Budget Legacy Systems and Legislative Framework in Kenya

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Introduction

- The budgetary systems in Kenya have evolved over the last 45 years on an incremental basis with no radical transformations. It is however significant to note that the country has consistently attempted to reform its systems in line with changes and requirements for good public finance management

The Constitution

- The current constitution in Kenya is by and large the same as the one negotiated and granted to independent Kenya by the British.
- The legislation guiding public finance management is therefore a legacy of the independence constitution.
- A brief debate as to whether the country should adopt a decentralized form of government in 1964 led to the country opting for internal self government culminating in the Republic of Kenya Constitution.

Public Finance

- Public finance management in Kenya is governed by the Constitution and various other Acts of Parliament.
- The constitutional provisions are to be found in Article 48 and Chapter 7 of the Constitution.
- This divides responsibilities for finance between the Legislative and Executive branches of government.
- The Executive should seek the prior permission of the Legislature both to raise and spend money

Budget Law

- Kenya does not yet have an organic budget law or legislation that has entrenched the public finance in the Constitution.
- This has rendered it possible for parliament to enact other subsidiary legislations to circumvent the principle of separation of powers and Treasury superintendence in public finance management
- The absence of a comprehensive budget law

Systems inherited at independence

- Much of the current system was inherited when Kenya achieved independence from the UK in the 1960s.
- The framework also borrows from the presidential system of countries such as the USA where the president is directly elected and is head of the executive as well as Head of state.
- Though the head of the Executive is a directly elected President, the Westminister parliamentary system is still practised.
- Members of Parliament are directly elected and the Cabinet consists of ministers appointed by the President from Members of Parliament.
- The two systems however, have significant differences when it comes to the budgetary process.

Hybrid System

- The hybrid system was developed created new challenges.
- This is because while the President is elected on a party ticket, his party does not necessarily need to have a majority in parliament as the presidential election is run parallel to the parliamentary elections.

Hybrid System

- The Executive can easily be faced with a situation where it is unable to pass an important motion such as the budget estimates in parliament.
- Under a parliamentary system, the Government should ideally resign when faced with such a situation.

Hybrid System

- Under a Presidential system the legislature can amend the nature of an executive program to the extent of completely changing it.
- In Kenya by tradition, the government does not resign in a case of such impasse, instead the Presidential system has taken precedence

Hybrid System

- The executive has to constantly lobby the legislature in order to ensure the passage of its motions including the budget
- With the enactment of the Parliamentary Service Commission Act, parliament is now empowered to propose its own budget irrespective of the executive position

The Budget Office

- Parliament now has a budget office to help MPs in interrogating the Budget.
- Parliament is seeking to pass the Fiscal Management Bill by which it will have more influence on the budget including giving powers to the Budget office to craft an alternative budget to the one prepared by the executive.

The Budget framework

- The budget systems adopted at independence were such that the Government prepared two budget estimates, one for recurrent operations and a capital budget or what is was popularly known as the Development budget.
- The annual process of coming up with these estimates was co-ordinated by the Ministry of Finance, which issued budget ceilings for the recurrent and development budget every year.
- Each ministry would prepare its itemised budget and submit it to the Treasury for review and approval.
- Once the budget was approved by parliament the Ministry of Finance would then issue resources to Ministries depending on exchequer availability

The Budget framework

- The budget framework was structured to deliver an itemized annual budget.
- Appropriation was also limited to an annual exercise and usually lapsed (and still does) at the end of the financial year.
- Classification was not standard
- Budget included only the central government expenditures
- Budget was input based with no requirement for outputs

The Reforms

- **Program Review and Forward Budget**
- **Budget Rationalization Program**
- **The MTEF**
- **Public Investment Program**

PRFB

The Programme Review and Forward Budget (PRFB) focused on changing the budget process from a purely annual process of preparing a national Budget to a five (5) year forward plan. Though a medium approach to budgeting, the PRFB was introduced without regard to the following;

PRFB

- Programs whose implementation was spread over the medium were subject to an annual appropriation thus not assuring them of the summary resource allocation.
- There was high unpredictability in the revenue inflows.
- non-adherence to the ceilings
- no prioritization of programmes and activities,

PRFB

- lack of consideration of future recurrent costs generated by capital outlays.
- no linkage to the development plan.
- The Ministry of Planning was charged with the responsibility of developing the plan while the Ministry of Finance coordinated the budget and there was no synergy.
- The development plan was generalized and included broad strategies and objectives

PRFB

- There were no individual strategic plans for the MDAs.
- The budget was highly itemized, without much emphasis on expected outcomes or the overall objectives of the development plan
- The budget was not able to deliver on some of the promises of government and there also a lot of in-year adjustments of the printed/approved estimates.

BRP

The rationale for introducing the BRP was to ensure that there was improved allocation of available budgetary resources and that there was closer linkage between what the economy could afford and the priorities that would lead to faster growth of the economy. However the following conditions prevailed;

BRP

- The conditions persisting under the PFRB had not changed.
- The budget framework was still the same
- Unpredictable Revenue projections
- Increasing level nondiscretionary expenditures
- The budget process was not transparent
- There were significant capacity constraints

PIP

The main rationale for the PIP was to strengthen the forward budget by providing a more comprehensive instrument for the planning and prioritisation of capital expenditures.

However the framework introduced was not had the following shortcomings;

PIP

- The framework lacked a common model for costing
- Already a large of projects were stalled with a thin spread of the scarce resources
- There was a high level of pending bills thus constraining an objective prioritization of programmes.
- Stakeholder involvement was not comprehensive

PIP

- The conditions persisting under the previous systems on capacity, budget structure, transparency and accountability had not substantially changed.
- New problems regarding the clarification of institutional roles in the budget process arose with the role of Treasury increasingly becoming threatened

MTEF

- The Medium Term expenditure Framework (MTEF) is increasingly being adopted by many developing countries as the preferred mode of budgeting.
- Kenya adopted the MTEF as a broad approach to integrating policy-making, planning and budgeting.

MTEF

The MTEF is predicated on ;

- A strategic framework at national and MDA level
- Clear and transparent budget framework supported by a legal framework
- Availability of information on accurate costs of government policies,

MTEF

- Programmes, sub-programmes, activities, projects, outputs and outcomes.
- Clearly defined political versus managerial accountability.
- Clear “rules of the game” such as mechanisms at Cabinet and Ministerial level to make trade-offs;

MTEF

- Clear relationship between the Ministry of Finance and Line Ministries;
- A predictable Revenue Base
- A comprehensive budget covering all government transactions including current off budget funds.
- A clear Monitoring and evaluation model

Current challenges

- Lack of a legal framework for the budget and clear “rules for the game”
- Poor strategic plans to support the budget
- Inaccurate information to support budget decisions
- Non comprehensive budget with extra budgetary funds
- Lack of a functioning integrated IT system

Current challenges

- A wavering revenue Base
- A itemized input based budget without a monitoring framework
- Conflicting institutional roles in the budget process with Treasury control of PFM under threat
- Low transparency and accountability mechanisms

Conclusion

Kenya has currently put in place a comprehensive public finance management Framework with emphasis on the following;

- Deepening of the MTEF
- Capacity training
- Enactment of a PFM legal framework
- Establishment of an out-put base budget framework