as the deficit remains the same. This means that Parliament can increase expenditure, provided it is willing to reduce expenditure in another area or to increase revenue. This option allows Parliament some room to adjust fiscal policy, but means that the executive sets the limit on borrowing and determines debt policy.
  - ❖ A reduction in revenue and expenditure (affecting fiscal policy): under this rule, Parliament may choose to reduce expenditure, but then also has the option of choosing where to make the countervailing reduction in revenue.

- **Other substantive limits.** Some countries deploy limits, not by restricting what Parliament may do in terms of adjustments, but by setting criteria that the adjustments must fulfil. Such criteria include:
  - ❖ Fiscal rules: this option involves not setting limits on the kind of amendments that can be brought, but adhering to rules for the fiscal outcome of decisions. An example of this is the European Union Maastricht rules, to which Parliaments are subject. The option need not necessarily be exercised through the enactment of separate fiscal rule legislation; it may be expressed in the legal instrument regulating Parliament's role, or in other legal instruments requiring Parliament to pay due consideration to macroeconomic policy objectives or to prudent macroeconomic management (such as New Zealand's fiscal code). The requirement may also simply be that Parliament's amendments must comply with the "golden rule" that net borrowing may not exceed net capital investment in any budget cycle.
  - ❖ Rules limiting the expenditure effects of amendments: another substantive limit, which is in line with several of the principles discussed above, is that Parliament can make any amendment, but should not introduce new spending proposals, other than on the basis of existing legislation. This would prevent parliamentarians from bringing narrow interest proposals and would significantly reduce lobbying pressure on Parliament, without limiting the kind of amendments that can be made. Parliaments may limit themselves to considering the affordability, efficiency and effectiveness of proposed spending, focusing on past underperformance and spending proposals that are not in accordance with stated policy priorities.

Many Parliaments use various forms of these *ex ante* rules which restrict what type of amendment power the legislature has. Table 7 provides a sample.

Ex ante rules, however, often do not succeed over the long term in limiting the potentially adverse effects of parliamentary action (Von Hagen, 2005; Stapenhurst, 2004). This is true particularly if they are not backed by an effective parliamentary process that forces parliamentarians to take a comprehensive view of the budget, noting the full social cost of individual spending and tax proposals. Stapenhurst (2004) cites the example of Brazil. The Brazilian congress may adjust expenditure only, and then according to the pay-as-you-go rule. However, a loophole allows it to adjust revenue if it finds that the executive has made errors or omissions. To mitigate potentially negative consequences, the committee charged with budgeting matters has now set absolute limits by restricting the number of amendments that members can make and by putting a money limit on the amount of each amendment.

Table 7. **Amendment powers by country**

	Amendment powers
Australia	Members may reduce revenue and expenditure.
Germany	All amendments are allowed, but the deficit may not exceed total capital expenditure (subject to EU deficit requirements).
India	Members may vary revenue and reduce expenditure.
Mali	Balanced budget requirement (no increase of deficit).
Philippines	Amendments may not result in increase of total expenditure; increases must be financed by corresponding cuts elsewhere.
Poland	Balanced budget requirement (no increase of deficit).
Sweden	Unrestricted (subject to EU deficit requirements).
United Kingdom	Members may reduce revenue and expenditure.
United States	No constitutional limit on amendment powers (scope of amendments determined by Congress).

Source: Hickey and Wehner, 2000.

3.2. Process rules

Countries may choose to make parliamentary amendment powers subject to process rules, which have the effect of disciplining the number, value and type of amendments that can be made. Many Parliaments have substantively unfettered powers already, but remain passive on account of the process requirements for making amendments. Process rules include the following:

- **Executive veto.** An executive veto means that the legislature may propose amendments, but that the final decision to accept or reject them is left to the executive. If the executive rejects an amendment, the process may revert to Parliament for reconsideration, where the amendment may be passed again, but only with a greater majority, or the veto will stand, but it may be required that the executive issue a statement explaining its disagreement.
- **Time limitations.** Rules could limit the time that Parliament has to consider the budget. Krafchik and Wehner (2000) highlight the very limited time available for the legislative budget process as a key variable in determining how meaningfully Parliaments engage in the budget. Limiting parliamentary time may also result in low-quality adjustments, particularly when the political context encourages parliamentary action but there is insufficient time to consider the consequences properly.
- **Ceiling limitations.** Another option is to design a parliamentary budget process that mimics the incentives operative in a medium-term expenditure process, where ceilings are used at various levels to enforce prioritisation in line with policies. Alternatively, the rules may limit the proportion of the budget for which amendments can be proposed (*e.g.* amendments should be within a 20% margin of the proposed vote

ceiling). This could be subject to a substantive limit rule (*e.g.* only changes to expenditure may be proposed within the existing ceiling) or in an environment of unfettered powers. If it is the latter, a proportion-of-budget limit on amendments can facilitate greater discipline in the parliamentary process, without limiting the public finance policy areas that Parliament can address.

- **Information-sharing requirements.** Good information can support rational decision making. If the parliamentary process requires that all stakeholders be heard before amendments are introduced, parliamentarians are under greater pressure to make more objective decisions.
- **Voting rules.** Lastly, voting rules can make it more arduous for Parliaments to adopt amendments that have greater fiscal impacts.

3.3. A disciplined budget process

As is the case with the executive, the policy effect of parliamentary decisions on the budget is a function of the quality of the process that determines those decisions. As explored above, the core of the common-pool problem of public budgeting is that money from a general tax pool is used to finance distributive policies that benefit particular groups in society. Individual parliamentarians (or committees) may assume that an increase in public spending on targeted policies will allow their constituencies (or majority interest groups) additional benefits at only a fraction of the total cost. As a result, the incentive is to ask for more public services than would have been the case had the true budget constraint been fully realised (Von Hagen, 2005). A significant purpose of a parliamentary budget process, therefore, would be to reduce excess spending by ensuring that decision makers realise the true budget constraint.

Krafchik and Wehner (2000) and Kunas (2002) approach the question of what the objectives of a good budget process should be from a slightly different angle, namely, by asking what institutional arrangements should be in place to ensure that Parliaments play an effective role in the budget process (by being able to make amendments that have meaningful social consequences).

From both of these perspectives, it is clear that the institutional and process design for Parliament's engagement with the budget is a serious consideration for the overall public finance management system. There is broad international experience about the key institutional arrangements that need to be secured to ensure that public spending is affordable, effective and efficient (assuming that Parliament would have similar objectives). The principles of a disciplined process that sequences individual decisions, of deciding on ceilings before making individual expenditure choices, of balancing discretion in decision making with accountability for decisions, of the role of good information and of the need for comprehensiveness, contestability, flexibility and predictability are all widely accepted elements of a good budget process. The design of a parliamentary budget process should pay attention to these principles. A few key variables are discussed below.

3.3.1. Location of amendment powers

Krafchik and Wehner (2000) found that where dedicated committees consider amendments, the likelihood of the amendments being meaningful is higher. Where amendment powers are located on the floor of the house, the debate takes on a political rather than technical flavour, and the opportunity of proper oversight of executive budget proposals is lost.

The OECD surveys (OECD, 1998 and 2001) recorded a rise in the number of dedicated budget committees. In principle, this has merit because it de-fragments and centralises the parliamentary budget process, allowing greater opportunities for the true budget constraint to be realised. On the other hand, dedicated sector committees, dealing with sector issues all year round, may have a better grasp of amendments within sectoral (or departmental) ceilings. A parliamentary budget process, therefore, needs to sequence decision making and the flow of information so as to co-ordinate the amendment decisions of committees and to induce them to take a comprehensive view.

3.3.2. Sequencing of decision making

The issue of sequencing arises even earlier. Many Parliaments have adopted a system whereby the fiscal framework is voted before individual spending and tax amendments are considered. This means that Parliaments impose limits on themselves in terms of which trade-offs need to be negotiated. An option is for portfolio committees to be given the mandate to consider amendments within the sector ceilings, but for amendments that require an increase in spending to be referred to the central dedicated budget committee for consideration.

3.3.3. Information flows and participation

The quality of information before the legislature when making decisions is critical. This includes ensuring, on the one hand, that the executive is required to make submissions on proposed amendments and, on the other hand, that Parliament has the power to demand from the executive information that is relevant to budgetary issues.

Parliament may also be required to hold public hearings before proposing and deciding on amendments. This may improve the breadth and/or quality of information that is before it. For example, public hearings could provide information on the likely effectiveness of new spending proposals, or on progress with the implementation of a programme. The OECD surveys highlighted an increase in Parliaments consulting with civil society (in the broad sense) during parliamentary budget procedures.

An equally critical aspect is that information deriving from the workings of audit committees, and parliamentary oversight of in-year implementation (*e.g.* annual reports, public expenditure reviews and actual spending reports), should be taken into account when amendments are proposed or when Parliament is faced with spending ministry pleas for additional money. This will have the effect of improving the quality of both *ex ante* decision making and *ex post* accountability. In the German Parliament, for example, the audit committee is a sub-committee of the budget committee, allowing for a strong link between parliamentary action in the budget phase and in the audit phase of the budget cycle.

Parliamentary committees tasked with budget scrutiny should also participate in the consideration of other laws with fiscal impact. Many public finance management systems now require all bills to include a memorandum on the fiscal impact of the proposed legislation. While the budget committee cannot be involved in the scrutiny of all bills, it can have powers regarding bills that propose the raising of monies, whether through levies, taxes or charges. This will ensure that such proposals are considered in the context of overall affordability, spending effectiveness and tax efficiency.

Parliaments should be empowered to undertake their own investigations of spending ministry effectiveness and efficiency; this would allow for greater insight and expertise during the consideration of spending proposals. Some countries, for example Tanzania, already include the legislature in public expenditure review processes.

3.3.4. Parliamentary capacity

Budgets are highly technical financial and policy tools. The executive is usually staffed with the level of expertise necessary to make budgetary decisions and manage their implementation. Parliaments, on the other hand, especially those that are weak and ineffective in the budget process, have very little capacity for meaningful budgetary scrutiny. Should Parliament's role in the budget process be geared towards improving budgetary outcomes, it must have access to the requisite capacity. Several Parliaments have opened budget offices with permanent, dedicated research staff (in Uganda, for example). Others have set up systems, often in combination with budget offices, that facilitate the specialisation of members in specific areas. In some Parliaments, certain members of the budget committee become "rapporteurs" on sectors, developing a deep understanding of sector issues over the years. The internal organisation of the budget committee, its relationship to other committees and the processes that it undertakes are of critical importance in setting the context within which capacity can grow. In this regard, it is also important that committee membership remains relatively stable.

4. Opportunities for legislative action

In conclusion, the modernisation of public finance management systems requires the modernisation of the role of the legislature. Important current budget reform foci create opportunities to enhance the role of legislatures in the interest of spending affordability, effectiveness and efficiency; and these should be taken up in the paradigm within which legislatures approach their role.

First, legislatures have an important contribution to make in shifting the focus of oversight from inputs (although that remains important) to the outputs and achievements of spending. Through relating the use of amendment powers to policy effectiveness and efficiency, making connections between *ex ante* and *ex post* oversight, and setting or approving frameworks for performance, legislatures can play a critical role in budget outcomes by demanding performance first.

Second, and related to the first point, reforms to classification systems and the rise of monitoring and evaluation frameworks and instruments now present information in ways that make it easier for legislatures to hold the executive to account for policy achievement and performance.

Third, the introduction of medium-term expenditure frameworks has opened up new possibilities for legislatures to take a medium- to long-term view of policy effectiveness and sound financial planning against policy priorities. There is plenty of opportunity to influence the quality of budgetary decision making (and to demand proper forward planning and meaningful projections from the executive) long before amendment powers would need to be used.

Overall, the legislative budget process should be designed with the same care that is taken with the executive budget processes. It should be disciplined and transparent, operating under clear rules with optimal information flows and accountability for decisions made. While the legislative budget process may cause conflict with the executive, it is in the interest of the ministry of finance to maintain a co-operative relationship with Parliament; as the role of the central budget office shifts from control and constraint to that of demanding policy accountability and performance, its key ally can be the legislature, which usually has a constitutional mandate of oversight. Many countries, including Kenya, South Africa, Tanzania and Uganda, have already shifted from traditions of secrecy and exclusion during the drafting process to an open approach, where legislatures are exposed during drafting to key policy questions and decisions. Parliament has a crucial function in guiding the strategic direction of policy and in holding government to account. Embracing an active legislature, while ensuring that the institutional arrangements are in place to optimise its role, paves the way to better budgetary outcomes.

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